

<b><u>Section 11</u></b>	<b><u>Land Subdivision<sup>#</sup></u></b>			
11.1	General Features	11-1	11.5.3	Coastal Zone 11-21
	11.1.1 Land Ownership	11-1	11.5.4	Residential Zone 11-21
	11.1.2 Subdivision Patterns	11-1	11.5.5	Commercial Zone 11-23
			11.5.6	Industrial Zone 11-23
			11.5.7	Limited Industrial Zone 11-24
			11.5.8	Rural-Residential (Landscape and Ecological Enhancement) Zone 11-24
11.2	Legislative Considerations	11-2		
	11.2.1 Resource Management Act	11-2		
11.3	Management Issues	11-4	11.6	Rules - Reserve Contributions 11-25
	11.3.1 Subdivision In The Coastal Environment	11-4	11.6.1	General Requirements For Reserve Contributions As Conditions Of Land Use Or Subdivision Consent 11-25
	11.3.2 Rural Zone Subdivision	11-5	11.6.2	Form Of Reserve Contributions 11-25
	11.3.3 Subdivision In Settlements	11-6	11.6.3	Maximum Amount Of Reserve Contributions In Land 11-26
	11.3.3A Subdivisions of Large Undeveloped Residential Zoned Blocks of Land	11-7	11.6.4	Maximum Amount Of Reserve Contributions In Cash 11-26
	11.3.4 Reserve Contributions	11-7	11.6.5	Maximum Amount Of Reserve Contributions In Works 11-26
	11.3.5 Esplanade Areas	11-8	11.6.6	Matters To Be Considered When Assessing Reserve Contributions 11-26
	11.3.6 Roads And Private Ways	11-10	11.6.7	Exemptions For Lots For Utility Services Purposes 11-27
	11.3.6A Vehicle Crossings	11-11	11.6.8	Partitions Of Maori Land Or General Land Owned By Maori 11-27
	11.3.7 Utility Services	11-11		
	11.3.8A Mangawhai Heads Catchment Management Plan and Related Matters	11-12	11.7	Rules - Esplanade Areas On Subdivision 11-27
	11.3.8B Mangawhai Infrastructural Assets Study – Proposed Stormwater Improvements and Financial Contributions System	11-12	11.7.1	General Requirements For Esplanade Reserves 11-27
	11.3.9 Wastewater Disposal	11-13	11.7.2	Circumstances Where An Esplanade Strip May Be Used Instead Of An Esplanade Reserve 11-29
11.4	Objectives, Policies And Methods Of Implementation	11-14	11.7.3	Circumstances Where An Esplanade Reserve Or Strip Less Than 20 Metres Wide Or Where No Esplanade Reserve May Be Required 11-29
	11.4.1 Objectives - Land Subdivision	11-14	11.7.4	Circumstances Where An Esplanade Reserve Or Strip Greater Than 20 Metres Wide May Be Required 11-30
	11.4.2 Policies and Methods of Implementation	11-14	11.7.5	Requests To Council To Consider Esplanade Reserve Or Strip Greater Or Less Than 20 Metres Wide 11-30
	1 Rural Subdivision	11-14	11.7.6	Exemptions For Lots For Utility Service Purposes 11-31
	2 Urban Subdivision	11-15		
	3 Subdivision Design	11-16	11.8	Rules - Esplanade Areas On Road Stopping 11-31
	4 Reserves, Roads And Utility Services	11-16	11.8.1	Circumstances When An Esplanade Strip May Be Used Instead Of An Esplanade Reserve 11-31
	5 Esplanade Areas	11-17	11.8.2	Circumstances When An Esplanade Reserve Or Strip Less Than 20 Metres Wide Or Where No Esplanade Reserve Or Strip May Be Required 11-31
11.5	Rules - Subdivision of Land In Zones	11-18	11.8.3	Circumstances When An Esplanade Reserve Or Strip
	11.5.1 Rural Zone	11-18		
	11.5.2 Maori Purposes Zone	11-20		

<sup>#</sup> Updated August 2005

	More Than 20 Metres Wide May Be Required	11-31
11.8.4	Requests To Council To Consider Esplanade Reserve Or Strip Greater Or Less Than 20 Metres Wide	11-31

## SECTION 11 LAND SUBDIVISION

### 11.1 General Features

#### 11.1.1 Land Ownership

The vast majority of the land in the Kaipara District is privately owned. Records indicate that about 280,000 ha of the total 305,000 ha is held in some form of private ownership. About 95% of this land is held in freehold or general title under the Land Transfer Act 1952, with the balance being Maori land administered under the Maori Land Act 1993.

Most of the land in public ownership is held by the Crown and administered by the Department of Conservation as part of its conservation estate. The District Council owns a relatively small area of land. It also administers some Crown owned conservation areas and reserves under delegated authority.

#### 11.1.2 Subdivision Patterns

The parcels of land in the district vary considerably in size related to their situation and use. Over the years the land has been progressively subdivided into smaller lots with diversification and intensification of land use activities, especially in rural areas. Considerable rural subdivision took place in the early 1980's with the expansion of forestry and market gardening, together with rationalisation of some farming operations. In more recent years much of the subdivision activity in rural areas has had a residential or 'lifestyle' component to it. This type of subdivision has been particularly popular in the Mangawhai-Kaiwaka area. This area has also been the focus of most urban subdivision activity.

Subdivision and building activity has fluctuated over recent years according to economic conditions. Council records indicate that most subdivision is occurring in rural areas, accounting for 75-85% of the total lots created. In 1997 around 360 new rural lots were created, the majority of which were in the southern 'half' of the district around the fringes of the Kaipara Harbour and Mangawhai Settlement.

Council records further show most of the subdivision occurring is either for farming or forestry purposes. The latter subdivisions tend to be in the 4.0ha to 20ha range and involve syndicated forestry interests. The farming subdivisions generally involve smaller lot sizes, in the 4000m<sup>2</sup> - 6.0ha range.

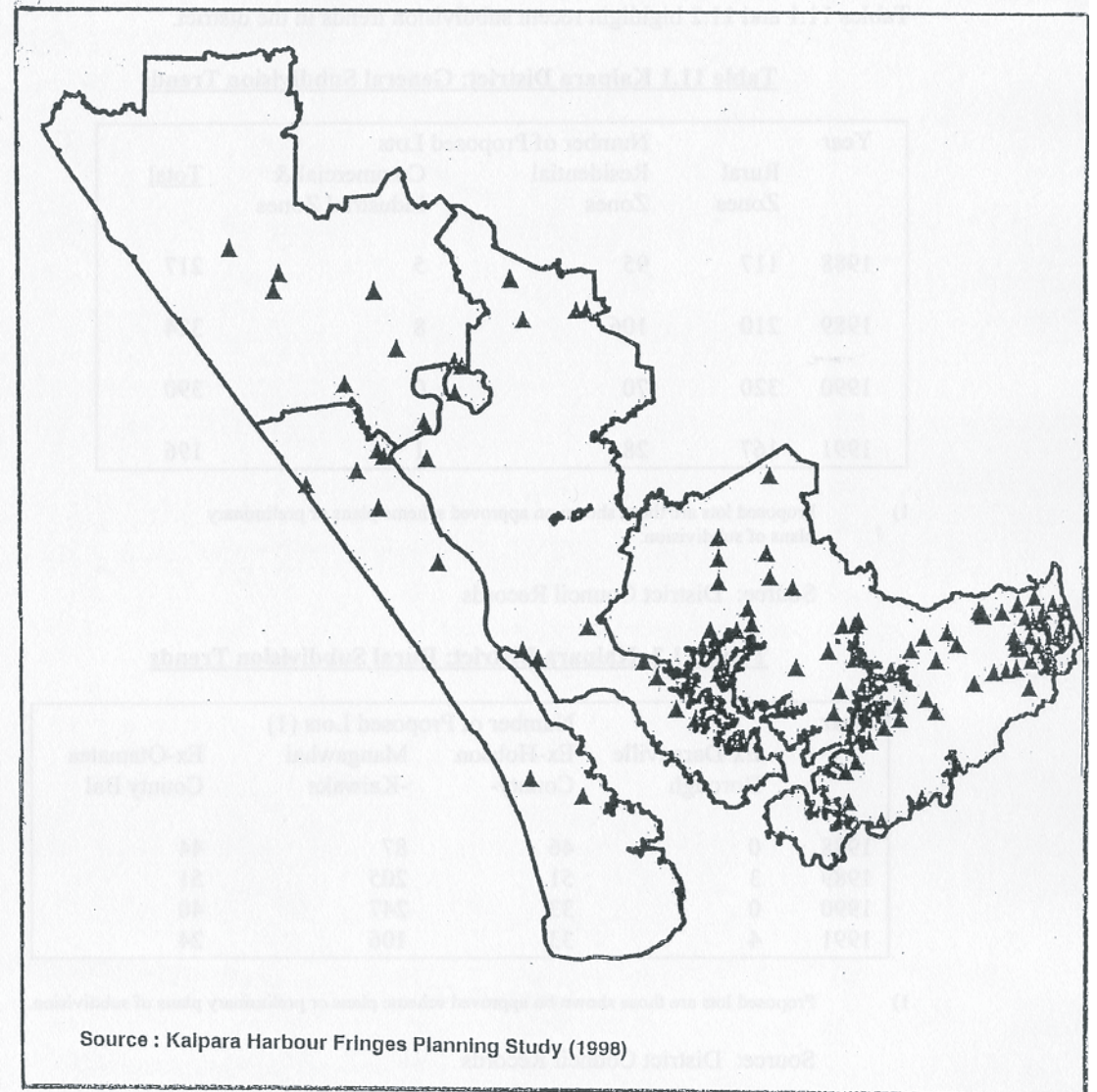


Figure 11-1 : Kaipara District : Subdivisions : 1997

Tables 11.1 and 11.2 highlight recent subdivision trends in the district.

**Table 11.1 Kaipara District: General Subdivision Trends**

Year	Number of Proposed Lots			<u>Total</u>
	Rural Zones	Residential Zones	Commercial & Industrial Zones	
1988	117	95	5	217
1989	210	106	8	324
1990	320	70	0	390
1991	167	28	1	196

- 1) Proposed lots are those shown on approved scheme plans or preliminary plans of subdivision.

Source: District Council Records

**Table 11.2 Kaipara District: Rural Subdivision Trends**

Year	Number of Proposed Lots (1)			
	Ex-Dargaville Borough	Ex-Hobson County-	Mangawhai -Kaiwaka	Ex-Otamatea County Bal
1988	0	46	87	44
1989	3	51	205	51
1990	0	33	247	40
1991	4	33	106	24

- 1) Proposed lots are those shown on approved scheme plans or preliminary plans of subdivision.

Source: District Council Records

**11.2 Legislative Considerations**

**11.2.1 Resource Management Act**

Section 31 lists "the control of subdivision of land" as one of the principal functions of territorial authorities under the Resource Management Act. It is one which territorial authorities have traditionally had through previous empowering legislation including the Counties Act, Municipal Corporations Act, Local Government Act and Town and Country Planning Act. The specific means or methods of control are not prescribed in further detail in the Act or associated Regulations. However, there are several references in the Act to rules being developed within the framework of the district plan for this purpose.

Section 11 (1) of the Act states that no person may subdivide land unless the subdivision is:

- (a) Expressly allowed by a rule in a district plan or a resource consent, and a survey plan relating to the subdivision has in accordance with Part X –
  - (i) Been deposited by a District Land Registrar or a Registrar of Deeds; or
  - (ii) In the case of a subdivision by or on behalf of a Minister of Crown, been approved by the Chief Surveyor for the purposes of Section 228; or
- (b) Effected by the acquisition, taking, transfer or disposal of part of an allotment under the Public Works Act 1981 (except that, in the case of the disposition of land under the Public Works Act 1981, each existing separate parcel of land shall, unless otherwise provided by that Act, be disposed of without further division of that parcel of land); or
- (c) Effected by the establishment, change, or cancellation of a reserve under Section 439 of the Maori Affairs Act 1953, or a resumption under Section 27D of the State Owned Enterprises Act 1986; or
- (d) Effected by any transfer, exchange, or other disposition of land made by an order under Section 129B of the Property Law Act 1952 (which relates to the granting of access to land-locked land).

The term subdivision is defined in Section 218 (1) as meaning:

- (a) The division of an allotment -
  - (i) By an application for a District Land Registrar for the issue of a separate certificate of title for any part of the allotment; or
  - (ii) By the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or
  - (iii) By a lease of part of the allotment which, including renewals, is or could be for 20 years or longer; or
  - (iv) By the grant of a company lease or cross lease in respect of any part of the allotment; or
  - (v) By an application to a District Land Registrar for the issue of a separate certificate of title for any part of a unit on a unit plan; or
- (b) An application to a District Land Registrar for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by Section 226,

whilst the term allotment is defined in Section 218 (2) as meaning:

- (a) Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not -
  - (i) The subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
  - (ii) A subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
- (b) Any parcel of land or building or part of a building that is shown or identified separately
  - (i) On a survey plan; or
  - (ii) On a licence within the meaning of Part I of the Companies Amendment Act 1964; or

- (c) Any unit on a unit plan; or
- (d) Any parcel of land not subject to the Land Transfer Act 1952.

The abovementioned provisions have the effect of giving territorial authorities powers to control, through rules in their district plans, a range of subdivision activities including cross leasing and unit titling of properties. Territorial authorities did not have powers over the latter forms of subdivision under previous legislation. At the same time the subdivision provisions in the Act do not generally apply in respect of Maori land within the meaning of the Maori Land Act. This particular matter is discussed further in Section 6.

Part II of the Act which outlines its purpose and principles contains several sections that are of particular relevance to the control of the subdivision of land. Section 6 of the Act requires as matters of national importance:

- (a) The preservation of the natural character of the coastal environment and wetlands, lakes, rivers and their margins and the protection of them from inappropriate subdivision, and
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision.
- (c) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.

These requirements have been paramount in development of this plan's objectives, policies and rules concerning land subdivision.

Part X of the Act contains a number of mainly administrative related provisions which apply to the subdivision of land. These include:

- Subdivision consent applications (Sections 219-222)
- Survey plans (Sections 223-238)
- Esplanade areas and access strips (Sections 229-237)
- Vesting of roads and reserves (Sections 238-239)
- Conditions as to amalgamation of land (Sections 240-242)

- Conditions as to easements (Section 243)
- Company leases and cross leases (Section 244)

The esplanade area provisions in Section 230 are particularly significant. They essentially require that where land adjoining the sea, a river or lake is subdivided into lots of less than 4 ha then a 20 metre wide esplanade reserve is to be set aside and vested in the Council unless the Council determines otherwise in accordance with rules in its district plan. The terms river and lake are specifically defined for this purpose, such that the esplanade reserve provisions do not apply to any river whose bed is less than 3 metres wide (on average) or any lake with a bed of less than 8 hectares. Section 77 of the Act also gives Council powers to promulgate rules in its district plan which alter or extend these general provisions. Such rules can be prescribed relating to those locations or circumstances where:

- Esplanade reserves are to be provided on lots of 4 ha or more. The Council is liable to pay compensation where such rules are invoked.
- Esplanade strips (which are a form of covenant) are to be permitted instead of esplanade reserves both on lots of less than 4 ha and lots of 4 ha or more.
- Esplanade reserves more than 20 metres wide may be required;
- Esplanade reserves less than 20 metres wide may be required or no esplanade reserves at all required;

Section 77 (2) of the Act requires the Council to satisfy itself that certain criteria or tests are met before promulgating such rules. The Council has utilised these empowering provisions, the nature of which are outlined in Section 11.3.5.

### **11.3 Management Issues**

#### **11.3.1 Subdivision in the Coastal Environment**

Section 6 of the Act requires the Council to recognise and provide for the preservation of the natural character of the coastal environment, wetlands, lakes and rivers and their margins from inappropriate subdivision, as a matter of national importance. The requirement is similar to that in Section 3 of the former Town and

Country Planning Act which required territorial authorities to protect such areas (except wetlands) from "unnecessary" subdivision. The change in phrasing is a subtle but significant one. It places less emphasis on the need to show a demonstrative demand or necessity for subdivision in such sensitive areas.

As outlined in Section 6.3.1 the Kaipara District contains an extensive area of land which can be considered to fall within the 'coastal environment'. The land along the east and west coasts which is most sensitive to development and has significant scenic or other natural values has been included in a special Coastal zone. The range of land use activities in the zone has been restricted in accordance with its conservation objective. In a similar regard the Council considers that the subdivision provisions in the zone need to be conservation oriented and directed at retaining the largely unfragmented open coastal character of the land. It has accordingly adopted a 20 ha minimum area requirement for the zone. Provision is made for lots of lesser area for specific purposes including those containing surplus farm houses and those intended to protect significant heritage or natural features.

The subdivision of land into lots of less than 20 ha in the Coastal zone is listed as a discretionary activity. This provision is made on the basis that there will be some areas of land in the zone, especially around the existing coastal settlements, which can accommodate limited forms of rural - residential or 'lifestyle' subdivision. Performance criteria have been incorporated into the subdivision rules for the zone which enable the Council to control the scale and layout of such subdivisions. This will be done in accordance with the overriding principles in the Act and the plan's settlement and servicing objectives.

Land in the 'coastal environment' around the Kaipara Harbour is included in a special policy area – the Kaipara Harbour Environment Area. The basis of the Kaipara Harbour Environment Area and associated policies and rules on land use activities is explained in Section 6.3.2A.

The subdivision of land in the Kaipara Harbour Environment Area is to be assessed in terms of special criteria. The criteria emphasise a heritage and landscape based approach to subdivision design which respects the natural landform and features and minimizes access and subsequent building related earthworks. They also require avoidance of archaeological sites and historic places and encourage protection and enhancement of remnant forest shrubland and wetland areas and other natural character enhancement measures.

The Rural-Residential (Landscape and Ecological enhancement) zone takes in land in the 'coastal environment' around the Mangawhai Harbour which has moderate natural character values. The 4,000 m<sup>2</sup> minimum area standard and associated subdivision rules are intended to provide for forms of subdivision which protect and enhance the land's ecological and landscape values. Lower lot area standards are specified for subdivisions which are served by whole subdivision wastewater systems, involve sensitive location of building sites and driveways and contain landscape enhancement measures.

### **11.3.2 Rural Zone Subdivision**

The subdivision of land in the Rural zone is controlled in a similar manner to that outlined for the Coastal Zone. A 4ha minimum area requirement has been adopted with provision for lots of lesser area for specific purposes as controlled activities. The Council recognises that land in the Rural zone is capable of supporting a range of farming, forestry, horticultural, tourism and other business ventures, the area requirements for which will vary. The 4ha minimum has been set on a rural amenities and traffic effects basis. Many areas of the district are served by relatively poor roads and contain large properties, parts of which often have significant rural amenity values in terms of particular landscape, ecological or heritage features or their general 'open' rural character. In these and possibly other situations there is the potential for intensive rural subdivisions to have more than minor rural amenity and traffic effects.

The 4ha minimum is considered to represent an area of land which even if adopted on a widespread basis across several large properties will not adversely affect the overall rural character of an area and the associated road network. If the latter is envisaged the Council has the powers to require road upgrading/traffic safety works as conditions of consent. This matters will be particularly scrutinised where a large number of lots around 4ha are created. Considerable provision is made in the plan for lots of less than 4ha where certain conditions either exist or are met. Under these provisions emphasis is also placed on the protection and enhancement of rural amenities at the time of subdivision (including 'buffers' from existing rural industries, sensitive siting and design of roadways, landscaping and protection of ecological features).

The controlled activity provisions enable lots of lesser area to be subdivided for seven specific purposes namely boundary relocations, lots for utility services or public works, protection of wahi tapu and other culturally significant features,

protection of historic or natural features, farm park and forest parks, small lot farming with amenity enhancement and land use activities subject of a land use consent. Lots created for the purposes of protecting historic or natural features can include land which is not formally protected and is available for building and other permitted rural land uses. Under these provisions the feature protected can also be physically separate to the rest of the land, provided there are effective on going management arrangements.

The plan makes provision for farm or forest park type subdivisions as controlled activities. It is intended to encourage subdivisions which create groups of lots in a farm or forest setting, retain most of the productive land in a large unit and protect and enhance any areas with significant ecological, heritage or landscape values. No minimum lot size is specified, but the average area of lots must be at least 4ha. There are restrictions on this form of subdivision where the proposed site is adjacent to a state highway and/or Department of Conservation managed conservation areas and reserves.

The plan also makes provision for subdivision involving lots of at least 1ha under specified circumstances as a controlled activity. This provision does not apply to land in the Kaipara Harbour Environment area or adjoining a state highway. There are also limitations on the number of lots created, and location of lots close to existing rural industries, and Department of Conservation managed conservation areas and reserves. All such subdivisions are to be accompanied by a plan for protection and/or enhancement of the site's ecological, heritage and landscape values.

The plan provides for lots of at least 4000m<sup>2</sup> as a discretionary activity, subject to the average area of all lots in the subdivision being at least 4ha. The 4000m<sup>2</sup> minimum has been set from a rural amenity perspective. The provisions enable most landowners to adopt a less standardised approach to rural subdivision based on the resource values of their properties. They are discretionary in nature also subject to assessment criteria (rules) relating to existing rural industries, coastal natural character, landscape and rural amenity values, effects on significant ecological areas and traffic effects. A particular matter which needs to be considered with these provisions is the ability of land owners to progressively subdivide lots which are in excess of the 4ha average net site area. The definition of average net site area in the plan is such as to consider the average as being that for all subdivided lots from the 'parent' site over the preceding 10 years. The 10 year period has been chosen taking into account the review period of the district plan and other matters. The

effectiveness of this provision will be monitored and if 'problems' arise it will be amended.

The subdivision of Rural zoned land for principally residential use has in the past been controlled in several ways, often based around the proximity of a site to a settlement, its size and subdivision history. Specific areas were also identified or zoned for 'rural-residential' subdivision. The provisions were somewhat arbitrary, partly because of the requirement in the former Town and Country Planning Act to control sporadic urban subdivision and development in rural areas. There were also limitations in the former Act relating to classification of land subdivision as an activity or use. The principles and procedures in the Resource Management Act enable the Council to take a more performance orientated approach. It is intended to give land owners more options yet at the same time prevent insensitive or poorly planned subdivisions. In the latter regard the Council will use the notification provisions in the Act when it considers a subdivision listed as a controlled or discretionary activity is likely to have significant off-site environmental effects.

### **11.3.3 Subdivision in Settlements**

The subdivision of Residential, Commercial and Industrial zoned land in the various settlements is to be controlled primarily from a servicing perspective, and in particular sewage disposal. As outlined in Section 3 (Residential Settlement) and Section 4 (Business) most of the smaller settlements rely on individual septic tank systems. There are limitations on the amount of septic tank effluent which can be treated by soils in the settlements with contamination of ground water, and other water resources already occurring in some areas. In this regard fairly tight control is required over the future level of subdivision and associated density of building development in such areas.

The subdivision of unsewered land has traditionally been controlled by reference to minimum lot sizes, frontages and shape factors. Whilst they give some certainty to prospective subdividers they do not adequately recognise the varying layout, topography and soil types of individual sites and their proximity to natural watercourses and groundwater resources. Minimum lot sizes have in the past tended to be high to account for a variety of situations.

In unserviced areas the Council considers that a more rigid assessment of the suitability of individual sites for subdivision is required. Engineering reports which detail soil, drainage and groundwater resource investigations are generally required

to support the choice of lot sizes and design of recommended effluent treatment systems. On this basis the subdivision of unsewered Residential, Commercial and Industrial zoned land is listed as a discretionary activity. A 'minimum' area of 1000m<sup>2</sup> has been adopted for lots in the older part of the Residential zone at Managawhai Heads from an amenity perspective. This area is referred to by the plan as the Mangawhai Heads 'Beachfront' Area. It is based on the existing settlement pattern in the area. Concerns have been expressed by residents in Mangawhai Heads about progressive infilling of the established area and loss of its 'beach' character, open space and vegetation.

Policies and performance criteria have been incorporated into the plan for assessing all subdivision consent applications. Where the Council considers that a proposed subdivision is likely to have significant environmental effects (including those of a cumulative nature) it will publicly notify the application to enable the Northland Regional Council and other interested parties to make submissions.

A more relaxed approach is to be taken towards the subdivision of land which is sewerred or proposed to be sewerred. The subdivision of such land in the Commercial and Industrial zones is listed as a controlled activity. The Council will look at associated applications principally in terms of any financial contributions required towards reserves, roads, service lane, and utility services. No minimum lot sizes or frontages are specified as these will vary according to the land use needs of individual owners and layout of any existing buildings and services. Where lots are proposed around existing buildings and land uses compliance with the yard, access, parking and loading standards in the plan will be required.

The subdivision of land in the Residential zone which is sewerred is also generally a controlled activity. Lots of at least 300m<sup>2</sup> (net site area) are provided for in Dargaville. It is by far the largest town and the relatively small minimum lot size is intended to provide for multi unit developments for people, including the increasing retired population, who want small sections.

Lots of at least 600m<sup>2</sup> (minimum site area) and 900m<sup>2</sup> (average net site area) are provided for as controlled activities in the smaller coastal and rural settlements. The higher minimum and average area requirements have been set primarily on amenity grounds in order to retain the 'low' density character of residential areas, particularly in larger 'greenfield' subdivisions.

The provisions for Dargaville are intended to provide for the cross leasing and unit titling of small multi-unit developments at a density which has generally been accepted in the past. An average lot size rule also applies for subdivisions involving more than 3 lots in Dargaville to ensure a variety of lots are created.

Lots of between 500m<sup>2</sup> and 600m<sup>2</sup> (minimum site area) and 750m<sup>2</sup> and 900m<sup>2</sup> (average net site area) may be approved as discretionary activities following consultation with and/or notification of any affected parties, principally adjoining owners and occupiers, and Council consideration of associated written approvals and/or submissions. Subdivision proposals that fall into the discretionary activity category will be notified, unless all affected party approvals are provided. They will also be considered by the Council against specific assessment criteria in the plan which will ensure that the amenity values of the site and surrounding neighborhood are protected and enhanced at the time of subdivision. Subdivisions which involve lots of less than 500m<sup>2</sup> (minimum net site area) or 750m<sup>2</sup> (average net site area) are non-complying and will be assessed against these same criteria and also the requirements in Section 105(2)(A) of the Act.

### **11.3.3A Subdivision of Large Undeveloped Residential Zoned Blocks of Land**

The various 'unserviced' settlements in the district contain blocks of land which are zoned Residential and physically suitable for closer subdivision. However many of them are in areas with poor soils limited natural drainage facilities and stormwater systems. The Council is concerned about the cumulative effects of 'piecemeal' subdivision based on the provision of individual lot wastewater and stormwater facilities. This is particularly so in Mangawhai which contains sensitive estuarine and groundwater resources and is rapidly developing. Policies and rules are directed at the provision of managed low impact wastewater and stormwater systems either of a community or whole subdivision nature in subdivisions involving sites of at least 4000m<sup>2</sup> as at 1 December 2000. The subdivision of these sites by individual lot stormwater and wastewater systems is a non complying activity.

The 4000m<sup>2</sup> 'threshold' area specified is intended to take in relatively large properties which can be subdivided into at least 4 lots and serviced in an environmentally sound and cost effective manner, using managed stormwater and wastewater systems that are able to be monitored. The subdivision sites which are less than 4000m<sup>2</sup> (as at 1 December 2000) is treated differently recognising their limited scale and the potential effects and cumulative effects of stormwater and wastewater discharges from small groups of lots. This form of subdivision is still a discretionary activity with the

Council able to refuse consent to subdivisions where the proposed servicing arrangements are likely to have adverse effect on soil and water resources.

### **11.3.4 Reserve Contributions**

Sections 3.3.8 and 4.3.8 outline the Council's approach towards reserve contributions in respect of the subdivision and development of land in the various settlements. Such contributions will generally be required where any land is subdivided for principally residential purposes. They may also be sought in certain circumstances where land is being subdivided for principally commercial or industrial use. A complementary approach is to be adopted relating to the subdivision of land in rural areas.

The Council will generally require a reserve contribution where any land in the Rural, Rural-Residential, Maori Purposes or Coastal zones being subdivided can accommodate a residential dwelling. It will tend to be in cash rather than in land or works and put towards the upgrading and further development of existing reserves in the district. The Council maintains a considerable number of local purpose, recreation and scenic reserves in these zones. People in rural areas also make use of reserves in the various settlements and an equitable reserves contribution approach is required.

The nature of the lots in these zones which will attract a reserve contribution will be determined on an application by application basis having regard to their potential residential use. Lots which are capable of accommodating a residential dwelling and have been assessed for building site suitability purposes at the time of subdivision will generally be levied. Reserve contributions will not be sought in respect of any lot containing an existing dwelling. They will also not be sought for any lot where no dwelling is to be erected such as those intended for solely conservation, forestry or farm 'runoff' purposes, or for the provision of any utility service. In these circumstances a consent notice or restrictive covenant is to be registered against the title at the time of subdivision.

Section 108 of the Act requires the Council to outline in its district plan the particular basis upon which reserve contributions will be determined including their maximum amount. Such contributions have traditionally been determined from specific empowering provisions in the Local Government Act. They set upper limits on the

area of land and the value of works or cash contributions which could be sought. For residential subdivisions the upper limit of 130 m<sup>2</sup> of land for each additional lot was loosely related to the reserves policy in Section 294 of the Local Government Act. It referred to the desirability of having 4ha of reserve land for every 1000 maximum resident population. This equates to 40 m<sup>2</sup> per person, and with an average household of 3.25 persons works out at 130 m<sup>2</sup> a lot. The associated upper limit on cash contributions (7.5% of the value of each additional lot) was set on a related basis. The reserve contribution limits which applied to residential developments under the Local Government Act did not appear to have any particular policy basis.

The Council has looked briefly at the options available for assessing reserve contributions and associated maximum amounts. There appears to be no one simple technique which can be used to assess both subdivisions and developments and be equitable across a host of potential situations. Lot sizes in subdivisions vary considerably as do the values associated with them. The issue has become more complicated by the inclusion of cross lease and unit title terms of subdivision into the legislative framework.

Since introduction of the Act some local authorities have looked at basing their reserve contribution requirements around a reserves acquisition and development programme. Ten year programmes have been formulated based on future population growth in respective wards and the associated reserves expenditure necessary to meet new residents needs. The programmes also identify the expenditure necessary to meet existing community needs which are generally met through the property rating system. The concept is a more refined one than that in the Local Government Act. However, it has some problems in terms of differentiating existing demands and future needs and subsequent targeting in areas experiencing limited growth. Some general assumptions also need to be made about the impact of various types of rural or lifestyle subdivision on reserve development needs.

The Council sees the benefit in having a strategy or system in place which relates the level of reserve contributions, especially in settlements, to future development and upgrading needs. This matter was raised in the Mangawhai Infrastructural Assets Study (1999) and is being investigated further. Until these investigations are completed the Council will administer reserve contribution requirements similar to those in the former Local Government Act.

For lots of a principally residential nature a maximum contribution in land of 100 m<sup>2</sup> has been set. It is based on providing 4 ha of reserves for every 1000 people and an average household size of 2.5 people and is primarily applicable in Residential zoned

areas. Cash contributions of up to 5% of each additional lot have been set. Such contributions can be required for a wide variety of principally residential lots and as such the two maximums do not equate.

The Council will in appropriate situations not seek the maximum amount permissible, particularly where significant areas of private open space are to be retained or natural features protected as part of a subdivision. The Council has a policy of encouraging the protection and enhancement of natural features and such measures can be used to 'offset' reserve contribution requirements. The contributions are to be based on the land area or land value of each lot which in respect of cross lease and unit title forms of subdivision incorporate a proportionate share of any common areas. Where a lot is of a rural nature account will be taken of its size and any cash contribution set on a proportionate basis related to the value of a 4000m<sup>2</sup> nominated building 'site' within the lot. The land value of all lots will be determined from valuation reports requested from the applicant following advice of the Council's decision on the quantum of the contribution (i.e. up to 5%).

As outlined in Section 4.3.8 reserve contributions will generally only be required in respect of commercial or industrial lots where particular areas of land need to be set aside. The maximum amount of the contribution, i.e. 100 m<sup>2</sup> per lot, is the same as that for residential lots and set primarily for reasons of equity and ease of administration.

### **11.3.5 Esplanade Areas**

Section 11.2.1 outlines the general nature of the esplanade reserve requirements in the Act. Under them a reserve strip of land 20 metres wide is required to be set aside and vested in the Council where land adjoining the sea, a river or lake is subdivided into lots of less than 4 ha. The terms river and lake are specifically defined in the Act such that the esplanade reserve requirements do not apply to any river with a bed less than 3 metres wide or any lake with a bed less than 8 ha. Provision is however made in the Act for territorial authorities to incorporate rules into their district plans allowing them to dispense with the general requirements on lots of less than 4 ha and/or extend them to cover lots of 4 ha or more in particular localities or under particular circumstances. They are also given powers to require esplanade strips instead of reserves and vary their width provided the locations or circumstances are outlined in the district plan.

The esplanade area provisions were introduced in July 1993 by way of an amendment to the principal Act. The original provisions required esplanade reserves

on all subdivisions adjoining the coast, a lake or a river, irrespective of the size of the allotments or the nature of the waterbody. They resulted in reserves being created along many small rivers and streams in rural areas where they are never likely to be used by the general public for recreational purposes or serve any particular habitat protection, hazard protection, hazard mitigation or water quality enhancement function. Unnecessary alienation of farmland was occurring and the costs of subdivision increased with little real public benefit.

The provisions in the 1993 Amendment Act allow territorial authorities to take a more strategic planning approach to the issue of esplanade reserves and develop policies and rules based around the nature of the waterbodies in their districts and related subdivision activity. The Council has looked at the basic requirements in the Act relating to lots of less than 4 ha and considers they require some modification. A considerable number of lots of less than 4 ha are being created in rural areas, some of which adjoin fairly insignificant rivers and streams. Provision needs to be made in the plan for 'dispensing' with the general esplanade reserve requirements in the Act in these situations, as well as for particular activities, e.g. utility services. Esplanade areas will not be required where the subdivision is for a utility service given that the amount of land subdivided off for the utility service is generally very small and if an esplanade reserve was required for such subdivision it is likely that few landowners would agree to such services being sited on their land.

On the other hand a blanket exemption of esplanade requirements on all lots above 4 ha is considered somewhat simplistic, and unlikely to meet the associated requirements in Section 6 of the Act. It would not enable reserves or strips to be sought along parts of the coast and some major rivers and streams with high recreational and amenity values. As outlined in Section 6.3.4 there is already a substantial esplanade reserve network in place along the two open coasts and some of the more accessible parts of the Kaipara and Mangawhai harbours. It is considered that the opportunity to make selective additions to this network should be an integral part of the subdivision consent process where lots of more than 4 ha are being created. There are also some major rivers where a similar consideration arises. Foremost amongst these are the upper reaches of the Kaihu along with the lower reaches of the Wairua River and Mangatu Stream which contain trout and the potential to be further utilised as recreational fisheries. Policies and rules which enable esplanade areas to be sought along these rivers have been incorporated into the plan.

Provision is also made for esplanade areas to be required on lots above 4 hectares along the coast, lakes and rivers where there are particularly important habitat values

associated with the margins concerned. Such areas are only expected to be sought where the Department of Conservation or other appropriate body has agreed to assist with fencing and future management of the land. This approach has been adopted because the Council does not generally have the expertise or resources to manage conservation areas.

The Council sees the creation of esplanade reserves or strips along the coast and rivers as being primarily important from a public access and recreational perspective. It considers there will be a limited number of situations where such reserves or strips should be sought for other purposes such as habitat protection, hazard mitigation or water quality enhancement. The presumption in the Act that esplanade areas be created upon subdivision for lots of less than 4 hectares has been refined in accordance with the empowering provisions in Sections 77 and 220 of the Act. The rules in the plan require that esplanade reserves or strips only be created on these type of subdivisions where there is significant indigenous vegetation or significant habitat if indigenous species of trout or where there are important recreational or public access values, or where there are significant hazard mitigation or water quality enhancement benefits.

The creation of reserve or strips for conservation purposes is a significant consideration when it comes to the various dune lakes in the district. Most of the lakes are ranked as outstanding in the Department of Conservation's SSBI - they are internationally significant. Improved riparian management, whereby a protective vegetated strip is established around their margins will help to protect habitat and enhance water quality.

Most lakes in the Kai Iwi and Pouto areas have reserve strips around them as shown on Planning Maps 72-75. There are however some lakes where 'gaps' exist and where consideration should be given to making selective additions to the network should any subdivision occur. The likelihood of any subdivision taking place in the area is low and any moves to complete the reserve linkages and establish associated riparian management programmes will need to be negotiated with the landowners which include Maori. General empowering provisions have been incorporated into the plan to enable reserves or strips to be created for conservation purposes around dune lakes. For lots above 4ha they will generally only be invoked where the Department of Conservation or other appropriate body had agreed to assist with fencing and future management of the land.

The general empowering provisions in the plan which enable the Council to require esplanade reserve or strips on lots of 4 ha or more under certain circumstances will be used in a selective manner bearing in mind the associated compensation requirements in the Act. Esplanade strips rather than esplanade reserves will tend to be sought and the width of any reserve sought varied to minimise survey costs.

The cost of any survey, fencing and pest control and the owner's entitlement to compensation for the land will be important factors in considering whether the provisions are invoked.

Esplanade strips can be used to provide the same benefits as esplanade reserves, but without land alienation or survey requirements, and subject to controls on public access and use. Voluntary landowner initiatives such as covenanting, fencing and/or planting of riparian margins will also be considered in specific cases. The Council recognises the benefits of private ownership and management of riparian margins with the public conservation or environmental management authorities overseeing aspects of their use. The Council has no desire to assume ownership of esplanade reserves without good cause, particularly when their underlying purposes can often be met by other means.

### **11.3.6 Roads and Private Ways**

The subdivision of land will often have a subsequent impact on the adjacent road network. In some cases new roads will need to be set aside and formed to provide access to the subdivision whilst in others existing roads may need to be upgraded to cater for the additional traffic generated. Under Section 108 of the Act the Council can require people who subdivide land to carry out road upgrading works and/or make a financial contribution (in cash or land) towards the provision of roads, private rights of way and other forms of access. The financial contribution provisions in the Act are of an enabling nature and can only be utilised if more specific policies and rules are incorporated into the district plan.

The Council will require subdividers to establish and/or upgrade roads, rights of way and other forms of access as conditions of subdivision consent where a subdivision generates significant new traffic movements. In respect of existing roads or private ways new traffic movements which exceed 10% of the present average annual daily traffic (AADT) will be generally considered significant. Where a subdivision is staged lower threshold traffic volumes may be adopted. Such upgrading will generally be in the form of physical works. In a small number of situations, land for

roadway works may be required as a financial contribution. This may be where a corner needs to be eased or the existing carriageway and associated road facilities are not within the legal road reserve.

The Council does not at present administer a financial contribution system whereby a per lot cash contribution is made towards the upgrading of roads in the district as a whole. However investigations are being made into possible systems. A system is in place for the Molesworth Peninsula Structure Plan Area, in order to fund the upgrading of Moir Point Road, Thelma Road and the associated Molesworth Drive intersections. Investigations show these costs are around \$895,000 of which around \$615,000 or 69% is growth related.

The land within the structure plan area has the potential for approximately 720 lots, which amounts to a per lot contribution of \$855 (in year 2000 \$ terms) plus GST. Policies and rules have been incorporated into the district plan to levy a contribution of this amount, plus an allowance for inflation.

Outside of the Molesworth Peninsula Area the Council has a policy of only requiring cash contributions for road upgrading purposes at the time of subdivision where the works concerned are of a 'major' nature and the Council itself has plans to undertake other works on the road concerned in the immediate future i.e. 1-2 years. This is because of the difficulties in administering a financial contribution system for 'minor' works, particularly where it is related solely to the effects of additional traffic on the road adjacent to the subdivision. Difficulties are envisaged with determining and in turn fairly allocating the small amounts of money which could be charged for 'minor' upgrading works.

Several local authorities, including Rodney District and Whangarei District, have sought to introduce more comprehensive financial contribution systems based on the effect of each subdivision on the total road network and its associated asset values. The Council is monitoring the progress of these systems, some of which are under appeal to the Environment Court. This matter will be reviewed in the future.

The nature of the physical upgrading works required will be assessed on an application by application basis having regard to the traffic generated, the present use and standard of the road or private way and the Council's Code of Practice for Land Subdivision and Development. Key provisions of the Code are reproduced in Section 9.6. The code is based on various codes of practice and manuals published by the NZ Standards Association, Transit NZ, Ministry of Transport and other local authorities. The code has guidelines on the formation and upgrading of roads and

private ways deal with a number of matters including width of reserves and associated carriageways, metal formation standards, sealing and provision of stormwater drainage facilities, intersection improvements, and bridges.

The Council may require sealing of an existing or proposed rural road where following the subdivision traffic volumes are expected to exceed 180 vehicles per day. Experience indicates that where this volume is reached significant traffic efficiency and safety benefits can be achieved with sealing.

The Council will also generally require at the time of subdivision sealing of at least the first 50 metres of any existing or proposed rural road or private way which comes off a sealed road. Accident studies have highlighted the advantages of sealed intersections with associated pavement markings and signage. Dust nuisance is also minimised along with maintenance costs in such situations. The further sealing of sections of road and private ways beyond the intersection area will depend on the form of subdivision, existing and proposed traffic volumes and length of road or private way involved. The nature of adjacent land uses, including dwellings, which are sensitive to dust may also be taken into account.

The Council will require all subdivisional roads in urban areas to be permanently surfaced with seal or other suitable material.

The roading guidelines in the Code are discretionary and can be varied to suit particular site conditions. They are performance oriented recognising that existing roading patterns and topography will influence the nature of conditions in many situations. It is to be noted that the guidelines place no limit on the number of rural lots which may be served by private roads or rights of way. The Council wishes to encourage their use and minimise its ongoing liability to maintain roads which carry low volumes of traffic. Subdivisions in rural areas are to be designed to minimise the extent of new public roads, except where public access to the coast, a reserve or other facility is desirable.

The subdivision rules in the district plan recognise the special nature of the state highways in the district and the associated responsibilities of Transit N.Z. All of State Highway 1 and a section of State Highway 12 have been declared limited access roads. It is possible that in the future additional sections of state highway will be declared in this manner, including parts of State Highway 14. People wanting to subdivide or develop land adjacent to a state highway need to consult Transit N.Z. at the earliest opportunity and determine what their requirements are. Transit N.Z. has its own vehicle crossing and roading standards and these should be referred to in

resource consent applications. Also in respect of limited access roads Transit NZ administers special vehicle crossing licensing procedures under the Transit N.Z. Act 1989.

### **11.3.6A Vehicle Crossings**

The subdivision of land particularly in rural areas can affect the use of existing vehicle crossings or have implications in terms of the siting of new crossings. Some existing farm crossings have poor visibility and with more intensive vehicle use require upgrading or relocation. Likewise there will be situations where land which is to be subdivided has no existing vehicle crossing and because of the road alignment and associated traffic safety matters, particular siting of new crossings is required.

The Council will use the vehicle crossing guidelines in its Engineering Code of Practice For Land Subdivision and Development (2000) to assess the appropriateness of existing vehicle crossings serving proposed lots. This assessment will focus on those crossings where significant additional traffic is expected as a result of the subdivision along with any new crossings required where the adjoining road has alignment and restricted visibility limitations. Information on the location and standard of existing crossings and any new crossings required is to be submitted with applications (refer Section 13.3.1). Works related consent conditions relating to the formation of new crossings and upgrading of existing crossings may be imposed on any subdivision consent in accordance with the provisions in Section 108(2)(c) of the Act.

### **11.3.7 Utility Services**

The subdivision of land may sometimes create a situation where the design capacity of existing services is reached and they need to be upgraded or extended to meet the needs of prospective occupiers. Under Section 108 of the Act the Council can require people who subdivide land to carry out upgrading works or make a financial contribution (in cash or land) towards the supply of associated public utilities. The financial contribution provisions in the Act are of an enabling nature and can only be utilised on the basis of more specific policies and rules in the district plan.

The Council will as a general policy require subdividers to be responsible for extending and/or upgrading of existing public utilities as conditions of subdivision consent where such works are considered necessary to meet the servicing needs of prospective occupiers. Public utilities which come within this category are sewerage, stormwater, water supply, electricity and telephone services. The nature of the works

required will be assessed on an application by application basis having regard to the scale of the subdivision, the design capacity of the existing services and their ability to be extended. Servicing guidelines are contained in the Council's Code of Practice for Land Subdivision and Development.

The guidelines relating to the installation and upgrading of public utilities deal primarily with sewer, stormwater and water supply services which come under the control of the Council. They contain general design principles as well standards relating to pipe size, gradients bedding and provision of manholes where they can be reasonably prescribed. Standards relating to the provision of fire hydrants are also specified. The guidelines and associated standards are intended to give people some direction on the nature of works based conditions which may be imposed on resource consents. The Council recognises that the existing subdivision patterns, street layouts, topography and ground conditions will influence the specific form of consent conditions in many situations.

Lots which are of a principally commercial, industrial or residential nature will generally be required to be provided with Council sewerage, stormwater and water supply services where they are available in the area. Such services have significant environmental and public health benefits over individual on-site systems, particularly from an ongoing maintenance and monitoring perspective. The supply of electricity and telephone services will also generally be required in such subdivisions because of the need to integrate them with other services in street layouts and consider undergrounding for amenity reasons. The amenity related effects of above ground supply structures is a resource management responsibility of the Council.

The supply of electricity and telephone services to lots of a principally rural nature is not a matter which the Council will exercise any particular control over. This is because the supply facilities are invariably above ground and not related to road design and associated utility servicing matters. Also a number of lots are created e.g. for forestry or stock runoff purposes which do not require such services. The Council has therefore generally limited its interest to consideration of any necessary supply easements and the visual impacts of any above ground structures in the Coastal Environment Area and Kaipara Harbour Environment Area. These areas contain land with significant natural character values, where the siting and design of structures warrant particular consideration.

Special consultation and consent assessment provisions apply to the subdivision of sites containing high voltage transmission lines (110kv or more). Particular consideration needs to be given to the human health and safety implications of

residential forms of subdivision adjacent to such structures, along with line owner access and other matters.

### **11.3.8A Mangawhai Heads Catchment Management Plan and Related Matters**

The Mangawhai Heads Catchment Management Plan (1991) was prepared for the Council by consulting engineers in the early 1990s. It identified the nature of the drainage facilities in place, potential deficiencies and risks, including flooding and means of addressing them. The plan is associated with a water permit (14643) issued to the Council and a general authorisation in the Transitional Regional Plan. This enables the Council to manage and control drainage works and stormwater discharges within the area covered by the plan.

The plan identifies 13 drainage catchments and around 90 sub-catchments in the Mangawhai Heads - Molesworth Peninsula. It discusses soil conditions, land drainage and stormwater disposal issues in each catchment and makes recommendations on future facilities. Amongst these are the provision for "natural ponding areas" and "overland flow paths" and "protected drainage paths", particularly on 'undeveloped' parts of the Molesworth Peninsula. The plan generally recommends that the overland flow paths and protected drainage paths identified in the plan be kept free of buildings and other structures.

The Mangawhai Planning Study 1997 recorded limited public awareness of the identified overland flow paths and drainage paths and the potential for not only building development but earthworks associated with subdivisions to affect their future use. In this regard planning data maps showing the facilities have been included in the district plan along with planning policies and rules relating to their protection (Ref.Map 82). People seeking resource consents (land use or subdivision) or building consents from the Council will be required to take into account the identified flood and drainage paths and address relevant aspects of them in their applications.

### **11.3.8B Mangawhai Infrastructural Assets Study - Proposed Stormwater Improvements and Financial Contributions System**

The Mangawhai Infrastructural Assets Study (1999) investigated the effectiveness of existing stormwater systems in the two settlements and need for improvements to accommodate expected future growth. In the Mangawhai Heads area it worked

primarily on the basis of the drainage catchments identified in the 1991 catchment management plan. The study recommended a number of stormwater improvements over a 10 year period utilising whenever possible a low impact design approach. It also recommended that this approach form the basis of future servicing and appropriate provisions incorporated into the District Plan and Engineering Code of Practice For Land Subdivision and Development.

The low impact design approach has the following objectives:

- reducing the amount of impervious surfaces using minimum width roads and driveways where possible
- retaining natural drainage channels, including grassed roadside swales rather than paved channels and pipes for the primary collection system
- decreasing stormwater flows through use of detention ponds particularly at points where slopes decrease from upper catchment areas
- using natural ground soakage runoff in areas with suitable soils (this involves soakage testing of sites)
- provision for secondary flow paths to cater for large storms where runoff exceeds soakage capacity

Maps 83 and 84 contain the soakage suitability maps from the study and should be referred to by people subdividing or developing property.

The stormwater upgrading works recommended in the study involve nine projects in residential areas at Mangawhai Heads and on the Molesworth Peninsula, and two projects which would primarily serve the Wood Street Commercial Area and Molesworth Drive Industrial area. The cost of the works are estimated at \$800,000 with the study recommending half of this being met by a financial contribution on new lots and/or buildings. This was on the basis that this proportion of the costs was related to future settlement growth.

The mechanics of the proposed financial contribution system and how ongoing operating costs would be met are being investigated and appropriate policies and rules on the contribution system are expected to be subject of a further notified plan change. If levied on a per lot basis a contribution of \$860 (GST exclusive) would be

required. Planning Map 85 shows the location of the proposed works and provides details on their respective costs.

The study also recommended replacement of the open drain system in Mangawhai Village with a combined pipe-grassed swale system. The estimated \$800,000 of works required was considered an existing problem and not related to future growth. No financial contribution system is therefore proposed for these works.

### **11.3.9 Wastewater Disposal**

The Northland Regional Council has the principal Resource Management Act responsibilities relating to wastewater disposal. Under Section 15 of the Act no person is allowed to discharge any contaminant onto land in circumstances which result in it entering water unless the discharge is allowed by a rule in a regional plan or a resource consent. The Regional Council also has a functional obligation under Section 30 to control the discharges of contaminants into or onto land, air and water.

The Regional Council has in place a Proposed Regional Water and Soil Plan (Revised Nov. 1998) with rules on discharges of sewage effluent to ground from on-site treatment and disposal systems. Discharges from household systems are generally permitted activities, provided specified effluent volume, lot area, groundwater separation and other performance standards are met.

Some of the rules are related to the Auckland Regional Council's Technical Publication No. 58 - On Site Wastewater Disposal From Households and Institutions. This publication is also known as the N.Z. Manual of Alternative Wastewater Treatment and Disposal Systems. Discharges from sewage disposal systems which do not comply with the rules in the plan are discretionary activities requiring a discharge permit from the Regional Council.

The District Council's only Resource Management Act responsibilities relating to wastewater disposal come from its functional obligations to control "the subdivision of land" and the "effects of the use, development and protection of land" (Ref Section 31 of the Act). The District Council's approach to these matters is to generally rely on the regional rules and associated performance standards but to exercise particular control over residential forms of subdivision in areas with 'poor' soils and sensitive water resources, including coastal waters and groundwater aquifers. The Council will require all people seeking resource consents (land use or subdivision) or building consents to demonstrate compliance with the regional rules

on sewage discharges. In respect of resource consent applications where this compliance cannot be shown the District Council may use the consent notice provisions in Section 221 of the Act to record on the titles to the lots their drainage limitations and likely need for future owners to obtain discharge permits from the Regional Council for sewage discharges. The consent notice provisions may also be used to restrict the future siting of household wastewater systems to physically suitable parts of proposed lots.

The rules on sewage discharges in the Proposed Regional Water and Soil Plan will influence the size of 'residential' lots which are to rely on individual on-site systems. People considering subdivisions are advised to consider the regional plan rules and if necessary contact Region Council staff.

The district plan contains planning policies and rules (generally in the form of assessment criteria) which will be applied to all 'residential' subdivisions. Where the Council considers that the form and scale of subdivision is likely to result in a significant concentration of unmonitored individual wastewater discharges then it will require applicants to provide information on alternative whole subdivision wastewater systems. Where such systems can be shown to offer higher standards of treatment and on-going inspection, maintenance and monitoring they will be required as a condition of consent. This approach is intended to ensure that settlements, particularly in coastal areas, are not progressively developed on the basis of poorly managed individual on-site systems and the Regional Council has a much greater ability to monitor the effects of discharges, and if necessary require upgrading of systems with progressive subdivision and residential use.

## **11.4 Objectives Policies and Methods of Implementation**

### **11.4.1 Objectives - Land Subdivision**

Objective 1: To encourage the subdivision of land in a manner which ensures sustainable use is made of the land and associated infrastructural services whilst significant cultural, historic and natural features and amenity values are protected.

Explanation: Land is one of the district's most valuable resources. Its closer subdivision is to be encouraged in accordance with the rural development and settlement objectives of this plan. Controls on the form and scale of subdivision are

required in order to safeguard existing amenity values, and make effective use of roads, and utility services.

## **11.4.2 Policies and Methods of Implementation**

### **(1) Rural Subdivision**

Policy 1A: To retain the relatively open natural character values of rural land along the East and West Coasts and concentrate residential forms of subdivision in and adjacent to existing settlements.

Policy 1B: To recognise the history of settlement and intensive use of land around the Kaipara Harbour and direct residential forms of subdivision into areas where the natural character has been compromised and/or the effects of development on the natural character can be effectively mitigated.

Policy 2: To ensure that where land is subdivided for small lot farming, farm park and other similar purposes and rural-residential use, the rural amenities of the site and surrounding area are protected and enhanced.

Policy 3: To ensure that subdivisions are designed to avoid or mitigate potential conflicts between residential activities and existing rural land use activities with nuisance elements, i.e. dust, noise, odour and contaminant discharges.

Policy 4: To encourage, and where appropriate require, the protection and enhancement of significant ecological, heritage and landscape features at the time of subdivision.

Policy 5: To ensure that at the time of subdivision effective use is made of roads and private ways and the number of new vehicle crossings created is limited, especially on state highways and other heavily trafficked roads.

Policy 6: To generally require the provision of electricity to lots of a principally residential, commercial or industrial nature.

Policy 7: To limit Council involvement in the supply of electricity to lots of a principally rural nature to the creation of any necessary supply easements and the

effects of above ground structures on the natural character of land in the Coastal Environment Area and Kaipara Harbour Environment Area.

Policy 8: To recognise the potential adverse effects of intensive subdivision and associated buildings, human activities and domestic animals on the ecological, landscape and amenity values of conservation areas and reserves administered by the Department of Conservation and other significant ecological areas.

Method of Implementation

- 1 Rules which set minimum lot area requirements for new lots in the Coastal Zone (20ha) and Rural zones (4ha) with provision for lots of lesser area for specific purposes as controlled activities.
- 2 Rules which provide for principally residential forms of subdivision as controlled activities in the Rural-Residential (Landscape and Ecological Enhancement) zone, and as discretionary activities in the Coastal and Rural zones and use performance criteria for assessing related applications, which reflect the respective objectives of the zones and the statutory requirements in Section 6 of the Act.
- 3 Rules which provide for lots of at least 4000m<sup>2</sup> as discretionary activities in the Rural zone subject to a 4ha average lot size clause being met.
- 4 Rules which limit the number of lots of less than 20ha which may be subdivided from sites in the Coastal zone under the discretionary activity provisions (3 lots per site over a 10 year period).
- 5 Rules for assessing the environmental effects of subdivision related to the zone, policy area and activity status.
- 6 Utilise the provisions in the Act for public notification of subdivision consent applications where they are likely to have significant environmental effects.
- 7 Rules which require information on the intended supply of electricity and telephone services to subdivisions, including any proposed easements to be provided with subdivision consent applications.

Explanation: The subdivision of land in rural areas is controlled in order to meet the requirements in Section 6 of the Act and associated policy provisions. Particular control is exercised over residential forms of subdivision in the coastal environment. The approach adopted is intended to strike a balance between more intensive use of the district's land resources and protecting its inherent natural features and amenity values.

**(2) Urban Subdivision**

Policy 1: To provide for a variety of lots in urban areas and relate their layout and size to the means of sewage disposal.

Policy 2: To control the overall density of subdivision in the Residential zone for amenity and open space reasons.

Policy 3: To generally require the provision of community or whole subdivision stormwater and wastewater disposal systems for large residential zoned properties

Methods of Implementation

- 1 Rules which make the subdivision of land which is sewerred a controlled activity and the subdivision of land which is not sewerred a discretionary activity in the Residential, Commercial and Industrial zones.
- 2 Special criteria (rules) for assessing subdivisions which are to rely on septic tanks and other similar forms of on-site sewage disposal.
- 3 Require special engineering reports on subdivisions which are to rely on septic tanks and other similar forms of on-site sewage disposal in appropriate circumstances.
- 4 Rules which set minimum area requirements for sewerred lots in the Residential zone.
- 5 Utilise the provisions in the Act for public notification of subdivision consent applications where they are likely to have significant environmental effects.

Explanation: The subdivision of land in the various settlements is to be controlled primarily from a servicing perspective and in particular the means of sewage disposal. Minimum lot size requirements are set for sewered lots in the Residential zone in order to retain its relatively low density open space character.

**(3) Subdivision Design**

Policy 1: To require that land be subdivided in an environmentally sensitive manner having regard to its topography, historic, cultural and natural features, and servicing needs.

Methods of Implementation

- 1 Rules for assessing subdivision consent applications against a set of performance criteria dealing with subdivision layouts, natural hazards, earthworks and site development works, protection of historic, cultural and natural features, reserves, road access, utility services, existing rural industries, coastal natural character, landscape and rural amenity values and traffic effects.
- 2 Conditions on subdivision consent applications based on the design and servicing guidelines in the district plan and related provisions in the Resource Management Act and associated policy statements.

Explanation: The subdivision of land needs to be undertaken in an environmentally sensitive manner having regard to district plan policies and associated design guidelines. There is considerable scope under the Act to set conditions on individual consents taking into account these guidelines and related legislative requirements.

**(4) Reserves Roads and Utility Services**

Policy 1: To ensure that adequate land is set aside for reserves within settlements at the time of subdivision and associated facilities developed to meet the recreational needs of future occupiers.

Policy 2: To require a reserve contribution generally in cash on all rural lots which are capable of accommodating a residential dwelling and have been assessed for building site suitability purposes at the time of subdivision.

Policy 3: To not require a reserve contribution on lots for utility services purposes, including network utilities.

Policy 4: To ensure that when land is subdivided roads and utility services are provided to meet the access and servicing needs of future occupiers.

Policy 5: To ensure effective road and pedestrian access links are provided between subdivisions and subdividers upgrade roads affected by subdivisions or make appropriate financial contributions.

Policy 6: To generally require works be carried out by subdividers to offset the adverse effects of subdivisions on existing roads and utility services and administer limited cash contribution systems.

Policy 7: To administer a cash based financial contribution for the growth related roading and pedestrian access improvements within the Molesworth Peninsula Structure Plan Area.

Policy 8: To encourage the use of private roads and rights of way in rural subdivisions, particularly where there are little or no public benefits in extending the public road network.

Policy 9: To require that when land is subdivided appropriate provision is made for vehicle crossings and where the adjacent road has traffic safety limitations, existing crossings are upgraded or new crossings installed to mitigate the effects of the subdivision.

Policy 10: To encourage, and where appropriate require, the provision of managed whole subdivision wastewater and stormwater systems for subdivisions in environmentally sensitive areas.

Policy 11: To ensure that stormwater systems in settlement areas are planned and designed in accordance with Council drainage plans, including the Mangawhai Heads Catchment Drainage Plan.

Policy 12: To generally require the provision of electricity to lots of a principally residential, commercial or industrial nature.

Policy 13: To limit Council involvement in the supply of electricity to lots of a principally rural nature to the creation of any necessary supply easements and the

effects of above ground structures on the natural character of land in the Coastal Environment Area and Kaipara Harbour Environment Area.

Methods of Implementation

- 1 Rules which enable financial contributions towards the provision of reserves as conditions of subdivision consent in appropriate circumstances
- 2 Rules which set maximum reserve contribution requirements for lots of a principally rural lifestyle, residential, commercial or industrial nature.
- 3 Investigate reserve needs in Mangawhai and other developing settlements and alternative financial contribution systems.
- 4 Rules which enable financial contributions in cash or land to be required towards the provision of roads, wastewater, stormwater and water supply services as conditions of subdivision consent in appropriate circumstances.
- 5 Rules and guidelines relating to the provision of roads, sewerage, stormwater and water supply services and associated assessment of financial contributions.
- 6 Rules which require information on existing road conditions and vehicle crossings, along with the need for any new crossings to be submitted with subdivision consent applications.
- 7 Guidelines in the district plan identifying the general standards of roads, private ways, wastewater, stormwater and water supply services expected at the time of subdivision and used by the Council for assessing consent conditions.
- 8 Rules which require information on the intended supply of electricity and telephone services to subdivisions, including any proposed easements to be provided with subdivision consent applications.

Explanation: The subdivision of land, especially in urban areas will often place additional demands on reserves, roads and utility services. Works related conditions

requiring the upgrading or extension of existing facilities and services will be imposed on subdivision consents. Financial contributions may be sought towards the establishment and/or upgrading of these facilities in accordance with the general provisions in the Act, and specific servicing guidelines in the plan.

**(5) Esplanade Areas**

Policy 1: To generally require esplanade areas along parts of the coast, lakes and rivers which have important recreational values and which would make a logical extension to the existing network.

This policy is expected to apply to (but is not limited to) the following waterbodies identified on Planning Maps No's 71-78

- East Coast (Bream Tail to Mangawhai)
- West Coast (Waipoua River to Pouto Point)
- Kaipara Harbour (selected outer reaches)
- Mangawhai Harbour (some parts)
- Waima River (lower reaches), Kaihu River (upper reaches), Mangatu Stream (lower reaches)

Policy 2: To enable esplanade areas to be sought for conservation related purposes where they would assist the protection of significant indigenous vegetation, or habitat of indigenous fauna or the habitat of trout.

This policy is expected to be applied to the following waterbodies identified on Planning Maps 71-78.

- Shag Lake (Kai Iwi area)
- Lake Humuhumu, Lake Kahuparere, Lake Rotootauru, and Lake Waingata (Pouto area)
- Waima River (lower reaches), Kaihu River (upper reaches), Mangatu Stream (lower reaches)

Policy 3: To generally require esplanade areas to be 20 metres wide but enable their width to be reduced or increased in appropriate circumstances, particularly where the topography of the land, cultural, historic or natural features, buildings or other facilities dictate otherwise.

Policy 4: To enable an esplanade strip to be provided instead of an esplanade reserve where some restrictions need to be placed on public access or where excessive survey costs would be incurred.

Policy 5: To not invoke the empowering provisions relating to esplanade areas on lots of 4 ha or more where the compensation payable outweighs any public access, recreational or conservation benefits likely to arise from their creation.

Policy 6: To encourage the use of voluntary covenanting, fencing and/or planting of riparian margins as alternatives to the creation of esplanade reserves and strips.

#### Methods of Implementation

- 1 Rules which enable esplanade reserves or strips to be created where specified criteria are met.
- 2 Rules which enable the widths of esplanade reserve or strips to be varied under specified circumstances.
- 3 Work with landowners and conservation groups on the voluntary covenanting and protection of sensitive marginal strips.

Explanation: The policies relating to esplanade areas are intended to reflect the general requirements relating to public access and conservation of natural features in the Act. They are to be implemented in a consistent manner related to particular waterbodies and enable esplanade areas to be sought on lots of 4 ha or more where significant public benefits are expected to arise from them. The Council's liability to pay compensation for the land and any survey in such situations will be an important factor in their application.

### **11. 5 Rules - Subdivision of Land in Zones**

#### **11.5.1 Rural Zone**

(1)

#### Controlled Activities

The following shall be controlled activities in the Rural Zone:

- (i) The subdivision of land into lots of at least 4 ha (net site area) for any purpose;
- (ii) The subdivision of land into lots of less than 4ha for one or more of the following specific purposes:
  - a) Boundary Relocations - where the subdivision is intended to alter the boundaries of existing lots such that no additional lots are created and its purpose is consistent with the other controlled activity subdivision rules in the zone.
  - b) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots for utility services or public works, including roads and reserves.
  - c) Protection of Waahi tapu and Other Culturally Significant Features - where the subdivision will enable wahi tapu or other similar features to be protected.
  - d) Lots for the Protection of Historic or Natural Features - where the lots are intended to protect a significant historic feature, area of bush, shrubland, wetland or other similar feature and where the applicant undertakes to protect in perpetuity the feature concerned by a covenant or other similar instrument.

The Council will recognise the following as appropriate means of protecting features:

Conservation Covenants - Reserves Act 1977

Protected Private Land - Reserves Act 1977

Open Space Covenants - Queen Elizabeth II National Trust  
1977

Conservation Covenants - Conservation Act 1987  
Heritage Covenants - Historic Places Act 1993

Lots created under this clause shall be at least 4000m<sup>2</sup>. They may include land which is not covenanted or protected and is available for building a residential dwelling or other permitted land use activities. Such lots may also be held in conjunction with the lots containing the covenanted or protected feature on a one to one basis.

The number of lots subdivided from a site shall be based on the type and area of the feature and shall not exceed the following:

- Bush and shrubland features – 1 lot for every 4000m<sup>2</sup> of protected feature.
- Wetland features – 1 lot for every 2000m<sup>2</sup> of protected feature.

and provided that the average area of lots in the subdivision shall be at least 4ha net site area and there are no more than 6 lots containing protected features in the subdivision. Where two or more lots are associated with a feature the lot boundaries are to be chosen so that no significant disturbance to the feature results from fencing or other activities associated with the subdivision. In these situations covenants are to be arranged so that the protection and ongoing management for each part of the feature is consistent across the lots.

- e) Residential Dwellings Surplus to Farming, Factory Farming or Forestry Needs - where the subdivision is intended to create a separate lot around a residential dwelling which is surplus to the farming, factory farming or forestry needs of a property.
- f) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a lot or lots for any land use activity for which a land use consent has been granted.

g) Farm or Forest Park Type Subdivision - where the subdivision comprises one or more clusters of lots within a farm, or bush-shrubland setting, provided:-

- all of the land being subdivided that is not contained in the clustered lots, or access or utility lots, is held in one balance area or held in conjunction with these lots and amalgamation or restrictive covenant arrangements entered into to prevent further subdivision for a period of at least 10 years, and
- the lots are clustered into groups which protect and enhance the ecological, heritage, landscape and amenity values of the site and surrounding area, and
- no lots are within 500 metres of a conservation area or reserve administered by the Department of Conservation, except any marginal strip adjoining the coastal marine area, a river or lake which is administered by the Department, and
- the subdivision will not result in subsequent residential dwellings being erected within 300 metres of an existing rural industry (defined as being an airstrip, dairy shed, effluent pond, permanent fertiliser or silage bunker, off wintering stock pad, piggery, poultry shed, quarry, sawmill, timber processing facility or woolshed), except with the written consent of the industry operator, and
- the subdivision will not result in subsequent residential dwellings being erected within 30 metres of the coastal marine area or the margins of a river or lake, and
- no clustered lots have direct access onto a state highway, and

- each clustered lot contains an identified building area which is geotechnically sound and is capable of being served by an effective on-site wastewater treatment and disposal system, and
  - the subdivision is the subject of a comprehensive management plan containing ecological, landscape and rural amenity protection and enhancement works. This plan is also to cover protection and enhancement of historic places where they are present on the site, and
  - the average area of lots in the subdivision is at least 4ha (net site area).
- (h) Small Farming Lots With Amenity Enhancement - where the subdivision involves the creation of lots of at least 1ha (net site area) provided:-
- the lots are not within the Kaipara Harbour Environment Area shown on the planning maps, and
  - the lots do not have vehicle access onto a state highway, and
  - the average area of the lots in the subdivision is at least 4ha (net site area), and
  - the subdivision contains a variety of lot sizes related to the contours and natural features of the site and no more than half (50%) of the site is subdivided into lots of between 1ha and 4ha, and
  - no lots of less than 4ha are within 500 metres of a conservation area, or reserve administered by the Department of Conservation, except any marginal strip adjoining the coastal marine area, a river or lake which is administered by the Department, and

- the subdivision will not result in subsequent residential dwellings being erected within 300 metres of an existing rural industry (defined as being an airstrip, dairy shed, effluent pond, permanent fertiliser or silage bunker, off wintering stock pad, piggery, poultry shed, quarry, sawmill, timber processing facility or woolshed), except with the written consent of the industry operator, and
- the subdivision will not result in subsequent residential dwellings being erected within 30 metres of the coastal marine area or the margins of a river or lake, and
- a plan for rural amenity protection and enhancement is submitted with the application. This plan shall contain proposals which serve to enhance the ecological, heritage and/or landscape values of the site, such as protection of archaeological sites, historic places, significant indigenous vegetation or specimen trees, lot boundary, roadway or riparian planting, or revegetation of any degraded land.

(2) Discretionary Activities

The following shall be discretionary activities in the Rural Zone:

- The subdivision of land into lots of at least 4000m<sup>2</sup> (net site area) provided the average net site area of lots is at least 4ha (other than any lots qualifying as controlled activities)
- The subdivision of land for any specific purpose in the list of controlled activities which does not meet the qualifying criteria.

**11.5.2 Maori Purposes Zone**

(1) Controlled Activities

The following shall be controlled activities in the Maori Purposes Zone:

- i) Any partition of land which involves parcels being held by owners who are not members of the same hapu and deemed to be a subdivision by virtue of the provisions in Section 432 of the Maori Affairs Act.
- ii) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots for utility services or public works, including roads and reserves.

**11.5.3 Coastal Zone**

(1) Controlled Activities

The following shall be controlled activities in the Coastal Zone:

- i) The subdivision of land into lots of at least 20 ha (net site area) for any purpose
- ii) The subdivision of land into lots of less than 20 ha (net site area) for one or more of the following specific purposes:
  - a) Boundary Relocations - where the subdivision is intended to adjust or alter the boundaries of existing lots and no additional lots are created;
  - b) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots for utility services or public works, including roads and reserves.
  - c) Protection of Waahi tapu and Other Culturally Significant Features - where the subdivision will enable waahi tapu or other similar features to be protected.
  - d) Protection of Historic or Natural Features - where the subdivision is intended to protect a significant historic feature, area of bush, shrubland, wetland or other similar feature and where the applicant offers to protect in

perpetuity the feature concerned by a covenant or other similar instrument.

The Council will recognise the following as appropriate means of protecting any features:

- Conservation Covenants - Reserves Act 1977
- Protected Private Land - Reserves Act 1977
- Open Space Covenants - Queen Elizabeth II National Trust 1977
- Conservation Covenants - Conservation Act 1987
- Heritage Covenants - Historic Places Act 1980

- e) Residential Dwellings Surplus to Farming or Forestry Needs -where the subdivision is intended to create a separate lot around a residential dwelling which is surplus to the farming or forestry needs of a property.
- f) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a separate lot for any land use activity for which a land use consent has been granted.

(2) Discretionary Activities

The following shall be discretionary activities in the Coastal Zone:

- i) The subdivision of land into lots of less than 20 ha for any purpose (other than those specifically listed as controlled activities) provided that no more than 3 lots are subdivided from any one site in any 10 year period.

**11.5.4 Residential Zone**

(1) Controlled Activities

The following shall be controlled activities in the Residential Zone:

- i) The subdivision of land within Dargaville township into lots of at least 300m<sup>2</sup> (minimum net site area) for principally residential use

where such lots are to be connected to a reticulated wastewater treatment system.

ii) The subdivision of land within coastal and rural townships (other than Dargaville) into lots of at least 600m<sup>2</sup> (minimum net site area) and 900m<sup>2</sup> (average site area) for principally residential use where such lots are to be connected to a reticulated wastewater system, except within the Mangawhai Heads 'Beachfront' Area where a 1000 m<sup>2</sup> minimum net site area shall apply (Refer to Map 87).

iii) The subdivision of land into lots of any size for one or more of the following specific purposes:

a) Boundary Relocations - where the subdivision is intended to adjust or alter the boundaries of existing lots and no additional lots are created;

b) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots for utility services or public works, including roads and reserves.

c) Protection of Waahi tapu and other Culturally Significant Features - where the subdivision will enable waahi tapu or other similar features to be protected.

d) Protection of Historic or Natural Features - where the subdivision is intended to protect a significant historic feature, area of bush, shrubland, wetland or other similar feature and where the applicant offers to protect in perpetuity the feature concerned by a covenant or other similar instrument.

The Council will recognise the following as appropriate means of protecting any features:

- Conservation Covenants - Reserves Act 1977
- Protected Private Land - Reserves Act 1977
- Open Space Covenants - Queen Elizabeth II National

- Trust 1977
- Conservation Covenants - Conservation Act 1987
- Heritage Covenants - Historic Places Act 1980

(e) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a separate lot for any land use activity for which a land use consent has been granted.

(2) Discretionary Activities

The following shall be discretionary activities in the Residential Zone:

i) The subdivision of land within Dargaville township into lots of less than 300m<sup>2</sup> (minimum net site area) for principally residential use where such lots are to be connected to a reticulated wastewater treatment system.

ii) The subdivision of land within coastal and rural settlements (other than Dargaville) into lots of between 600m<sup>2</sup> and 750m<sup>2</sup> (minimum net site area) and between 750m<sup>2</sup> and 900m<sup>2</sup> (average net site area) for principally residential use where such lots are to be connected to a reticulated wastewater treatment system; except within the Mangawhai Heads 'Beachfront' Area where a 1000m<sup>2</sup> minimum net site area shall apply.

iii) The subdivision of land into lots for principally residential use where such lots are to rely on individual lot on-site wastewater disposal systems (septic tank and the like) except on sites of more than 4000m<sup>2</sup> existing as at 1 December 2000, and provided that a minimum area of 1000m<sup>2</sup> shall apply in the Mangawhai Heads 'Beachfront' Area.

(3) Non-Complying Activities

i) The subdivision of sites of more than 4000m<sup>2</sup> existing as at 1 December 2000 into where such lots are to rely on individual on-site wastewater disposal systems.

ii) The subdivision of land within the Mangawhai Heads 'Beachfront' Area into lots of less than 1000m<sup>2</sup> minimum net site area or which does not comply with other controlled activity or discretionary activity rules.

- iii) The subdivision of land outside of the Mangawhai Heads 'Beachfront' Area which does not comply with the controlled activity or discretionary activity rules.

**11.5.5 Commercial Zone**

(1) Controlled Activities

The following shall be controlled activities in the Commercial Zone:

- i) The subdivision of land into lots of any size for one or more of the following specific purposes:
  - a) Commercial Use (Sewered) - where the land is being subdivided for principally commercial use and where such lots are to be connected to a reticulated wastewater treatment and disposal system.
  - b) Boundary Relocations - where the subdivision is intended to adjust or alter the boundaries of existing lots and no additional lots are created.
  - c) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots for utility services or public works, including roads and reserves.
  - d) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a separate lot for any land use activity for which a land use consent has been granted.

(2) Discretionary Activities

The following shall be discretionary activities in the Commercial Zone:

- i) The subdivision of land into lots of any size for principally commercial use and where such lots are to rely on septic tank systems or other similar forms of on-site sewage disposal.

**11.5.6 Industrial Zone**

(1) Controlled Activities

The following shall be controlled activities in the Industrial Zone:

- i) The subdivision of land into lots of any size for one or more of the following specific purposes:
  - a) Industrial Use (Sewered) - where the land is being subdivided for principally industrial use and where such lots are to be connected to a reticulated wastewater treatment and disposal system.
  - b) Boundary Relocations - where the subdivision is intended to adjust or alter the boundaries of existing lots and no additional lots are created;
  - c) Sites For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of sites for utility services or public works, including roads and reserves.
  - d) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a separate lot for any land use activity for which a land use consent has been granted.

(2) Discretionary Activities

The following shall be discretionary activities in the Industrial Zone:

- i) The subdivision of land into lots of any size for principally industrial use and where such lots are to rely on septic tank systems or other similar forms of on-site sewage disposal.

**11.5.7 Limited Industrial Zone<sup>#</sup>**

(1) Controlled Activities

The following shall be controlled activities in the Limited Industrial Zone:

- (i) The subdivision of land into lots of at least 4ha for any purpose.

(2) Discretionary Activities

The following shall be discretionary activities in the Limited Industrial Zone:

- (i) The subdivision of land into lots of any size principally for industrial use.

**11.5.8 Rural-Residential (Landscape and Ecological Enhancement) Zone**

(1) Controlled Activities

The following shall be controlled activities in the Rural-Residential (Landscape and Ecological Enhancement) Zone:

- i) The subdivision of land into lots of any size for one or more of the following specific purposes:
  - a) Boundary Relocations - where the subdivision is intended to adjust or alter the boundaries of existing lots and no additional lots are created;
  - b) Lots For Utility Services or Public Works - where the subdivision is related to the acquisition or disposal of lots

for utility services or public works, including roads and reserves.

- c) Protection of Waahi tapu and other Culturally Significant Features - where the subdivision will enable waahi tapu or other similar features to be protected.
- d) Protection of Historic or Natural Features - where the lots are intended to protect a significant historic feature, area of bush, shrubland, wetland or other similar feature and where the applicant undertakes to protect in perpetuity the feature concerned by a covenant or other similar instrument.

The Council will recognise the following as appropriate means of protecting features:

- Conservation Covenants - Reserves Act 1977
- Protected Private Land - Reserves Act 1977
- Open Space Covenants - Queen Elizabeth II National Trust 1977
- Conservation Covenants - Conservation Act 1987
- Heritage Covenants - Historic Places Act 1980
- Lots created under this clause shall be at least 4000m<sup>2</sup> (minimum net site area). They may include land which is not covenanted and is available for a residential dwelling or other permitted land use activities. Such lots may also be held in conjunction with the lots containing the covenanted or protected feature on a one to one basis.

Where two or more lots are associated with a 'feature' to be protected the lot boundaries are to be chosen so that no significant disturbance to features results from fencing or other activities associated with the subdivision. In these situations covenants are to be arranged so that the protection and ongoing management for each part of the feature is consistent across the lots.

<sup>#</sup> Updated August 2005

(e) Land Use Activities Subject of a Land Use Consent - where the subdivision is intended to create a separate lot for any land use activity for which a land use consent has been granted.

ii) The subdivision of land into lots of more than 4000m<sup>2</sup> (net site area) in the Mangawhai Heads West Rural-Residential Area shown on District Plan Map 80.

(2) Discretionary Activities

The following shall be discretionary activities in the Rural-Residential (Landscape and Ecological Enhancement) Zone:

(i) The subdivision of land into lots of more than 4,000 m<sup>2</sup> (net site area) for principally residential use, in areas other than the Mangawhai Heads West Rural-Residential Area, where such lots are to rely on individual lot on-site wastewater disposal systems installed at the time of building development.

(ii) The subdivision of land into lots with an average area of at least 4,000 m<sup>2</sup> (net site area) for principally residential use where such lots are to rely on individual lot on-site wastewater disposal systems installed at the time of building development provided any of the land not contained in the residential lots is held in one balance area or held in conjunction with the residential lots and amalgamation or restrictive covenants arrangements entered into.

(iii) The subdivision of land into lots for principally residential use in the form of a comprehensive development which is served by whole subdivision wastewater and stormwater disposal systems installed at the time of subdivision provided the lots have an average area of at least 2,000m<sup>2</sup> (net site area) and any of the land not contained in the residential lots is held in one balance area or held in conjunction with the residential lots and amalgamation condition or restrictive covenants arrangements entered into.

**11.6 Rules - Reserve Contributions**

**11.6.1 General Requirements for Reserve Contributions as Conditions of Land Use or Subdivision Consent**

The Council may in accordance with the provisions in Section 108 of the Act require a financial contribution in cash or land towards the establishment and/or upgrading of reserves and public open space areas as a condition of land use consent or subdivision consent. Contributions in land may be sought for the following purposes:

- Where land is required to be set aside and developed for reserve or public open space use to cater for the recreational and open space needs of people associated with a proposed land use or subdivision; and/or
- Where land is required to be set aside to protect a significant natural feature, historic place or archaeological site,

**11.6.2 Form of Reserve Contributions**

The Council will assess financial contributions on an application by application basis having regard to the ecological, landscape and recreational public open space effects of the proposed activity and the extent to which any adverse effects can be avoided, remedied or mitigated.

Any reserve contribution required as a condition of land use consent or subdivision consent may be in the form of:

- i) land to be set aside and vested in the Council, the Department of Conservation, or other authority for reserve or public open space purposes; or
- ii) a cash contribution to the Council for it to carry out works relating to developing or upgrading reserves or public open spaces in the district.

In addition under Section 108 of the Act the Council can require as a resource consent condition works on any reserve or public open space. Such works may include but are not limited to the following:

- fencing
- landscaping including grassing and tree planting
- provision of play equipment and other recreational facilities
- provision of footpaths and walking tracks

### **11.6.3 Maximum Amount of Reserve Contributions in Land**

No requirement to set aside land for reserve or public open space purposes shall exceed the following maximum amounts:

- (1) Subdivision of Land for Principally Residential Purposes or Rural Purposes Where The Lots Can Accommodate A Residential Dwelling  
an area equivalent to 100 m<sup>2</sup> for each additional lot or 5% of the value of each additional lot, except on lots of more than 4000m<sup>2</sup> where the contribution will be assessed on the basis of a 'nominal' 4000m<sup>2</sup> dwelling site.
- (2) Development of Land for Principally Residential Purposes  
an area equivalent to 0.5% of the value of each additional dwelling unit or similar accommodation facility
- (3) Subdivision of Land for Principally Commercial or Industrial Purposes  
an area equivalent to 100 m<sup>2</sup> for each additional lot or 5% of the value of each additional lot

The Council may in some circumstances negotiate with an applicant to provide more land than the maximum reserve contribution specified above. This will be done on the basis of the Council paying for the additional land concerned and a proportionate share of the survey costs incurred. An applicant may also choose to gift a larger reserve area than that specified above.

### **11.6.4 Maximum Amount of Reserve Contributions in Cash**

Where the Council considers that a subdivision or development is adequately served by reserves and public open space areas (but not facilities and services thereon) or it

is impracticable to provide such reserves or public open space areas, it may require a cash contribution in lieu thereof be paid. No such cash contribution required under these provisions shall exceed the following maximum amounts:

- (1) Subdivision of Land for Principally Residential Purposes or Rural Purposes Where the Lots Can Accommodate A Residential Dwelling  
5% of the value of each additional lot, except on lots of more than 4000m<sup>2</sup> where the contribution will be assessed on the basis of a 'nominal' 4000m<sup>2</sup> dwelling site.
- (2) Development of Land for Principally Residential Purposes  
0.5% of the value of each additional dwelling unit or similar accommodation facility
- (3) Subdivision of Land for Principally Commercial or Industrial Purposes  
5% of the value of each additional lot.

### **11.6.5 Maximum Amount of Reserve Contributions in Works**

No resource consent condition to carry out works on a reserve or area of public open space shall exceed the equivalent maximum amount permitted in land or cash under Sections 11.6.3 and 11.6.4 respectively.

### **11.6.6 Matters to be Considered when Assessing Reserve Contributions**

The Council will have regard to the following matters when assessing reserve contributions in respect of the development or subdivision of land for principally residential, commercial or industrial purposes:

- the proximity of the land to existing reserves and public open space areas and standard of facilities on such reserves and open space areas
- the nature of any important archaeological sites, historic or natural features on the land and the appropriateness of them being formally set aside as part of a reserve or public open space
- the extent to which any archaeological, historic, ecological or other natural features are to be protected by way of covenants or other similar instruments and be made available for public use and enjoyment

- the nature of any landscaping and planting programmes proposed as part of the development or subdivision
- the extent to which any land area set aside would effectively complement or provide linkage to other reserves including esplanade reserves in the immediate vicinity
- the nature of any previous reserve contributions made in respect of the land in excess of the maximum amounts specified in Sections 11.6.3, 11.6.4 and 11.6.6.

**11.6.7 Exemptions For Lots For Utility Services Purposes**

No reserve contribution will be required for a lot which is being created solely or primarily for the provision of a utility service.

**11.6.8 Partitions of Maori Land or General Land Owned by Maori**

Section 302 (2) (a) of Te Ture Whenua Maori Act 1993 prescribes the basis upon which financial contributions in land for reserve purposes may be sought on partitions involving land that is being alienated. It reads:-

302. Contribution for reserve purposes

- (1) Notwithstanding anything in Section 302 of this Act or in the Resource Management Act 1991, where the Court partitions any land to which Section 301 of this Act applies, any condition imposed by the Court and requiring a contribution of land for reserve purposes or land in lieu of reserve shall only require any such land to be set aside from that part of the land that is to be alienated.
- (2) Notwithstanding anything in Section 301 of this Act or in the Resource Management Act 1991, in relation to any partition of land to which Section 301 of this Act applies.-
  - (a) The territorial authority shall not require, as a condition of subdivision consent, that a contribution in land (being a contribution for reserve purposes or land in lieu of reserves) be

made in respect of any part of the land in respect of which the Court has certified to the territorial authority as being of special historical significance or emotional association with the Maori people or any group or section of the Maori people; and

- (b) No survey plan relating to the partition shall be required to be deposited by the District Land Registrar or Registrar of Deeds in accordance with Part X of the Resource Management Act 1991.

Cf. 1953, No. 94, s. 432 (4), (5); 1991, No. 69, s 362

Section 301 of the Act reads as follows:-

301. Compliance with provisions of Resource Management Act 1991 relating to subdivisions

- (1) This section applies to every partition of land by the Court except for a partition into parcels to be held by owners who are members of the same hapu.
- (2) Subject to the provisions of this section, the Court shall not partition any land to which this section applies, otherwise than in accordance with the Resource Management Act 1991.
- (3) Without limiting subsection (2) of this section,-
  - (a) A partition of land shall be deemed to be a subdivision of land within the meaning of Section 218 of the Resource Management Act 1991; and
  - (b) Section 120 and 121 of the Resource Management Act 1991 (relating to appeals to the Planning Tribunal) shall apply to any decision of a territorial authority in relation to any application for a subdivision consent that is required by this section.

Cf. 1953, No. 94, s. 432 (1)-(3); 1991, No. 69, s. 362

**11.7 Rules - Esplanade Areas On Subdivision**

**11.7.1 General Requirements For Esplanade Reserves**

(1) Lots of Less Than 4 ha

The provisions in Section 230 of the Act relating to the setting aside of a 20 metre wide esplanade reserve where an allotment of less than 4 ha is created shall apply in the following circumstances:

- (a) The lot itself contains land, or adjoins a section of the coastal marine area, a lake or river, which has important recreational values and where:
  - (i) public access is either currently available to the waterbody and associated margins or where there is reasonable likelihood of such access being available in the future from a road, access strip or reserve including an adjacent esplanade reserve; or
  - (ii) in respect of the coastal marine area public access is currently available to the foreshore from the water and it can be used for the landing of small craft.
- (b) The lot itself contains land, or adjoins a section of the coastal marine area which is subject to serious wave or wind induced erosion or other natural hazard processes; and where
  - (i) formal reservation of the land is considered appropriate by the Council following consultation with the Northland Regional Council.
- (c) The lot itself contains land, or adjoins a portion of the coastal marine area, a lake or river which has significant indigenous vegetation and significant habitats of indigenous fauna or supports the habitat of trout, and where formal reservation of the land is considered appropriate by the Council.
- (d) The lot adjoins a lake, the water quality of which is being adversely affected by runoff from adjacent properties and where:
  - (i) formal reservation of the land is considered appropriate by the Council following consultation with the Northland Regional Council; and

- (ii) the Northland Regional Council or other appropriate body has agreed to assist with fencing and future management of the land.

(2) Lots of 4 ha or More

The Council has determined in accordance with the empowering provisions in Section 97 of the Act that a 20 metre wide esplanade reserve is to be set aside where an allotment of 4 ha or more is created in the following circumstances.

- (a) The lot itself contains land, or adjoins a section of the coastal marine area, a lake or river which has important recreational values and where:
  - (i) public access is either currently available to the waterbody and associated margins or where there is reasonable likelihood of such access being available in the future from a road, access strip or reserve including an adjacent esplanade reserve; or
  - (ii) in respect of the coastal marine area public access is currently available to the foreshore from the water and it can be used for the landing of small craft.
- (b) The lot adjoins a section of the coastal marine area which is subject to serious wave or wind induced erosion or other natural hazard processes, and where:
  - (i) formal reservation of the land is considered appropriate by the Council following consultation with the Northland Regional Council.
- (c) The lot itself contains land, or adjoins a portion of the coastal marine area, a lake or river, which has significant indigenous vegetation and significant habitats of indigenous fauna or supports the habitat of trout and where:-
  - (i) formal reservation of the land is considered appropriate by the Council following consultation with the Department of Conservation; and
  - (ii) where after consultation on a case by case basis the Department of Conservation or other appropriate body has agreed to assist with

fencing and future management of the land or assume ownership of the same as provided in Section 237D of the Act.

- (d) The lot adjoins a lake, the water quality of which is being adversely affected by runoff from adjacent properties and where:
- (i) formal reservation of the land is considered appropriate by the Council following consultation with the Northland Regional Council; and
  - (ii) the Northland Regional Council or other appropriate body has agreed to assist with fencing and future management of the land.

Planning Map No's 71-78 identify those sections of the coastal marine area, lakes and rivers which are considered by the Council to have important recreational values and where the requirements in 1(a) and 2(a) above are expected to apply.

For the purpose of this rule, "significant" refers to either:

- (i) All those sites containing indigenous vegetation or habitat ranked moderate, moderate-high, high or outstanding on the Sites of Special Biological Interest (SSBI) database or equivalent under the Protected Natural Areas programme (PNA).
- (ii) In the absence of an assessment or ranking in terms of (i) above, assessments of significance and ranking should be based on the same methodology.

**11.7.2 Circumstances Where An Esplanade Strip May Be Used Instead Of An Esplanade Reserve**

A requirement relating to the setting aside of an esplanade reserve in Section 11.8.1 may be replaced by a requirement to create an esplanade strip in the following circumstances:

- where the provision of an esplanade reserve is likely to create difficulties with the ownership and operation of buildings and other facilities situated within such a reserve.

- where the provision of an esplanade reserve would involve a difficult or extensive survey in relation to the purpose of the subdivision; or
- where the Council is likely to have to pay significant compensation to the registered proprietor of the land relating to the survey and/or acquisition of the land.
- where unrestricted public access could adversely affect conservation management programmes or other uses intended for the land.
- where the margins are affected by erosion, inundation or other natural hazard processes and a fixed inner boundary would not be appropriate.

**11.7.3 Circumstances Where An Esplanade Reserve or Strip Less Than 20 Metres Wide or Where No Esplanade Reserve or Strip May Be Required**

The Council may as a condition of subdivision consent require either that:

- an esplanade reserve or esplanade strip less than 20 metres wide be created,
- no esplanade reserve or esplanade strip be created,

where one or more of the following circumstances are considered to apply:

- (i) the land contains a structure or is used for activities which are of a sensitive nature and where a lesser reserve or strip width or no reserve or strip is appropriate for reasons of security.
- (ii) the land contains a structure or is used for activities which are of a potentially dangerous nature and where a lesser reserve or strip width or no reserve or strip is appropriate for reasons of public safety.
- (iii) the land has been substantially modified by earthworks, agricultural activities or the like, is of little or no conservation value, and where provision of a reserve or strip would result in an unreasonable loss of property and/or improvement values.

- (iv) the land is extremely steep, substantially in bush or other dense vegetation and where provision of a reserve or strip would incur excessive survey costs in relation to the purpose of the subdivision.
- (v) the subdivision involves a minor boundary adjustment or other proportionately small alteration in a title and where provision of a reserve or strip would result in excessive survey costs and/or compensation payments in relation to the purpose of the subdivision.
- (vi) in respect of any river where adequate public access is available along one side and where provision of a reserve or strip would serve little purpose.
- (vii) where the purposes of an esplanade reserve or esplanade strip can be equally or better achieved by an alternative means, such as:
  - a land improvement agreement with individual landowners (these may be used for protection of aquatic habitat, water quality and hazard mitigation)
  - a conservation covenant under the Reserves Act or QEII Trust Act (these may be used for protection of natural character, landscape, values and habitats on margins of a waterbody)
  - financial contributions in the form of fencing, planting and other works.
- (viii) where waahi tapu or other culturally significant sites are present and creation of an esplanade reserve or strip and associated public access would be inappropriate.  
provided that where a reduction in esplanade reserve or strip width is required the reserve or strip shall not be less than 3 metres wide.

**11.7.4 Circumstances Where An Esplanade Reserve or Strip Greater Than 20 Metres Wide May Be Required**

The Council may as a condition of subdivision consent require that an esplanade reserve or esplanade strip greater than 20 metres wide be set aside along the banks of any river , or along the margins of any lake, or along the mark of mean high water

springs of the sea where one or more of the following circumstances is considered to apply.

- i) the land is prone to erosion, subsidence, slippage inundation or other natural processes and a greater reserve or strip width will serve an effective hazard mitigation function; or
- ii) the land contains aquatic habitats of rare and endangered animal or plant species and a greater reserve or strip width will serve to maintain or enhance such habitat values; or
- iii) the land contains coastal cliffs or is of similar steep topography and where a greater reserve or strip width will enable safe public access and associated recreational use to be obtained.

Where such a condition is required the Council is liable to pay compensation to the subdividing owner or the owner's personal representative in accordance with the provisions in Sections 237E and 237F of the Act.

**11.7.5 Requests to Council to Consider Esplanade Reserve or Strip Greater or Less Than 20 Metres Wide**

In making any application for subdivision consent to the Council a request may be made for the Council to consider requiring an esplanade reserve or strip greater or less than 20 metres wide. Any such request is to be made in writing and accompanied by information on the following matters:

- the topography of the land concerned including a plan showing contours where appropriate.
- the present use of the land and the location of any structures on or adjacent to the required esplanade reserve or strip.
- the conservation values of the land and adjacent waterbody including a description of the vegetation and associated wildlife present.
- the public access values of the land and presence or otherwise of esplanade and other reserves in the immediate vicinity.

- the liability of the land to erosion, flooding and other natural hazards.
- the water quality enhancement values of the land and associated vegetation cover.
- the estimated costs associated with surveying any esplanade reserve in relation to the total estimated costs of the subdivision where relevant
- any alternative instrument such as a conservation covenant, right of way easement or consent notice which could be used to achieve one or more of the purposes of the esplanade reserve as set out in Section 229 of the Act.
- the nature of any special conditions or restrictions proposed for any esplanade strip including those relating to periodic closure as provided for in the Tenth Schedule to the Act.

#### **11.7.6 Exemptions For Lots For Utility Service Purposes**

No esplanade reserve or strip shall be required where a lot is associated with the provision of a utility service.

#### **11.8 Rules - Esplanade Areas on Road Stopping**

##### **11.8.1 Circumstances When An Esplanade Strip May Be Used Instead Of An Esplanade Reserve**

The requirements in Section 345 of the Local Government 1974 relating to the setting aside of an esplanade reserve when a road is stopped may be replaced by a requirement to create an esplanade strip where one or more of the circumstances in Section 11.7.2 exist.

##### **11.8.2 Circumstances When An Esplanade Reserve Or Strip Less Than 20 Metres Wide or Where No Esplanade Reserve or Strip May Be Required**

The width of any esplanade reserve or strip required under Section 345 of the Local Government Act 1974 or this plan when a road is stopped may be reduced from 20 metres or waived altogether where one or more of the circumstances in Section 11.7.3 exist.

##### **11.8.3 Circumstances When An Esplanade Reserve or Strip More Than 20 Metres Wide May Be Required**

The width of any esplanade reserve or strip required when a road is stopped under Section 345 of the Local Government Act or this plan may be increased from 20 metres when one or more of the circumstances in Section 11.7.4 exist.

##### **11.8.4 Requests to Council to Consider Esplanade Reserve or Strip Greater or Less Than 20 Metres Wide**

Any request to Council to consider provision of an esplanade reserve or esplanade strip greater or less than 20 metres wide when a road is stopped is to be made taking into account the information requirements in Section 11.7.5.

