

IN THE ENVIRONMENT COURT  
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU

Decision No. [2021] NZEnvC 032

IN THE MATTER OF

the Local Government (Auckland  
Transitional Provisions) Act 2010  
(LGATPA), and the Resource  
Management Act 1991, and the rural  
subdivision provisions of the in part  
proposed and in part Operative  
Auckland Unitary Plan, and appeals  
pursuant to s 156 of the LGATPA

BETWEEN

CABRA RURAL DEVELOPMENTS  
LIMITED

FOREST HABITATS LIMITED

KAREPIRO INVESTMENTS  
LIMITED

MONOWAI PROPERTIES LIMITED

RAHOPARA FARMS LIMITED

RAUHORI FORESTS LIMITED

SH 16 LIMITED

(ENV-2016-AKL-000189)

AND

OTHER APPELLANTS  
(Annexure A)

Appellants

AND

AUCKLAND COUNCIL

Respondent

Court: Environment Judge J A Smith

Hearing: On the papers at Auckland

Last case event: 8 March 2021

Date of Decision: 16 March 2021

Cabra Rural Developments Limited & Ors v Auckland Council Decision 20210311



Date of Issue:

16 MAR 2021

---

## DECISION OF THE ENVIRONMENT COURT

---

- A:** The wording of Annexure C is adopted.
- B:** There is no order as to costs.
- C:** Auckland Council is to alter its plan accordingly as soon as possible.

### REASONS

#### Introduction

[1] This is a final decision of the Environment Court as to the final wording of the rural subdivision provisions in the Auckland Unitary Plan Operative in part (AUP).

#### Background

[2] This matter was originally decided by the Court in relation to opportunities for the subdivision or development in the rural areas in June 2018.<sup>1</sup>

[3] The matter was subsequently appealed to the High Court and a decision issued on 6 August 2019.<sup>2</sup>

[4] Thereafter there were attempts at resolving the differences between the parties, but the matter was remitted again to this Court for hearing on issues still in dispute between the parties and a further decision, issued on 16 September 2020.<sup>3</sup>

[5] There were further attempts at resolution between the parties, in accordance with directions made by the Court. It was revealed that there was continuing dispute between the parties as to the wording of several provisions. The Court received submissions and considered each dispute in turn. On 17 February 2021, the

---

<sup>1</sup> *Cabra Rural Developments and ors v Auckland Council* [2018] NZEnvC 90.

<sup>2</sup> *Auckland Council v Cabra Rural Developments Ltd* [2019] NZHC 1892.

<sup>3</sup> *Cabra Rural Developments and ors v Auckland Council* [2020] NZEnvC 153.

Environment Court issued a final Decision as to the provisions to be included with in the AUP in relation to rural subdivision.<sup>4</sup> The Council was directed to file a final copy of the provisions as amended by the Court for approval.

### **Amended provisions**

[6] The Council filed a Memorandum submitting the amended provisions. The amendments relate to aspects of Tables E39.6.4.41 and E39.6.4.5.1, the explanatory note under Table E39.6.4.4.1, additional Rules E39.6.4.4(2B) and Rule E39.6.4.5(1)(c).

[7] Annexure **B** sets out the matters covered by these appeals, with amendments to the various provisions. Annexure **B** uses colour-coded text. The key in the colour-coded document indicates that:

- (a) The black text denotes the provisions endorsed by the Environment Court in its decision of 12 June 2018, which was not at issue in the June 2020 Environment Court hearing and provisions in the relevant chapters of the AUP that were not subject to appeal;
- (b) Green text denotes the revised provisions following the Environment Court's 2020 Decision which were agreed by the parties (with the exception of aspects of Table E39.6.4.4.1, Table E39.6.4.5.1 and Rule E39.6.4.5(1)(c));
- (c) Purple text denotes the Zakara Investments Limited (**Zakara**) provisions agreed by the Council and Zakara following the Environment Court's 2020 Decision; and
- (d) Blue text denotes the revised provisions following the Environment Court's 2021 Decision.

[8] Annexure **C** is a clean version of the provisions.

[9] Annexure **D** is a copy of the map that is referred to in the attached rural

---

<sup>4</sup> *Cabra Rural Developments and ors v Auckland Council* [2021] NZEnvC 010.

subdivision provisions as Map [X]. Map [ X] relates to the site-specific subdivision provisions for Zakara's land on Kawau Island. It depicts the extent of the indigenous vegetation and freshwater wetland that the Council's and Zakara's ecologists recognised as Significant Ecological Areas on that land and forms the basis for the site specific in-situ and Transferrable Rural Site Subdivision rural subdivision rules (A17A), (A17B), (A21A) and (A21B) in Table E39.4.1 for Zakara.

[10] The intention is that once the approved provisions are received from the Court, the map referred to as Map [X] will be named in a way that is consistent with other maps in the AUP and will be incorporated either into the Chapter 39 rural subdivision provisions or the AUP GIS layers.

[11] The Court is satisfied that the rural subdivision provisions address the matters in the decision of the Court dated 17 February 2021 and otherwise meet the purpose of the RMA and the relevant Policy Statements / documents as set out in the various Decisions.

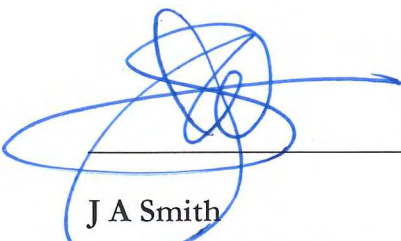
### Outcome

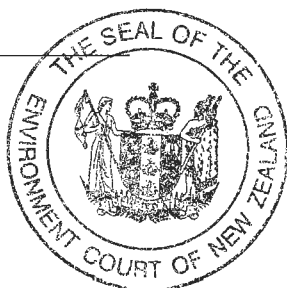
[12] The final rural subdivision provisions are attached to this Decision. Annexure **B** is a colour-coded copy of the provisions with new text shown as underlined and deleted text as strikethrough. Annexure **C** is a clean version of the provisions. Annexure **D** is a copy of the map that is referred to in the attached rural subdivision provisions as Map [X].

[13] Auckland Council is to alter its plan accordingly as soon as possible.

[14] The Court confirms that there is no order as to costs.

For the Court:

  
J A Smith  
Environment Judge



**Annexure A – Other Appellants**

CATO BOLAM CONSULTANTS LIMITED  
(ENV-2016-AKL-000206)

DAVID MASON  
BETTER LIVING LANDSCAPES LIMITED  
FLUKER SURVEYORS LIMITED  
PARALLAX SURVEYORS LIMITED  
SAYES IN TRUST LIMITED  
(ENV-2016-AKL-000207)

SMITHIES FAMILY TRUST  
(ENV-2016-AKL-000212)

ZAKARA INVESTMENTS LIMITED  
(ENV-2016-AKL-000216)

RADIATA PROPERTIES LIMITED  
(ENV-2016-AKL-000234)

TERRA NOVA PLANNING LIMITED  
(ENV-2016-AKL-000248)

**Annexure B**

## AUCKLAND COUNCIL RURAL SUBDIVISION PROVISIONS - FINAL

### Key

<b>Black text</b>	<b>Environment Court 2018 decision provisions and provisions not subject to appeal</b>
<b>Green text</b>	<b>Revised provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Purple text</b>	<b>Agreed Zakara provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Blue text</b>	<b>Revised provisions following EC Decision No. [2021] NZEnvC 010</b>

New text is shown as underlined and deleted text as ~~striketrough~~

### **B9. Toitū te tuawhenua - Rural environment**

#### ***Me tupu te ora ki te tuawhenua***

Grow your livelihood inland

#### **B9.1. Issues**

The Auckland region is not just the location of New Zealand's largest city. Most of the Auckland region's land is rural and contains extensive, productive and valuable areas used for farming (agriculture, horticulture and grazing), rural service industries, forestry and rural recreation. The rural parts of Auckland also contain important natural resources, including native bush, significant ecological areas and outstanding natural landscapes. The contributions made by rural areas and rural communities to the well-being of the region must be acknowledged and enabled.

The outward expansion of urban areas and people's lifestyle choices and recreational activities place significant pressures on maintaining the amenity values and the quality of the environment in rural areas. Specific issues in the Auckland region are:

- protecting the finite resource of elite quality soils from urban expansion;
- managing subdivision to prevent undue fragmentation of large sites in ways that restrict rural production activities;
- addressing reverse sensitivity effects which rural-residential development can have on rural production activities; and

- managing the opportunities for countryside living in rural areas in ways that provide for rural-residential development in close proximity to urban areas and the larger rural and coastal towns and villages while minimising the loss of rural production land.

...

## **B9.4. Rural subdivision**

### **B9.4.1. Objectives**

- (1) Subdivision does not undermine the productive potential of land containing elite soils.
- (2) Subdivision of rural land avoids, remedies or mitigates adverse effects on the character, amenity, natural character, landscape and biodiversity values of rural areas (including within the coastal environment), and provides resilience to effects of natural hazards.
- (3) Land subdivision protects and enhances significant indigenous biodiversity and degraded land.

### **B9.4.2. Policies**

- (1) Enable the permanent protection and enhancement of areas of significant indigenous biodiversity and rehabilitation of degraded land through subdivision.
- (2) Enable subdivision for the following purposes...
- (3) Provide for and encourage the transfer of the residential development potential of rural sites ~~from one place to another~~, to Countryside Living zones to reduce the impact of fragmentation of rural land from in-situ subdivision on rural land, as well as the rearrangement of site and for title boundaries to be amalgamated to:
  - (a) promote the productivity of rural land;
  - (b) manage the adverse effects of population growth across all rural areas;
  - (c) improve environmental outcomes associated with the protection of identified areas of high natural values;
  - (d) improve the management of reverse sensitivity conflicts; and
  - (e) avoid unplanned demand for infrastructure in remote areas, or across areas of scattered development.
- (4) Provide for new rural lifestyle subdivision in locations and at scales and densities so as to:
  - (a) avoid areas that would undermine the integrity of the Rural Urban Boundary or compromise the expansion of the satellite towns of Warkworth and Pukekohe, and rural and coastal towns and villages;
  - (b) protect areas where natural and physical resources have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal, historic heritage and special character;



- (c) avoid land containing elite soil;
  - (d) avoid where practicable land containing prime soil;
  - (e) avoid areas that would constrain the operation of existing mineral extraction activities or areas containing mineral resources identified in the plan for future extraction;
  - (f) maintain or enhance landscape, rural and, where relevant, coastal, character and amenity values;
  - (g) avoid the potential for reverse sensitivity effects that could hinder the continued operation or growth of existing rural activities, or the establishment of new rural activities; and
- (5) Encourage the amalgamation and transfer of rural sites to areas that can best support them. the Countryside Living zone.

#### **B9.5. Principal reasons for adoption**

The purpose of sustainable management includes safeguarding the life-supporting capacity of natural resources now and in the future. This includes protecting the productive potential of the land to provide for present and future generations as well as indigenous biodiversity. It is also to maintain or enhance the character of rural areas for their contribution to regional amenity values, particularly the landscape and natural character.

...

The subdivision policies also enable and encourage the transfer of the residential development potential of new and existing sites one place to another, and for title boundaries to be adjusted or relocated to locations where they will more usefully enable rural development potential to be realised sites in productive rural zones to Countryside Living Zones, and for title boundaries to be amalgamated and a residential development right to be realised in Countryside Living Zones.

## RURAL SUBDIVISION PROVISIONS

### Key

<b>Black text</b>	Environment Court 2018 decision provisions and provisions not subject to appeal
<b>Green text</b>	Revised provisions following EC Decision No. [2020] NZEnvC 153
<b>Purple text</b>	Agreed Zakara provisions following EC Decision No. [2020] NZEnvC 153
<b>Blue text</b>	Revised provisions following EC Decision No. [2021] NZEnvC 010

New text is shown as underlined and deleted text as ~~striketrough~~

### **E15. Vegetation management and biodiversity**

#### **E15.1. Background**

Vegetation contributes to a range of ecosystem services ....

#### **E15.3. Policies [rcp/rp/dp]**

- (1) Protect areas ...
- (2) Manage the effects ...
- (3) Encourage the offsetting ...
- (4) Protect, restore, and enhance biodiversity when undertaking new use and development through any of the following:
  - (a) using transferable rural site subdivision to protect areas that meet one or more of the factors referred to in B7.2.2(1) and in Schedule 3 Significant Ecological Areas -Terrestrial Schedule or shown on Map [X];
  - (b) requiring legal protection, ecological restoration and active management techniques in areas set aside for the purposes of mitigating or offsetting adverse effects on indigenous biodiversity; or
  - (c) linking biodiversity outcomes to other aspects of the development such as the provision of infrastructure and open space.

(5) Enable activities which ...

...

## RURAL SUBDIVISION PROVISIONS

### Key

<b>Black text</b>	<b>Environment Court 2018 decision provisions and provisions not subject to appeal</b>
<b>Green text</b>	<b>Revised provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Purple text</b>	<b>Agreed Zakara provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Blue text</b>	<b>Revised provisions following EC Decision No. [2021] NZEnvC 010</b>

New text is shown as underlined and deleted text as ~~striketrough~~

### **E39. Subdivision - Rural**

#### **E39.1. Introduction**

Subdivision is the process of dividing a site or a building into one or more additional sites or units, or changing an existing boundary location.

Objectives, policies and rules in this section apply to subdivision in the following zones:

- Rural - Rural Production Zone, Rural - Mixed Rural Zone, Rural - Rural Coastal Zone, Rural - Rural Conservation Zone and Rural - Countryside Living Zone;
- Rural - Waitakere Foothills Zone and Rural - Waitakere Ranges Zone;
- Future Urban Zone; and
- Special Purpose - Quarry Zone.

For subdivision provisions in all other zones refer to E38 Subdivision - Urban.

#### **E39.2. Objectives**

- (1) Land is subdivided to achieve the objectives of the zones, the relevant overlays and Auckland-wide provisions.

- (2) Land is subdivided in a manner that provides for the long-term needs of the community and minimises adverse effects of future development on the environment.
- (3) Land is vested to provide for esplanades, reserves, roads, stormwater, infrastructure and other purposes.
- (4) Infrastructure supporting subdivision and development is planned and provided for in an integrated and comprehensive manner and provided for to be in place at the time of the subdivision or development.
- (5) Infrastructure is appropriately protected from incompatible subdivision, use and development, and reverse sensitivity effects.
- (6) Subdivision has a layout which is safe, efficient, convenient and accessible.
- (7) Subdivision manages adverse effects on historic heritage or Maori cultural heritage.
- (8) Subdivision maintains or enhances the natural features and landscapes that contribute to the character and amenity values of the areas.
- (9) The productive potential of rural land is enhanced through the amalgamation of smaller existing land holdings sites, particularly for sites identified in Appendix 14 Land amalgamation incentivised area, and the transfer of titles to certain Rural - Countryside Living Zone areas.
- (10) Fragmentation of rural production land by:
  - (a) subdivision of land containing elite soil is avoided; ~~and~~
  - (b) subdivision of land containing prime soil is avoided where practicable; and
  - (c) subdivision of land avoids inappropriate rural lifestyle lots dispersed throughout the rural and coastal areas.
- (11) Subdivision avoids or minimises the opportunity for reverse sensitivity effects between agriculture, horticulture, mineral extraction activities, rural industry, infrastructure and rural lifestyle living opportunities.
- (12) Rural lifestyle subdivision is primarily limited to the Rural - Countryside Living Zone, and to sites created by protecting, restoring or creating significant areas of indigenous vegetation or wetlands.
- (13) Subdivision of any minor dwellings and workers' accommodation from the parent site is avoided.
- (14) Subdivision is provided for, by either:
  - (a) Limited in-situ subdivision through the protection and enhancement of significant indigenous vegetation or wetlands and/or indigenous revegetation planting; or
  - (b) ~~by~~ Transfer of titles to the Rural-Countryside Living Zone, through the protection ~~or~~ and enhancement of indigenous vegetation and wetlands and/or through ~~restorative or~~ indigenous revegetation planting.

- (15) Subdivision maintains or enhances the natural features and landscapes that contribute to the character and amenity values of rural areas.
- (16) Rural subdivision avoids or minimises adverse effects in areas identified in the Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay, Outstanding Natural Landscape Overlay and Significant Ecological Areas Overlay.
- (17) Subdivision:
  - (a) outside of urban and serviced areas avoids adverse effects to people, property, infrastructure and the environment from natural hazards;
  - (b) avoids where possible, and otherwise mitigates, adverse effects associated with subdivision for infrastructure or existing urban land uses; and
  - (c) maintains the function of flood plains and overland flow paths to safely convey flood waters while taking into account the likely long term effects of climate change;

### **E39.3. Policies**

- (1) Provide for subdivision which supports the policies of the zones.
- (2) Require subdivision to manage the risk of adverse effects resulting from natural hazards in accordance with the objectives and policies in E36 Natural hazards and flooding, and to provide safe and stable building platforms and vehicle access.
- (3) Manage rural subdivision and boundary adjustments to facilitate more efficient use of land for rural production activities by:
  - (a) restricting further subdivision in the Rural - Rural Production Zone, Rural - Mixed Rural Zone and Rural - Rural Coastal Zone for a range of rural production activities; and
  - (b) providing for the transfer of titles to certain Rural - Countryside Living Zones.
- (4) Require subdivisions to be designed to retain, protect or enhance features including those in the Historic Heritage Places Overlay and Sites and Places of Significance to Mana Whenua Overlay, or otherwise remedy adverse effects.
- (5) Provide for subdivision around existing development and subdivision where it enables creation of sites for uses that are in accordance with an approved land use resource consent, where there is compliance with Auckland-wide and zone rules and appropriate provision is made for areas of common use.
- (6) Provide for minor boundary adjustments which enable a more efficient and effective use of land where there is compliance with Auckland-wide and zone rules.
- (7) Require any staged subdivision to be undertaken in a manner that promotes efficient development.

- (8) Avoid the fragmentation by subdivision of land containing elite soil and avoid where practicable fragmentation by subdivision of land containing prime soil.
- (9) Encourage the amalgamation of small fragmented land parcels identified in Appendix 14 Land amalgamation incentivised area through transferable rural site subdivision.
- (10) Require any proposal for rural lifestyle subdivision to demonstrate that any development will avoid or mitigate potential reverse sensitivity effects between it and any rural production activities, mineral extraction activities, rural industries and infrastructure.
- (11) Restrict in-situ subdivision for rural lifestyle living to where:
  - (a) the site is located in the Rural - Countryside Living Zone;
  - (b) the site is created through the protection ~~or~~ /enhancement of significant indigenous vegetation and wetlands; or
  - (c) the site is created through ~~restorative or~~ indigenous revegetation planting.
- (12) Enable the transfer of titles to sites in the Rural - Countryside Living Zone which are identified using the subdivision variation control on the planning maps.
- (13) Manage reverse sensitivity conflicts between rural lifestyle living and countryside living and rural production activities by the design and layout of subdivisions and locations of identified building areas and house sites.
- (14) Avoid the subdivision of minor dwellings and workers' accommodation from the parent site in the rural areas.

*Protection of indigenous vegetation and wetland and revegetation planting*

- (15) Enable:
  - (a) Transfer of titles; and
  - (b) Limited in-situ subdivision
    - ~~or the transfer of titles~~ through the protection of indigenous vegetation or wetlands identified in the Significant Ecological Areas Overlay or shown on Map [X] or areas meeting the factors for Significant Ecological Areas in Policy B7.2.2(1) and in terms of the descriptors contained in Schedule 3 Significant Ecological Areas - Terrestrial Schedule and indigenous revegetation planting.
- (16) Require indigenous vegetation or wetland within a site being subdivided to be legally protected in perpetuity.
- (17) Provide limited opportunities for in-situ subdivision in rural areas while ensuring that:
  - (a) there will be significant environmental protection ~~or restoration~~ of indigenous vegetation including restoration, or wetlands;
  - (b) subdivision avoids the inappropriate proliferation and dispersal of development by limiting the number of sites created;

- (c) subdivision avoids inappropriate development within areas of the Outstanding Natural Landscape Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay and the coastal environment;
  - (d) adverse effects on rural and coastal character are avoided, remedied or mitigated;
  - (e) sites are of sufficient size to absorb and manage adverse effects within the site; and
  - (f) reverse sensitivity effects are managed in a way that does not compromise the viability of rural sites for continued production.
- (18) Avoid the subdivision of sites in the Quarry Buffer Area Overlay and in areas of significant mineral resources that would result in development that could compromise the operation of mineral extraction activities.

*Natural features and landscape*

- (19) Require subdivision, including site boundaries and specified building areas and access, to:
- (a) recognise topography including steep slopes, natural features, ridgelines, aspect, water supplies, and existing vegetation;
  - (b) avoid inappropriately located buildings and associated accessways including prominent locations as viewed from public places;
  - (c) avoid adverse effects on riparian margins and protected natural features; and
  - (d) avoid fragmentation of features and landscape in the Significant Ecological Areas Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay, Outstanding Natural Landscapes Overlay, Outstanding Natural Features Overlay or Sites and Places of Significance to Mana Whenua Overlay, or areas between sites.

*Esplanade Reserves and Strips*

- (20) Require esplanade reserves or strips when subdividing land adjoining the coast and other qualifying water-bodies.
- (21) Avoid reducing the width of esplanade reserves or strips, or the waiving of the requirement to provide an esplanade reserve or strip, except where any of the following apply:
- (a) safe public access and recreational use is already possible and can be maintained for the future;
  - (b) the maintenance and enhancement of the natural functioning and water quality of the adjoining sea, river or other water body will not be adversely affected;
  - (c) the land and water-based habitats on and adjoining the subject land area will not be adversely affected;

- (d) the natural values, geological features and landscape features will not be adversely affected;
  - (e) any Scheduled Historic Heritage Places and Sites and Places of Significance to Mana Whenua will not be adversely affected;
  - (f) it can be demonstrated that the reduced width of the esplanade reserve or strip is sufficient to manage the risk of adverse effects resulting from natural hazards, taking into account the likely long-term effects of climate change;
  - (g) it can be demonstrated that a full width esplanade reserve or strip is not required to maintain the natural character and amenity of the coastal environment;
  - (h) a reduced width in certain locations can be offset by an increase in width in other locations or areas, which would result in a positive public benefit in terms of access and recreation;
  - (i) restrictions on public access are necessary to ensure a level of security for business activities in limited circumstances having regard to Policy B8.4.2(3) relating to public access in the coastal marine area; or
  - (j) direct access to the sea or other water body is required for a business activity in limited circumstances.
- (22) Require esplanade reserves rather than esplanade strips unless any of the following apply:
- (a) land has limited conservation and recreational value;
  - (b) conservation and historic heritage values that are present can be adequately protected in private ownership;
  - (c) opportunity to acquire an esplanade reserve is unlikely to arise but continuity of access is desirable;
  - (d) creation of esplanade strips can secure public benefits and resource management objectives without alienating land from private ownership;
  - (e) land is subject to natural hazards or stability issues taking into account the likely long term effects of climate change; or
  - (f) a marginal strip of at least 20 metres under the Conservation Act 1987 has not been set aside on land that is Treaty Settlement Land.

*Amenity*

- (23) Require subdivision to avoid creating ribbon development along public roads or multiple access points that may adversely affect the character or amenity values or the adequate functioning of rural roads.
- (24) Require accessways, public walkways and roads to be designed so rural and coastal character and amenity values are maintained or enhanced.
- (25) Restrict the location and design of sites and specified building areas to:



- (a) integrate development with the existing landscape; and
  - (b) ensure the character and amenity values of adjacent sites and the locality are not adversely affected.
- (26) Require rural subdivision to avoid, remedy or mitigate adverse effects on the rural or coastal character and to complement the rural or coastal character of the area.

*Infrastructure*

- (27) Require infrastructure servicing rural subdivision to avoid, remedy or mitigate adverse effects on rural character and amenity.
- (28) Require all sites capable of containing a building, in areas where service connections are available to a public reticulated network, to be able to connect to the following networks:
- (a) wastewater;
  - (b) stormwater; and
  - (c) potable water.
- (29) Require all new sites capable of containing a building, in areas with no reticulated water supply, stormwater or wastewater network, to be of a size and shape that provides for:
- (a) the treatment and disposal of stormwater in a way that does not lead to significant adverse off-site effects including degraded water quality, erosion, land instability, creation or exacerbation of flooding;
  - (b) management of wastewater via an on-site wastewater treatment system, or approval to connect to a private wastewater network; and
  - (c) potable water
- (30) Require subdivision to manage stormwater:
- (a) in accordance with any approved stormwater discharge consent or network discharge consent;
  - (b) in a manner consistent with stormwater management policies in E1 Water quality and integrated management;
  - (c) by applying an integrated stormwater management approach to the planning and design of development in accordance with stormwater management policies in E1 Water quality and integrated management;
  - (d) to protect natural streams and maintain the conveyance function of overland flow paths;
  - (e) to maintain or progressively improve water quality;

- (f) to integrate drainage reserves and infrastructure with surrounding development and public open space networks; and
  - (g) in an integrated and cost-effective way.
- (31) Manage subdivision and development to avoid, remedy or mitigate adverse effects on infrastructure including reverse sensitivity effects, which may compromise the operation and capacity of existing or authorised infrastructure.
- (32) Enable subdivision for network utility purposes while avoiding, remedying or mitigating the adverse effects.

#### **E39.4. Activity table**

Tables E39.4.1 to E39.4.5 specify the activity status of subdividing land pursuant to section 11 of the Resource Management Act 1991 within the following zones:

- Rural – Rural Production Zone,
- Rural - Mixed Rural Zone,
- Rural – Rural Coastal Zone,
- Rural – Rural Conservation Zone
- Rural – Countryside Living Zone;
- Rural – Waitākere Foothills Zone
- Rural – Waitākere Ranges Zone;
- Future Urban Zone; and
- Special Purpose – Quarry Zone.

For subdivision within the National Grid Corridor Overlay, the activity status for subdivision in the rural zones as listed in Tables E39.4.1 to E39.4.5 below will apply unless there are different provisions in D26 National Grid Corridor Overlay in which case the overlay provisions will take precedence.

For all other subdivision refer to E38 Subdivision – Urban.

An activity listed in Table E39.4.1 Subdivision for specified purposes may only comprise a specific element of a subdivision activity. The other elements of a subdivision may also be listed in Tables E39.4.2 Subdivision in rural zones, E39.4.3 Subdivision in Future Urban Zone, E39.4.4 Subdivision in Special Purpose – Quarry Zone and E39.4.5 Subdivision in Rural - Waitākere Foothills Zone and Rural – Waitākere Ranges Zone.

Where a proposed subdivision activity fits into activities listed in Table E39.4.1 and those listed in Tables E39.4.2, E39.4.3, E39.4.4, or E39.4.5, then the activity status listed for each activity in each table also applies.

Refer to D12 Waitākere Ranges Heritage Area Overlay for areas and sites subject to specific subdivisions provisions in the Waitākere Ranges Heritage Area.

**Table E39.4.1 Subdivision for specified purposes**

Activity		Activity Status
(A1)	Lease in excess of 35 years of a building or part of a building where a cross-lease, company lease, or unit title subdivision is not involved	P
(A2)	Subdivision for a network utility	P
(A3)	Amendments to cross-lease or unit title, including additions and alterations to buildings, accessory buildings and areas for exclusive use by an owner or owners	C
(A4)	Boundary adjustments not exceeding 10 per cent of the original site area and meeting Standard E39.6.3.2	C
(A5)	Subdivision establishing an esplanade reserve	RD
(A6)	Subdivision establishing an esplanade strip	D
(A7)	Any reduction or waiver of esplanade reserves or strips	D
(A8)	Subdivision of land within any of the following natural hazard areas: <ul style="list-style-type: none"> <li>• 1 per cent annual exceedance probability floodplain;</li> <li>• coastal storm inundation 1 per cent annual exceedance probability (AEP) area;</li> <li>• coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m sea level rise area;</li> <li>• coastal erosion hazard area; or</li> <li>• land which may be subject to land instability.</li> </ul>	RD
(A9)	Any subdivision listed in this table not meeting standards in E39.6.1	D
(A10)	Boundary adjustments unable to comply with controlled activity rule and standards in E39.6.3.2 and E39.6.3	D

**Table E39.4.2 Subdivision in rural zones (excluding Rural – Waitākere Foothills Zone and Rural – Waitākere Ranges Zone)**

Activity		Activity Status
(A11)	Subdivision for open spaces, reserves or road realignment	D

(A12)	Subdivision in the Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone and Rural – Rural Conservation Zone complying with Standard E39.6.5.1	D
(A13)	Subdivision in the Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone and Rural – Rural Conservation Zone not complying with Standard E39.6.5.1	NC
(A14)	Subdivision in the Rural – Countryside Living Zone complying with Standard E39.6.5.2	D
(A15)	Subdivision in the Rural – Countryside Living Zone not complying with Standard E39.6.5.2	NC
(A16)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay, and complying with Standard E39.6.4.4	RD
(A17)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay not complying with Standard E39.6.4.4	NC
<u>(A17A)</u>	<u>In-situ subdivision creating additional sites through protection of indigenous vegetation or freshwater wetland shown on Map [X] up to a maximum of 6 sites from protection of indigenous vegetation and 2 sites from protection of freshwater wetland complying with Standards E39.6.4.4(2) to (12) (except that Standard E39.6.4.4(2B) does not apply) on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931).</u>	<u>RD</u>
<u>(A17B)</u>	<u>In-situ subdivision creating additional sites through protection of indigenous vegetation or freshwater wetland shown on Map [X] on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931) not complying with Standards E39.6.4.4(2) to (12) (except that Standard E39.6.4.4(2B) does not apply).</u>	<u>NC</u>
<u>(A17C)</u>	<u>In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and complying with Standard E39.6.4.4</u>	<u>RD</u>
<u>(A17D)</u>	<u>In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and not complying with Standard E39.6.4.4</u>	<u>NC</u>



(A18)	In-situ subdivision creating additional sites through establishing revegetation planting and complying with Standard E39.6.4.5	RD
(A19)	In-situ subdivision creating additional sites through establishing revegetation planting not complying with Standard E39.6.4.5	NC
(A20)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay complying with Standard E39.6.4.6	RD
(A21)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay not complying with Standard E39.6.4.6	NC
(A21A)	<u>Transferable rural sites subdivision through protection of indigenous vegetation or freshwater wetland shown on Map [X] up to a maximum of 76 sites from protection of indigenous vegetation and 6 sites from protection of freshwater wetland complying with Standard E39.6.4.6 (except that Standards E39.6.4.4(1) and E39.6.4.4(2B) do not apply) on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931).</u>	<u>RD</u>
(A21B)	<u>Transferable rural sites subdivision through protection of indigenous vegetation or freshwater wetland shown on Map [X] on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931) not complying with Standard E39.6.4.6 (except that Standards E39.6.4.4(1) and E39.6.4.4(2B) do not apply).</u>	<u>NC</u>
(A21C)	<u>Transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and complying with Standard E39.6.4.6</u>	<u>RD</u>
(A21D)	<u>Transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and not complying with Standard E39.6.4.6</u>	<u>NC</u>
(A22)	Transferable rural sites subdivision through establishing revegetation planting complying with Standard E39.6.4.6	RD
(A23)	Transferable rural sites subdivision through establishing revegetation planting not complying with Standard E39.6.4.6	NC
(A24)	Transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land amalgamation incentivised area complying with Standard E39.6.4.7	RD
(A25)	Transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land	NC

	amalgamation incentivised area not complying with Standard E39.6.4.7	
(A26)	Subdivision of the minor dwelling from the principal dwelling where the proposed sites do not comply with the minimum site size requirement for subdivision in the applicable zone	Pr
(A27)	Any other subdivision not provided for in Tables E39.4.1 or E39.4.2	NC

**Table E39.4.3 Subdivision in Future Urban Zone**

Activity		Activity Status
(A28)	Subdivision for open spaces, reserves or road realignment	D
(A29)	Any other subdivision not provided for in Table E39.4.1 or E39.4.3	NC

**Table E39.4.4 Subdivision in Special Purpose – Quarry Zone**

Activity		Activity Status
(A30)	Any other subdivision not provided for in Table E39.4.1	D

**Table E39.4.5 Subdivision in Rural – Waitākere Foothills Zone and Rural – Waitākere Ranges Zone**

Activity		Activity Status
(A31)	Subdivision in the Rural – Waitākere Foothills Zone creating site size with a minimum site size of 4ha complying with Standard E39.6.3.2	C
(A32)	Subdivision in the Rural – Waitākere Foothills Zone creating site size less than 4ha in site area and not complying with Standard E39.6.3.2, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	D
(A33)	Subdivision in the Rural – Waitākere Ranges Zone creating a minimum net site area of 2ha and complying with Standard E39.6.5.3	D
(A34)	Subdivision in the Rural – Waitākere Ranges Zone not complying with Standard E39.6.5.3, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	Pr

(A35)	Subdivision of the minor dwelling from the principal dwelling where the proposed sites do not comply with the minimum site size requirement for subdivision in the applicable zone	Pr
(A36)	Subdivision in the Rural – Waitākere Foothills Zone or Rural – Waitākere Ranges Zone not otherwise provided for in Tables E39.4.1 and E39.4.5, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	NC
(A37)	<i>[deleted]</i>	

### **E39.5. Notification**

- (1) An application for resource consent for a controlled activity listed in Table E39.4.1 or Table E39.4.5 will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (2) Any application for resource consent for an activity listed in Tables E39.4.1 to E39.4.5 and which is not listed in E39.5(1) will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (3) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

### **E39.6. Standards**

Subdivision listed in Tables E39.4.1 to E39.4.5 must comply with the relevant standards in E39.6.1 General standards ([except as otherwise provided in Standard E39.6.5.1\(2\)](#)), and the relevant standards for permitted, controlled, restricted discretionary and discretionary activities in E39.6.2 to E39.6.5.

#### **E39.6.1. General standards**

##### **E39.6.1.1 Specified building area**

- (1) A specified building area must be clearly identified on every site on a subdivision scheme plan on which a building is to be constructed.
- (2) Where the site contains an existing dwelling at the time the subdivision application is made, the specified building area must include:
  - (a) the location of the existing dwelling;
  - (b) indicate that the dwelling will be removed from the site; or
  - (c) the new location of the existing dwelling that will be relocated.
- (3) The specified building area must meet all of the following:
  - (a) include a single area of at least 2,000m<sup>2</sup> clear of all of the following:

- (i) all yards;
- (ii) one per cent annual exceedance probability floodplain areas;
- (iii) coastal storm inundation 1 per cent annual exceedance probability (AEP) area;
- (iv) coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m sea level rise area;
- (v) coastal erosion hazard area;
- (vi) land which may be subject to land instability;
- (vii) access to all proposed building platforms or areas; and
- (viii) on-site private infrastructure required to service the intended use of the site.

(b) be able to be linked by adequate and appropriate vehicle access to a formed public road;

(c) be identified as the only place within the site where dwellings, any accessory buildings, and related parking and manoeuvring areas can be located; and

(d) be located outside of the Quarry Buffer Area Overlay.

#### **E39.6.1.2 Access and entrance strips**

(1) All proposed sites must be provided with legal and physical access to a road, unless they meet one of the following:

(a) are being created for reserves, network utilities or road closure; or

(b) will be amalgamated with another site that already has legal and physical access to a road.

#### **E39.6.1.3 Services**

(1) For all proposed sites capable of containing a building, or for cross-lease, unit title, strata title or company lease, each building must be designed and located so that provision is made for all of the following services:

(a) collection, treatment and disposal of stormwater;

(b) collection, treatment and disposal of wastewater;

(c) water supply;

(d) electricity supply; and

(e) telecommunications.

(2) Where no reticulated water supply is available, sufficient water supply and access to water supplies for firefighting purposes in accordance with the New Zealand Fire



Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided.

#### **E39.6.1.4. Staging**

- (1) Where a subdivision is to be carried out in stages, the applicant must provide adequate detail of the proposed timetable and sequencing of the staging at the time they apply for the overall subdivision consent. This detail must include all of the following:
  - (a) the time period over which the development is likely to take place;
  - (b) the areas of land subject to the proposed stages; and
  - (c) the balance area of the site remaining after the completion of each stage.

#### **E39.6.1.5 Overland flow paths**

- (1) All subdivision must be designed to incorporate overland flow paths existing on the site.
- (2) Stormwater must exit the site in a location that does not increase the risks of hazards to downstream properties.

#### **E39.6.1.6 Existing vegetation on the site**

- (1) All subdivision plans, excluding boundary adjustments subdivision plans, must show any of the following features that exist on, or on the boundary of, the land being subdivided:
  - (a) any areas identified as a Significant Ecological Area in the D9 Significant Ecological Areas Overlay; or
  - (b) any other areas of indigenous vegetation, wetlands, waterways, streams, rivers and lakes.

#### **E39.6.2. Standards - permitted activities**

Subdivision listed as a permitted activity in Table E39.4.1 Subdivision for specified purposes must comply with the relevant standards in E39.6.1 General standards, and E39.6.2 Standards – permitted activities.

##### **E39.6.2.1. Lease in excess of 35 years of a building or part of a building where a cross-lease, company lease or unit title subdivision is not involved**

- (1) The subject building must be lawfully established.
- (2) The boundaries of the proposed sites must follow existing or proposed walls, ceilings and floors.
- (3) The scheme plan must show the proposed sites in relation to the exterior of the building and provide upper and lower elevations in terms of a datum to be established.
- (4) Each lease area must have either frontage to a legal road or allow for access through common areas to a legal road.

### **E39.6.2.2. Subdivision for a network utility**

- (1) The network utility activity must meet one of the following:
  - (a) be a permitted activity pursuant to E26 Infrastructure; or
  - (b) have all resource consents or notices of requirements approved.
- (2) A covenant or consent notice must be required to state that land that is no longer required for the network utility after it disestablishes, must be amalgamated with the adjoining land.
- (3) The balance sites must comply with the relevant overlays, Auckland-wide and zone standards, other than the minimum site size, unless resource consent has been granted for any infringements.
- (4) Sites must have access to a legal road through an appropriate legal mechanism.

### **E39.6.3. Standards - controlled activities**

Subdivision listed as a controlled activity in Table E39.4.1 Subdivision for specified purposes and Table E39.4.5 Subdivision in Rural – Waitākere Foothills Zone and Rural – Waitākere Ranges Zone must comply with the relevant standards in E39.6.1 General standards and in E39.6.3 Standards – controlled activities.

#### **E39.6.3.1. Amendments to cross-lease or unit title, including additions and alterations to buildings, accessory buildings and areas for exclusive use by an owner or owners**

- (1) All buildings must meet one of the following:
  - (a) have existing use rights;
  - (b) comply with the relevant overlays, Auckland-wide and zone standards; or
  - (c) be in accordance with an approved land use resource consent.
- (2) All areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or other such purpose.
- (3) Subdivision consent affecting a building or any part of a building, any proposed covenant, unit or accessory unit boundary, must not result in any infringements of any relevant overlays, Auckland-wide and zone rules.
- (4) Parking spaces must not be created as principal units, unless provided for by a resource consent, and only created as accessory units or common areas when associated with an approved use or activity.
- (5) All service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism.

### **E39.6.3.2. Boundary adjustments that do not exceed 10 per cent of the original site size**

- (1) All sites prior to the boundary adjustment must be contained within the same zone.
- (2) All service connections and on-site infrastructure must be located within the boundary of the site they serve, or have legal rights provided by an appropriate legal mechanism.
- (3) All sites must remain compliant with the applicable minimum site area and minimum average site area for the relevant zones.
- (4) Boundary adjustments must not result in the creation of additional titles.
- (5) If any boundary adjustment under this control creates the potential for additional subdivision creating additional sites or additional dwellings over and above what was possible for each site prior to the boundary adjustment a legal covenant or consent notice under s. 221 of the RMA is to be registered on the titles prohibiting any further such subdivision or new dwellings under Rules in Chapters E39 and H19.;
  - a) ~~any further subdivision; and/or~~
  - b) ~~new dwellings.~~

### **E39.6.4 Standards - restricted discretionary activities**

Subdivision listed as a restricted discretionary activity in Table E39.4.1 Subdivision for specified purposes or Table E39.4.2 Subdivision in rural zones must comply with the relevant standards set out in E39.6.1 General standards and E39.6.4 Standards – restricted discretionary activities unless otherwise specified.

#### **E39.6.4.1. Subdivision establishing an esplanade reserve**

- (1) Any subdivision involving the creation of sites less than 4 hectare which adjoins the line of the mean high water springs, or the bank of a river or stream 3 metres or more in width, or any lake, must provide a minimum 20 metre wide esplanade reserve in accordance with section 230 of the Resource Management Act 1991. This must be shown on the application plan and the subsequent land transfer plan.
- (2) The esplanade reserve must be measured in a landward direction at 90 degrees to the line of mean high water springs, or the bank of a river, stream or the margin of any lake.
- (3) Standards E39.6.4.1(1) and (2) do not apply to the subdivision of Treaty Settlement Land where a marginal strip of at least 20 metres has been set aside under the Conservation Act 1987.

#### **E39.6.4.2. Subdivision of a site within the one per cent annual exceedance probability floodplain**

- (1) Each proposed site within the one per cent floodplain that is to contain a more vulnerable activity must meet one of the following:

- (a) contain a specified building area that meets the requirements of Standard E39.6.1 General standards; or
- (b) be in accordance with a land use consent that authorises development or building in the floodplain.

**E39.6.4.3. Subdivision of land in the coastal erosion hazard area; or the coastal storm inundation 1 per cent annual exceedance probability (AEP) area**

- (1) Each proposed site on land in the coastal erosion hazard area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) area must demonstrate that all of the relevant areas/features in (a) to (c) below are located outside of any land subject to coastal erosion or coastal storm inundation:
  - (a) a specified building area that meets the requirements of Standard E39.6.1 General standards;
  - (b) access to all proposed building platforms or areas; and
  - (c) on-site private infrastructure required to service the intended use of the site.

**E39.6.4.4. In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; and in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1)**

Refer to Appendix 15 Subdivision information and process for further information in relation to in-situ subdivisions.

- (1) The indigenous vegetation or wetland to be protected must either be:
  - (a) identified in the Significant Ecological Areas Overlay or shown on Map [X]; or
  - (b) must be assessed by a suitably qualified and experienced person (e.g. for example, ecologist) who must determine that it meets one or more of the Significant Ecological Areas factors identified in Policy B7.2.2(1) and detailed in the factors and sub-factors listed in Schedule 3 Significant Ecological Areas - Terrestrial Schedule. A report by that person must be prepared and must be submitted to support the application.
- (2) The maximum number of sites created from the protection of indigenous vegetation or wetland must comply with Table E39.6.4.4.1 and Table E39.6.4.4.2.

**Table E39.6.4.4.1 Maximum number of new rural residential sites to be created from protection of indigenous vegetation or wetland either identified in Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1).**

FEATURE PROTECTED	TRANSFERABLE RURAL SITE SUBDIVISION (TRSS) YIELD	IN-SITU SUBDIVISION YIELD
-------------------	--	---------------------------

	AREA OF FEATURE PROTECTED	MAXIMUM NUMBER OF NEW SITES FOR TRSS	AREA OF FEATURE PROTECTED	MAXIMUM NUMBER OF NEW IN-SITU SITES
<b>INDIGENOUS VEGETATION</b>	2ha - 9.9999ha	1	4ha - 9.9999ha	1
	10ha - 14.9999ha	2	10ha - 20ha	2
	15ha - 19.9999ha	3	Thereafter for every additional 10ha	+1 To a total of 12 maximum
	20ha - 30ha	4		
	Thereafter for every additional 10ha	+1 No maximum		
<b>WETLAND</b>	0.5ha - 0.9999ha	1	0.5ha - 1.9999ha	1
	1ha - 1.9999ha	2	2ha - 3.9999ha	2
	2ha - 3.9999ha	3	4ha and over	3 maximum
	4ha - 9ha	4		
	Thereafter for every additional 5ha	+1 No maximum		

Note 1 for Table E39.6.4.4.1: Where indigenous vegetation is proposed to be protected using Table E39.6.4.4.1, the area of indigenous vegetation protected can consist of either indigenous vegetation identified in the Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) or a combination of both. Where a wetland is proposed to be protected using Table E39.6.4.4.1 the area of wetland can consist of either wetland identified in the Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) or a combination of both. For example, where the indigenous vegetation comprises 1ha of indigenous vegetation identified in the Significant Ecological Areas Overlay and 1ha meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) the 2ha area will be sufficient to generate one site for TRSS.

Areas of indigenous vegetation or wetland to be protected

Maximum number of rural residential sites that may be created

Minimum of 2.0ha

1

2.0001ha - 11.9999ha

2

12.0ha - 21.9999ha

3

22.0ha - 31.9999ha

4

32.0ha - 41.9999ha

5

42.0ha - 51.9999ha

6



<del>52.0ha – 61.9999ha</del>	<del>7</del>
<del>62.0ha – 71.9999ha</del>	<del>8</del>
<del>72.0ha – 81.9999ha</del>	<del>9</del>
<del>82.0ha – 91.9999ha</del>	<del>10</del>
<del>92.0ha – 101.9999ha</del>	<del>11</del>
<del>102.0ha – 111.9999ha</del>	<del>12</del>

**Table E39.6.4.4.2 Maximum number of new sites to be created from the protection of wetland either identified in the Significant Ecological Areas Overlay or shown on Map ~~IX~~ or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1)**

<u>Areas of wetland to be protected</u>	<u>Maximum number of rural residential sites that may be created</u>
<u>Minimum of 5.000m<sup>2</sup></u>	<u>1</u>
<u>5.0001m<sup>2</sup> – 1.9999ha</u>	<u>2</u>
<u>2.001ha – 3.9999ha</u>	<u>3</u>
<u>4.001ha – 7.9999ha</u>	<u>4</u>
<u>8.0ha – 11.9999ha</u>	<u>5</u>
<u>12.0ha – 15.9999ha</u>	<u>6</u>
<u>16.0ha – 19.9999ha</u>	<u>7</u>
<u>20.0ha – 24.9999ha</u>	<u>8</u>
<u>25.0ha or more</u>	<u>9 plus one additional site for each 5ha of wetland above 30ha</u>

Note 2 for Table E39.6.4.4.1: If Rules (A17A) or (A17B) are used to create in-situ sites through protection of indigenous vegetation or freshwater wetland, the number of in-situ sites created must be subtracted from the maximum number of sites that may be created for Transferable Rural Site Subdivision under Rules (A21A) or (A21B).

Note 3 for Table E39.6.4.4.1: If Rules (A21A) or (A21B) are used to create Transferable Rural Site Subdivision through protection of indigenous vegetation or freshwater wetland, any number of sites created over 70 through the protection of indigenous vegetation or any number of sites created over 4 through the protection of freshwater wetland must be subtracted from the maximum number of in-situ sites that may be created under Rules (A17A) or (A17B).

(2A) The maximum number of in-situ sites created through any combination of the protection of indigenous vegetation, wetland and established native revegetation planting under E39.6.4.4 and E36.6.4.5 must not exceed a cumulative total of 12 sites.

(2B) Where a combination of TRSS and in-situ sites are proposed to be created in one subdivision application through the protection of indigenous vegetation (SEA) or wetland, the number of new sites for TRSS must be calculated first using the upper threshold of the area required by Table E39.6.4.4.1 for each TRSS site. The number of new in-situ sites shall then be calculated using the area required by Table E39.6.4.4.1 for each in-situ site. The cumulative maximum number of in-situ sites must not be exceeded.

- (3) A 20 metre buffer is to be applied to the perimeter of the indigenous vegetation wetland and included as part of the protected area.
- (4) The additional in-situ sites must be created on the same site as the indigenous vegetation subject to protection.

Note: Standard E39.6.4.6 provides a separate subdivision option to enable the transfer of additional lots created via Standard E39.6.4.4.

- (5) The additional in-situ sites must have a minimum site size of 1 hectare and a maximum site size of 2 hectares.
- (6) Any indigenous vegetation or wetland proposed to be legally protected in accordance with Appendix 15 Subdivision information and process must be identified on the subdivision scheme plan.
- (7) Areas of indigenous vegetation or wetland to be legally protected as part of the proposed subdivision must not already be subject to legal protection.
- (8) Areas of indigenous vegetation or wetland to be legally protected as part of the proposed subdivision must not have been used to support another transferable rural site subdivision or subdivision under this Plan or a previous district plan.
- (9) The subdivision resource consent must be made subject to a condition requiring the subdivision plan creating the sites to be deposited after, and not before, the protective covenant has been registered against the title of the site containing the covenanted indigenous vegetation or wetland.
- (10) All applications must include all of the following:
  - (a) a plan that specifies the protection measures proposed to ensure the indigenous vegetation or wetland and buffer area remain protected in perpetuity. Refer to legal protection mechanism to protect indigenous vegetation, wetland or revegetation planting as set out in Appendix 15 Subdivision information and process for further information;
  - (b) the planting plan for restorative planting must follow the specifications as set out in Appendix 15 Subdivision information and process that specifies any restoration measures proposed to be carried out within or adjacent to the indigenous vegetation or wetland proposed to be protected;

- (c) the plan required in E39.6.4.4(10)(a) and (b) must be prepared by a suitably qualified and experienced person.
- (11) Indigenous vegetation or wetland to be protected must be made subject to a legal protection mechanism meeting all of the following:
- (a) protection of all the indigenous vegetation or wetland and wetland buffer existing on the site at the time the application is made, even if this means protecting vegetation or a wetland larger than the minimum qualifying area; and
  - (b) consistent with the legal protection mechanism to protect indigenous vegetation, wetland or revegetation planting as set out in Appendix 15 Subdivision information and process.
- (12) All applications must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
- (a) the establishment of secure stock exclusion;
  - ~~(b) the maintenance of plantings, which must occur until the plantings have reached a sufficient maturity to be self-sustaining, and have been in the ground for at least three years for wetlands, or have reached 80 per cent canopy closure for other ecosystem types. The survival rate must ensure a minimum 90 per cent of the original density and species;~~
  - ~~(c) the maintenance of plantings must include the ongoing replacement of plants that do not survive;~~
  - (b) the maintenance of the indigenous vegetation plantings or wetland must ensure that all invasive plant pests are eradicated ~~from the planting site both at the time of planting and on an ongoing basis to ensure adequate growth~~; and
  - (c) the maintenance of the indigenous vegetation plantings or wetland must ensure animal and plant pest control occurs.

**E39.6.4.5. In-situ subdivision creating additional sites through establishing native revegetation planting**

- (1) Any established revegetation planting must meet all of the following:
- (a) not be located on land containing elite soil or prime soil;
  - (b) be located outside any Outstanding Natural Character, High Natural Character or Outstanding Natural Landscape overlays;
  - (c) be contiguous with existing indigenous vegetation or wetland identified in the Significant Ecological Area Overlay or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1); and
  - (d) the criteria as set out in Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings.



- (2) The maximum number of new sites created through establishing revegetation planting must comply with Table E39.6.4.5.1.

**Table E39.6.4.5.1 Maximum number of new sites from establishing native revegetation planting (to be added to existing indigenous vegetation or wetland identified in the Significant Ecological Area Overlay or meeting the Significant Ecological Areas factors identified in Policy B7.2.2.(1)) subject to protection**

<u>Minimum area of established native revegetation planting subject to protection</u>	<u>Maximum number of new sites</u>
<u>5ha</u>	<u>±</u>
<u>Every additional 5ha</u>	<u>±</u>

TRANSFERABLE RURAL SITE SUBDIVISION (TRSS) YIELD		IN-SITU SUBDIVISION YIELD	
ESTABLISHED AREA OF NATIVE REVEGETATION PLANTING PROTECTED	MAXIMUM NUMBER OF NEW SITES FOR TRSS	ESTABLISHED AREA OF NATIVE REVEGETATION PLANTING PROTECTED	MAXIMUM NUMBER OF NEW IN-SITU SITES
5ha - 9.9999ha	1	5ha - 9.9999ha	1
10ha - 14.9999ha	2	10ha - 14.9999ha	2
15ha - 19.9999ha	3	15ha and over	3 maximum
20ha - 24.9999ha	4		
Thereafter for every additional 5ha	+1 to maximum of 6		

(2A) The maximum number of in-situ sites created through any combination of the protection of established native revegetation planting, indigenous vegetation and wetland under E39.6.4.4 and E36.6.4.5 must not exceed a cumulative total of 12 sites.

(2B) Where a combination of TRSS and in-situ sites are proposed to be created in one subdivision application through the protection of established native revegetation planting, the number of new sites for TRSS must be calculated first using the upper threshold of the area required by Table E39.6.4.5.1 for each TRSS site. The number of new in-situ sites shall then be calculated using the area required by Table E39.6.4.5.1 for each in-situ site. The cumulative maximum number of in-situ sites must not be exceeded.

- (3) Any new in-situ site must have a minimum site size of 1 hectare and a maximum site size of 2 hectares.
- (4) Any established revegetation planting proposed must be legally protected.

- (5) Areas subject to revegetation planting must be subject to a legal protection mechanism that:
- (a) protects all the existing indigenous vegetation on the site at the time of application as well as the additional area subject to any ~~restoration~~ revegetation planting; and
  - (b) meets the requirements as set out in Appendix 15 Subdivision information and process.
- (6) All applications must include all of the following:
- (a) a plan that specifies the protection measures proposed to ensure the indigenous vegetation ~~or wetland and buffer area~~ remain protected in perpetuity. Refer to the legal protection mechanism to protect indigenous vegetation, wetland or ~~revegetated~~ revegetation planting as set out in Appendix 15 Subdivision information and process for further information;
  - (b) a planting plan for ~~restorative-revegetation~~ revegetation planting ~~restoration~~ measures proposed to be carried out within or adjacent to the indigenous vegetation proposed to be protected in accordance with Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings; and
  - (c) the plans required in E39.6.4.5(6)(a) and (b) must be prepared by a suitably qualified and experienced person.
- (7) All applications must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
- (a) the establishment of secure stock exclusion;
  - (b) the maintenance of plantings that must occur until the plantings have reached a sufficient Maturity to be self-sustaining, and ~~have been in the ground for at least three years for wetlands or~~ have reached 80 per cent canopy closure for other ~~ecosystem types~~. The survival rate must ensure a minimum 90 per cent of the original density and species;
  - (c) the maintenance of plantings must include the ongoing replacement of plants that do not survive;
  - (d) the maintenance of plantings must ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an on-going basis to ensure adequate growth; and
  - (e) the maintenance of plantings must ensure animal and plant pest control occurs.
- (8) The subdivision resource consent must be made subject to a condition that requires the subdivision plan creating the sites to be deposited after, and not before, the protective covenant has been registered against the title of the site containing the covenanted indigenous vegetation ~~or area of restoration planting~~ to be protected as applicable.

**E39.6.4.6. Transferable rural site subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; or transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1); or transferable rural sites subdivision through establishing revegetation planting**

Refer to Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings for further information on transferable rural sites subdivisions and revegetation planting.

- (1) All transferable rural sites subdivisions applications involving protection of indigenous vegetation or wetlands must meet all of the standards that are applicable for:
  - (a) the protection of indigenous vegetation or wetlands identified in the Significant Ecological Areas Overlay or shown on Map [X] as set out in Standard E39.6.4.4; or
  - (b) the protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) as set out in Standard E39.6.4.4: or
  - (c) the creation of sites through establishing revegetation planting as set out in Standard E39.6.4.5.
- (2) A donor site (being the site with the indigenous vegetation, wetland or the revegetation planting to be protected) must not be the same site as a receiver site.
- (3) The receiver site must be located within a Rural - Countryside Living Zone and be identified as an eligible receiver site by the subdivision variation control on the planning maps.
- (4) Sites being subdivided must have a minimum net site area and average net site area that complies with the transferable rural sites subdivision in the Rural - Countryside Living Zone as set out in Table E39.6.5.2.1 Minimum and average net site areas.
- (5) The subdivision resource consent must be made subject to a condition requiring the subdivision plan creating the receiver site or sites to be deposited after, and not before, the protective covenant has been legally registered against the title containing the covenanted indigenous vegetation or wetland as applicable.

**E39.6.4.7. Transferable rural site subdivision through the amalgamation of donor sites, including sites identified in Appendix 14 Land amalgamation incentivised area**

- (1) Prior to amalgamation of donor sites, all applications for amalgamation of donor sites must meet the following:
  - (a) donor sites must be abutting;
  - (b) one of the two donor sites must not contain a dwelling unless the resulting amalgamated site is permitted by this Plan to have more than one dwelling;

- (c) donor sites must be zoned either Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone or Rural - Rural Conservation Zone;
  - (d) the land must contain at least 90 per cent elite soil or prime soil. The applicant must provide a detailed Land Use Capability (LUC) soil assessment confirming that donor sites contain at least 90 per cent elite land or prime land. The assessment must be prepared by a suitably qualified and experienced person;
  - (e) each site must have a net site area of between 1 and 20 hectares;
  - (f) sites must have been in existence, or be shown on an approved scheme plan of subdivision; and
  - (g) sites must not comprise part or all of a closed road, road severance, or designation.
- (2) Following amalgamation of donor sites, all donor sites must meet all of the following:
- (a) be held in a single certificate of title;
  - (b) rescinded in such a way that replacement titles cannot be reissued;
  - (c) made subject to a legal protection mechanism that states all of the following:
    - (i) the residential development rights attaching to the donor sites have been used to create a transferable rural sites subdivision under the Plan and must not accommodate any further residential development unless it is allowed as a permitted activity subject to the relevant zone rules or by the granting of a resource consent;
    - (ii) the new site cannot be further subdivided other than by amalgamation with another qualifying site or by boundary adjustment; and
    - (iii) the new site has no further potential to be used for the purpose of a transferable rural site subdivision.
- (3) Following amalgamation of donor sites, all receiver sites must meet all of the following:
- (a) be subdivided into no more sites than those permitted by Table E39.6.4.7.1 Maximum number of new sites for transfer from the amalgamation of sites;

**Table E39.6.4.7.1 Maximum number of new sites for transfer from the amalgamation of sites**

<b>Transferable rural sites subdivision by way of amalgamation</b>	
<b>Criteria</b>	<b>Maximum number of new sites for transfer</b>
Amalgamation of two eligible donor sites as identified in Appendix 14 Land amalgamation incentivised	Two new sites for every two donor sites amalgamated

area and complying with Standard E39.6.4.7(1)	
Amalgamation of two eligible donor sites outside the land amalgamation incentivised area and complying with Standard E39.6.4.7(1)	One new site for every two donor sites amalgamated

- (b) the donor site must not be the same site as a receiver site;
- (c) be located within sites zoned as Rural – Countryside Living Zone and be identified as an eligible receiver site by the Subdivision Variation Control on the planning maps;
- (d) have a minimum net site area complying with the minimum net site area and average net site area with transferable rural sites subdivision as set out in Table E39.6.5.2.1 Minimum and average net site areas;
- (e) be made subject to a condition of subdivision consent that requires the subdivision plan creating the receiver site or sites to be deposited after, and not before, the plan of subdivision for the amalgamation of donor sites has been deposited.

#### **E39.6.5 Standards - discretionary activities**

Subdivision listed as a discretionary activity in Table E39.4.2 and Table E39.4.2.5 must comply with the relevant standards in E39.6.1 General standards and E39.6.5 Standards - discretionary activities.

#### **E39.6.5.1 Subdivision in the Rural - Rural Production Zone, Rural - Mixed Rural Zone, Rural - Rural Coastal Zone, and Rural - Rural Conservation Zone**

- (1) Subdivision in these rural zones must meet the minimum average site size and minimum site size requirement as set out in Table E39.6.5.1.1 Minimum average site size and minimum site size for subdivision.

**Table E39.6.8.1.1 Minimum average site size and minimum site size for subdivision**

Zone	Minimum average site size (ha)	Minimum site size (ha)
Rural - Rural Production	100	80
Rural - Mixed Rural	50	40
Rural - Rural Coastal	50	40
Rural - Rural Conservation	20	10

(2) Subdivision of the land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931)

(a) Is not required to comply with General Standards E39.6.1.1 to E39.6.1.5 where the subdivision resource consent is made subject to a legal mechanism to ensure no dwellings can be established on the new sites created (although this mechanism shall not affect the establishment of dwellings on the balance parent site):

(b) Shall be deemed to meet the access requirements in Standards E39.6.1.1(3)(b) and E39.6.1.2 if access by sea to the proposed sites is provided.

### **E39.6.5.2. Subdivision in the Rural – Countryside Living Zone**

(1) Subdivision in the Rural – Countryside Living Zone must meet all of the following:

- (a) proposed site sizes and average net site areas must comply with the minimum net site areas specified in Table E39.6.5.2.1 Minimum and average net site areas;
- (b) the average net site area of all sites following subdivision must be calculated per subdivision scheme plan, and no credits will be carried forward to future subdivision scheme plans;
- (c) the minimum frontage for all front sites must be 15 metres; and
- (d) the minimum frontage for rear sites must be 6 metres.

Transferable rural site subdivision receiver sites must be located in the Rural – Countryside Living Zone locations listed in Table E39.6.5.2.1 Minimum and average net site areas and be identified as eligible receiver sites by the Subdivision Variation Control on the planning maps.

In this table, N/A means the transferable rural site subdivision mechanism is not provided for in that particular location.

**Table E39.6.5.2.1 Minimum and minimum average net site areas**

<b>Location of Rural – Countryside Living Zone</b>	<b>Minimum net site area and average net site area without transferable rural site subdivision</b>	<b>Minimum net site area and average net site area with transferable rural site subdivision</b>
Rural – Countryside Living Zone areas not identified below	Minimum: 2ha	N/A
Wellsford Kaukapakapa Helensville	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Warkworth	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha

Matakana Kumeu - Huapai Paremoremo - Albany Heights	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Algies Bay	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Puhoi Parakai	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Average: 1ha
Waimauku	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
South Rodney	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Whitford (excluding precinct and Caldwell's Road)	Minimum: 2ha Minimum average: 4ha	N/A
<u>Whitford - Caldwell's Road</u>	<u>Minimum: 1ha</u> <u>Minimum average:</u> <u>2ha</u>	<u>N/A</u>
Papakura	Minimum: 1ha	N/A
Point Wells	Minimum: 5,000m <sup>2</sup> Minimum average: 7,500m <sup>2</sup>	N/A
Runciman	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Swanson (outside precinct)	Minimum: 4ha	N/A

### E39.6.5.3. Subdivision in Rural – Waitākere Ranges Zone

- (1) The average site size must be greater than 4 hectares.
- (2) The average site size must be calculated over the net site area of the site as it existed as of 14 October 1995.
- (3) The minimum net site area must be 2 hectares.
- (4) The subdivision must not create any new road.
- (5) Subdivision must not create development or establishment of buildings within land areas identified in the Significant Ecological Areas Overlay.



## **E39.7. Assessment – controlled activities**

### **E39.7.1. Matters of control**

The Council will reserve its control to the following matters when assessing a controlled activity resource consent application:

- (1) all controlled activities:
  - (a) compliance with an approved resource consent except for boundary adjustment subdivision;
  - (b) the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces;
  - (c) the effects of infrastructure provision; and
  - (d) the effects on historic heritage and cultural heritage items.

### **E39.7.2. Assessment criteria**

The Council will consider the relevant assessment criteria for controlled activities from the list below:

- (1) all controlled activities:
  - (a) compliance with an approved resource consent except for boundary adjustment subdivision:
    - (i) refer to Policy E39.3(6);
  - (b) the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:
    - (i) the extent to which the design, size, shape, gradient and location of any site including access, existing buildings, manoeuvring areas and outdoor living space affect the safety of pedestrians and cyclists and other users of the space or access;
    - (ii) whether the sites created are able to accommodate development in accordance with the relevant Auckland-wide and zone rules; and
    - (iii) refer to Policy E39.3(24), (25) and (26);
  - (c) the effects of infrastructure provision:
    - (i) whether provision is made for infrastructure including creation of common areas over parts of the parent site that require access by more than one site within the subdivision; and
    - (ii) refer to Policy E39.3(27) and (31).
  - (d) the effects on historic heritage and cultural heritage items;



- (i) whether the protection or avoidance of any Scheduled Historic Heritage Place, or Site and Places of Significance to Mana Whenua is ensured; and
  - (ii) refer to Policy E39.3(4).
- (2) Subdivision in the Rural – Waitākere Foothills Zone:
- (a) Policies E39.3(1), (4), (6), (10), (11), (13), (16), (~~16~~7), (19), (24) and (27) - (32).

## **E39.8. Assessment - restricted discretionary activities**

### **E39.8.1. Matters of discretion**

The Council will restrict its discretion to the following matters when assessing a restricted discretionary resource consent application:

- (1) subdivision of a site within the ~~two~~ one per cent annual exceedance probability floodplain:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to flood hazard events.
- (2) subdivision of a site in the coastal storm inundation 1 per cent annual exceedance probability (AEP) area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1 m sea level rise area:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal storm inundation events.
- (3) subdivision of a site in the coastal erosion hazard area:
  - (a) the effects of the erosion on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal erosion.
- (4) subdivision of sites subject to land instability including those areas defined in the Plan as “land which may be subject to land instability”, or other unstable soils as identified through a specific site assessment:
  - (a) the effects of remediating the land instability hazard and the effect of the hazard on the intended use.
- (5) subdivision establishing an esplanade reserve:
  - (a) the effect of the design, purpose and location of any esplanade reserve established by subdivision in terms of public access, and the conservation of coastal and/or riverbank ecological values, natural values, geological features and landscape features.
- (6) in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay areas but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard

E39.6.4.4; in-situ subdivision creating additional sites through establishing revegetation planting:

- (a) effects associated with the following matters, having regard to the need to ensure that environmental benefits including the long term protection of Significant Ecological Areas or areas shown on Map [X], do not unnecessarily compromise other elements of rural character and amenity:
  - (i) the number of sites created, site size, building platforms locations, access;
  - (ii) the rural character, landscapes and amenity;
  - (iii) the location of the indigenous vegetation, wetland and/or revegetation planting relative to proposed new sites and to existing vegetation;
  - (iv) the quality of the indigenous vegetation, wetland and/or revegetation planting to be protected;
  - (v) the compliance with Auckland-wide rules;
  - (vi) any management plans for the ongoing protection and management of indigenous vegetation, wetland or revegetation restorative planting;
  - (vii) the provision of adequate access to existing and new infrastructure and provision of appropriate management of effects of stormwater;
  - (viii) the legal protection for indigenous vegetation, wetland or revegetation planting;
  - (ix) any reverse sensitivity effects; and
  - (x) the location of identified building areas platforms relative to areas of significant mineral resources.
  
- (7) transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard E39.6.4.4; or transferable rural sites subdivision through establishing revegetation planting:
  - (a) effects associated with the following matters, having regard to the need to ensure that environmental benefits including the long term protection of Significant Ecological Areas or areas shown on Map [X], do not unnecessarily compromise other elements of rural character and amenity:
    - (i) the matters listed in E39.8.1(6)(a)(i) to (x);
    - (ii) the number and size of new sites created on the receiver sites and compliance with minimum and average net site areas in the Rural Countryside: Living Zone; and

- (iii) the timing and co-ordination of the protection of indigenous vegetation, wetland and revegetation planting on donor site relative to the creation of new sites on the receiver site.
- (8) transferable rural site subdivision through the amalgamation of donor sites, including those sites identified in Appendix 14 Land amalgamation incentivised area:
- (a) effects associated with the below matters, having regard to the need to ensure the long term protection of elite soils and their availability for rural production purposes, without compromising other elements of rural character and amenity, or rural resources:
    - (i) the matters listed in E39.8.1(6)(a)(i) to (x);
    - (ii) the location and the soil qualities of the donor sites;
    - (iii) the degree to which new sites created from receiver sites comply with the Auckland-wide rules;
    - (iv) the suitability of the transferred sites for rural residential purposes having regard to the objectives, policies and rules for the Rural – Countryside Living Zone.

#### **E39.8.2. Assessment criteria**

The Council will consider the relevant assessment criteria for restricted discretionary activities from the list below:

- (1) subdivision of a site within the one per cent annual exceedance probability floodplain and flood prone areas:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to flood hazard events:
    - (i) whether measures are proposed to ensure the long term protection of flood plain conveyance functions;
    - (ii) whether the location and design of development including building platforms and access ways are located to avoid the hazard;
    - (iii) the extent to which changes to the landform and the design of mitigation structures/features are necessary for the subdivision; and
    - (iv) refer to Policy E39.3(2).
- (2) subdivision of a site in the coastal storm inundation 1 per cent annual exceedance probability (AEP) area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1 m sea level rise area:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal storm inundation events:

- (i) whether the location and design of development including proposed and existing building platforms and access ways include the ability to relocate uses within the proposed site area;
  - (ii) whether the use of defences to protect the land and any buildings or structures on the land from coastal storm inundation are necessary;
  - (iii) whether there is any residual risk posed by coastal storm inundation to the site(s) associated with any existing or proposed coastal defences;
  - (iv) whether there are effects on landscape values resulting from associated built and/or land form modifications required to provide for the intended use of the site; and
  - (v) Policy E39.3(2).
- (3) subdivision of site in the coastal erosion hazard area:
- (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal erosion:
    - (i) whether public access to the coast is affected;
    - (ii) the extent to which the installation of hard protection structures to be utilised to protect the site or its uses from coastal erosion hazards over at least a 100 year timeframe are necessary; and
    - (iii) Policy E39.3(2).
- (4) subdivision of sites subject to land instability including those areas defined in the Plan as "land which may be subject to land instability", or other unstable soils as identified through a specific site assessment:
- (a) the effects of remediating the land instability hazard and the effect of the hazard on the intended use:
    - (i) the extent to which the proposed sites are stable and suitable;
    - (ii) the extent to which the site instability will affect the intended use, including the provision for onsite infrastructure (where applicable) and accessways; and
    - (iii) Policy E39.3(2).
- (5) subdivision establishing an esplanade reserve:
- (a) the effect of the design, purpose and location of any esplanade reserve established by subdivision in terms of public access, and the conservation of coastal and/or riverbank ecological values, natural values, geological features and landscape features:
    - (i) the extent to which the design purpose and location of the esplanade reserve enables public access and the conservation of coastal and/or

riverbank ecological values, natural values, geological features and landscape features; and

- (ii) Policies E39.3(1), (21), (22) and (23).
- (6) in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay [or shown on Map \[X\]](#); in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay areas but meeting the Significant Ecological Area factors in Policy B7.2.2.(1) as set out in Standard E39.6.4.4; in-situ subdivision creating additional sites through establishing revegetation planting:
- (a) Policies E39.3(1), (15), (16), (17), [\(18\)](#), (23) - (26) and (28) - (30).
- (7) transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay [or shown on Map \[X\]](#); transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard E39.6.4.4; transferable rural sites subdivision through establishing revegetation planting:
- (a) Policies E39.3(1), (11), (12), (13), (15), (16), (17), [\(18\)](#), (23) - (26) and (28) to (30).
- (8) transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land amalgamation incentivised area:
- (a) Policies E39.3(1), (3), (9), (11), (12), (13), (15), (16), (17), [\(18\)](#) and (28) to (30).

#### **E39.9. Special information requirements**

There are no special information requirements in this section.

[\[Map X to be added\]](#)

## RURAL SUBDIVISION PROVISIONS

### Key

<b>Black text</b>	<b>Environment Court 2018 decision provisions and provisions not subject to appeal</b>
<b>Green text</b>	<b>Revised provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Purple text</b>	<b>Agreed Zakara provisions following EC Decision No. [2020] NZEnvC 153</b>
<b>Blue text</b>	<b>Provisions following EC Decision No. [2021] NZEnvC 010</b>

New text is shown as underlined and deleted text as ~~striketrough~~

### **H19. RURAL ZONES**

#### **H19.1 Background**

There are five rural zones: ...

#### **H19.7 Rural – Countryside Living**

##### **Zone H19.7.1. Zone description**

This zone provides for rural lifestyle living in identified areas of rural land which are generally closer to urban Auckland or rural and coastal towns. There is a diversity of topography, land quality and landscape character within the zone which results in a diversity of site sizes. The zone is the ~~main~~-receiver area for transferable rural site subdivision from other zones.

This zone incorporates a range of ....

## RURAL SUBDIVISION PROVISIONS

### Key

<b>Black text</b>	Environment Court 2018 decision provisions and provisions not subject to appeal
<b>Green text</b>	Revised provisions following EC Decision No. [2020] NZEnvC 153
<b>Purple text</b>	Agreed Zakara provisions following EC Decision No. [2020] NZEnvC 153
<b>Blue text</b>	Revised provisions following EC Decision No. [2021] NZEnvC 010

New text is shown as underlined and deleted text as ~~strikethrough~~

### Appendix 15 Subdivision information and process

#### 15.1. Introduction

This appendix includes additional information for subdivision resource consent applications. Refer to the Council's website for further information on how to apply for subdivision resource consent.

All references to the Significant Ecological Area Overlay in this Appendix should be read as also including the areas on Map [X]

#### 15.2. Vesting of Assets

...

#### 15.3. Transferable rural site subdivision

##### 15.3.1. Process

- (1) A Transferable Rural Site Subdivision (TRSS) is the transfer of the rural - residential development potential of rural sites from one location to the Countryside Living Zone through a subdivision process. This process may be carried out in the following ways:
  - (a) through the protection of indigenous vegetation or wetland either identified in the D9 Significant Ecological Areas Overlay or meeting Significant Ecological Areas factors as set out in the regional policy statement, and established revegetation planting meeting relevant criteria; or
  - (b) through the amalgamation of donor sites: amalgamating two existing and abutting rural zoned sites (excluding a Rural - Countryside Living Zone site), and

transferring the development potential of the 'amalgamated' site to the Countryside Living Zone.

- (2) The new or additional site is located in Rural - Countryside Living zoned sites identified on the planning maps by the Subdivision Variation Control.
- (3) The process is the same if more than two donor sites are amalgamated, or if more than one block of qualifying indigenous vegetation or wetland is protected.

**Table 15.3.1.1 Transferable rural site subdivision process**

<b>Step</b>	<b>Transferable rural site subdivision process through the amalgamation of donor sites</b>	<b>Transferable rural site subdivision process through the protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or meeting the Significant Ecological Areas factors or established revegetation planting meeting relevant criteria</b>
1	<p>Identify the following:</p> <ol style="list-style-type: none"> <li>a. two donor sites abutting each other, one of which is vacant;</li> <li>b. a site zoned Rural - Countryside Living Zone identified as suitable as a receiver site for TRSS - see Table E39.6.5.2.1 Minimum and minimum average net site areas in E39 Subdivision - Rural</li> </ol>	<p>Identify the following:</p> <ol style="list-style-type: none"> <li>a. an area of indigenous vegetation or wetland (on the donor site) that: <ul style="list-style-type: none"> <li>- is identified in the Significant Ecological Areas overlay;</li> <li>- meets the Significant Ecological Areas factors set out in Policy B7.2.2(1); or</li> <li>- is established with revegetation planting meeting relevant criteria.</li> </ul> </li> <li>b. a site zoned Rural - Countryside Living Zone identified as suitable as a receiver site for TRSS - see Table E39.6.5.2.1 Minimum and minimum average net site areas in E39 Subdivision - Rural.</li> </ol>
2	<p>Application made to Council:</p>	<p>Application made to Council:</p> <ol style="list-style-type: none"> <li>a. subdivide the property containing indigenous vegetation,</li> </ol>



	<p>a. to amalgamate two donor sites into one new site; and</p> <p>b. to subdivide the receiver site.</p>	<p>wetland or revegetation planting to create the residential development opportunity; and</p> <p>b. transfer the residential development opportunity to the receiver site in a Countryside Living Zone.</p>
3	Gain subdivision consent approval	Gain subdivision consent approval
4	Comply with consent conditions	Comply with consent conditions
5	<p>Apply to Land Information New Zealand to:</p> <p>a. issue one new certificate of title in place of the original donor sites; and</p> <p>b. issue two new certificates of title for the new sites created from the receiver site after the title for the donor sites has been issued.</p>	<p>Apply to Land Information New Zealand to:</p> <p>a. attach an appropriate legal protection mechanism to the donor site for the protection of the indigenous vegetation, wetland or <del>revegetated</del> <u>revegetation</u> planting; and</p> <p>b. issue two new certificates of title for the new sites created from the receiver site.</p>

### 15.3.2. Explanation of terms

- (1) A donor site may be one of the following:
- (a) two abutting rural sites being amalgamated;
  - (b) a rural site containing rural-residential development potential created from one of the following situations:
    - (i) a site containing indigenous vegetation or wetland identified in the D9 Significant Ecological Areas Overlay;
    - (ii) A site containing an indigenous vegetation area or wetland meeting the Significant Ecological Areas factors as identified in Policy B7.2.2(1); or
    - (iii) a site establishing ~~revegetated~~ revegetation planting.
- (2) A receiver site is a Rural - Countryside Living zoned site identified on the planning maps by the Subdivision Variation Control.

### 15.4. Protection of existing indigenous vegetation

...

### **15.5 Legal protection mechanism to protect indigenous vegetation, wetland or re-vegetated planting:**

- (1) The legal protection mechanism must include all of the following:
  - (a) permanent protection of the vegetation or wetland on the site;
  - (b) implementation of a management plan;
  - (c) permanent exclusion of all livestock from the protected area; and
  - (d) the protected area to be maintained in perpetuity, including carrying out pest control measures.
  
- (2) Where the Plan refers to indigenous vegetation or wetland to be subject to a legal protection mechanism, that mechanism must include the following:
  - (a) legal protection of the indigenous vegetation or wetland and any area of required ~~restoration~~ revegetation plantings in perpetuity. An agreement to the satisfaction of the council regarding an encumbrance, bond, consent notice, covenant or vesting as reserve must be entered into before the issue of the section 224(c) certificate under the Resource Management Act 1991;
  - (b) where applicable the legal protection mechanism must be in accordance with the relevant terms of the Reserves Act 1977 or the Queen Elizabeth II National Trust Act 1977. The legal instrument must provide protection in perpetuity, and must include enforcement and penalty provisions;
  - (c) where revegetation ~~re-vegetated~~ planting is required as a condition of the subdivision consent, the section 224(c) certificate will be issued only after the required works have been undertaken and the planting has satisfied the required consent conditions. This includes implementation of an animal and plant pest management plan. 'Animal pests' are those animal species listed as 'total control pests', 'containment pests', or 'surveillance pests' in the Auckland Council's current Regional Pest Management Strategy;
  - (d) all certification required must be carried out by a suitably qualified and experienced person and at the applicant's expense, and a report must be provided to Council. In this context, a person will not be considered to be suitably qualified and experienced unless they are a qualified ecologist with appropriate experience in this type of work.
  
- (3) The indigenous vegetation or wetland and any area of required ~~re-vegetated~~ revegetation plantings to be protected must be maintained free of livestock through appropriate stock proof fencing, or if livestock access to the vegetation is prevented by topographical or natural features then stock proof fencing may not be required.

### **15.6 Restorative Revegetation planting**

- (1) A planting plan for any ~~restoration~~ revegetation planting is required prior to a section 224(c) certificate being issued and must identify the following:
  - (a) the ecological district of the site;

- (b) the characteristics of the soil (i.e. clay, silt, loam etc.);
- (c) soil drainage;
- (d) topography of the area to be planted;
- (e) location and extent of the area to be planted;
- (f) exposure of the site to wind, frost, sunlight and salt spray;
- (g) presence of plant and animal pests;
- (h) presence of any threatened species and if necessary the process for the translocation of threatened species,
- (i) stock-proof fencing that should be at least a full seven wire, post and batten fence, planting areas, weed and animal pest control;
- (j) extent of the existing Significant Ecological Areas (indigenous vegetation) and an outline of the biodiversity of the Significant Ecological Areas (indigenous vegetation) and the land in the subdivision;
- (k) any restrictions on planting, such as existing infrastructure, safety or existing access issues;
- (l) how ~~restoration~~ revegetation planting will be ecologically linked to an area of contiguous Significant Ecological Areas (indigenous vegetation) and if possible any other additional existing ecological corridors or connections;
- (m) how ~~restoration~~ revegetation planting will provide robust and high value ecological connections without gaps to the Significant Ecological Areas;
- (n) how ~~restoration~~ revegetation planting will buffer the Significant Ecological Areas and ensure long term viability and resilience of the Significant Ecological Areas;
- (o) site planting, including species to be planted, size and spacing of plants and where they are to be planted, requirements for replacement of pest plants with appropriate native species and measures to minimise reinvasion of pest plants;
- (p) measures for the maintenance of planting, including releasing plants, fertiliser, plant and animal pest control and mulching and replacement of plants which do not survive, and measures for animal and plant pest control;
- (q) protective measures proposed to ensure the Significant Ecological Areas (indigenous vegetation) and any proposed restoration planting remain protected in perpetuity;
- (r) details confirming that ~~restoration~~ revegetation planting is only to be carried out contiguous to the Significant Ecological Areas (consisting of indigenous vegetation);
- (s) confirmation that the assessment of whether the maintenance of plantings has been achieved shall be undertaken by a suitably qualified independent ecologist according to a quantitative monitoring programme.

- (2) The location and species composition of the restoration planting is to achieve the following:
- (a) provide necessary protection and restoration of the Significant Ecological Areas to ensure its long term viability, health, and significance;
  - (b) facilitate the use of natural regeneration processes to ensure that in the long term these natural regeneration processes take over;
  - (c) provide for the protection and restoration of the Significant Ecological Areas and provide robust linkages between ecological features;
  - (d) provide a sustainable, potentially significant forest, wetland or shrubland.
- (3) The following matters must be implemented prior to a section 224(c) certificate is issued and confirmation is provided:
- (a) the establishment of secure stock exclusion that is at least a full seven wire, post and batten fence;
  - (b) the planting of native vegetation at a density detailed below or at some other density considered more appropriate for the site circumstances by Council:
    - (i) an average density of 1.4 metre centres (5,100 stems per hectare) reducing to 1 metre centres (10,000 stems per hectare) in kikuyu and wetland and riparian margins;
    - (ii) sourced from the ecological district and to be appropriate for the soil, aspect, exposure and topography; and
    - (iii) reflect the composition of former natural vegetation likely to have occupied the site and include appropriate native species that will enable natural processes of succession;
  - (c) the maintenance of any plantings must occur until the plantings have reached a sufficient maturity to be self-sustaining, and have reached 80 per cent canopy closure. The survival rate must ensure a minimum 90 per cent of the original density and species;
  - (d) the maintenance of any plantings must include the ongoing replacement of plants that do not survive;
  - (e) the maintenance of any plantings must ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an on- going basis and plants released from kikuyu as necessary to ensure adequate growth; and
  - (f) the maintenance of any plantings must ensure animal and plant pest control occurs.
- (4) The planting plan must be prepared and confirmed by a suitably qualified and experienced person.

Annexure C

**FINAL RURAL SUBDIVISION PROVISIONS FOLLOWING ENVIRONMENT COURT  
DECISION [2021] NZEnvC 010**

**B9. Toitū te tuawhenua - Rural environment**

***Me tupu te ora ki te tuawhenua***

Grow your livelihood inland

**B9.1. Issues**

The Auckland region is not just the location of New Zealand's largest city. Most of the Auckland region's land is rural and contains extensive, productive and valuable areas used for farming (agriculture, horticulture and grazing), rural service industries, forestry and rural recreation. The rural parts of Auckland also contain important natural resources, including native bush, significant ecological areas and outstanding natural landscapes. The contributions made by rural areas and rural communities to the well-being of the region must be acknowledged and enabled.

The outward expansion of urban areas and people's lifestyle choices and recreational activities place significant pressures on maintaining the amenity values and the quality of the environment in rural areas. Specific issues in the Auckland region are:

- protecting the finite resource of elite quality soils from urban expansion;
- managing subdivision to prevent undue fragmentation of large sites in ways that restrict rural production activities;
- addressing reverse sensitivity effects which rural-residential development can have on rural production activities; and
- managing the opportunities for countryside living in rural areas in ways that provide for rural-residential development in close proximity to urban areas and the larger rural and coastal towns and villages while minimising the loss of rural production land.

...

**B9.4. Rural subdivision**

**B9.4.1. Objectives**

- (1) Subdivision does not undermine the productive potential of land containing elite soils.
- (2) Subdivision of rural land avoids, remedies or mitigates adverse effects on the character, amenity, natural character, landscape and biodiversity values of rural areas (including within the coastal environment), and provides resilience to effects of natural hazards.
- (3) Land subdivision protects and enhances significant indigenous biodiversity.

#### **B9.4.2. Policies**

- (1) Enable the permanent protection and enhancement of areas of significant indigenous biodiversity and rehabilitation through subdivision.
- (2) Enable subdivision for the following purposes...
- (3) Provide for and encourage the transfer of the residential development potential of rural sites to Countryside Living zones to reduce the impact from in-situ subdivision on rural land, and for title boundaries to be amalgamated to:
  - (a) promote the productivity of rural land;
  - (b) manage adverse effects of population growth across all rural areas;
  - (c) improve environmental outcomes associated with the protection of identified areas of high natural values;
  - (d) improve the management of reverse sensitivity conflicts; and
  - (e) avoid unplanned demand for infrastructure in remote areas, or across areas of scattered development.
- (4) Provide for new rural lifestyle subdivision in locations and at scales and densities so as to:
  - (a) avoid areas that would undermine the integrity of the Rural Urban Boundary or compromise the expansion of the satellite towns of Warkworth and Pukekohe, and rural and coastal towns and villages;
  - (b) protect areas where natural and physical resources have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal, historic heritage and special character;
  - (c) avoid land containing elite soil;
  - (d) avoid where practicable land containing prime soil;
  - (e) avoid areas that would constrain the operation of existing mineral extraction activities or areas containing mineral resources identified in the plan for future extraction;
  - (f) maintain or enhance landscape, rural and, where relevant, coastal, character and amenity values;
  - (g) avoid the potential for reverse sensitivity effects that could hinder the continued operation or growth of existing rural activities, or the establishment of new rural activities; and
- (5) Encourage the amalgamation and transfer of rural sites to the Countryside Living zone.



### **B9.5. Principal reasons for adoption**

The purpose of sustainable management includes safeguarding the life-supporting capacity of natural resources now and in the future. This includes protecting the productive potential of the land to provide for present and future generations as well as indigenous biodiversity. It is also to maintain or enhance the character of rural areas for their contribution to regional amenity values, particularly the landscape and natural character.

...

The subdivision policies also enable and encourage the transfer of the residential development potential in productive rural zones to Countryside Living Zones, and for title boundaries to be amalgamated and a residential development right to be realised in Countryside Living Zones.

**FINAL RURAL SUBDIVISION PROVISIONS FOLLOWING ENVIRONMENT COURT  
DECISION [2021] NZEnvC 010**

**E15. Vegetation management and biodiversity**

**E15.1. Background**

Vegetation contributes to a range of ecosystem services ....

**E15.3. Policies [rcp/rp/dp]**

- (1) Protect areas ...
- (2) Manage the effects ...
- (3) Encourage the offsetting ...
- (4) Protect, restore, and enhance biodiversity when undertaking new use and development through any of the following:
  - (a) using transferable rural site subdivision to protect areas that meet one or more of the factors referred to in B7.2.2(1) and in Schedule 3 Significant Ecological Areas -Terrestrial Schedule or shown on Map [X];
  - (b) requiring legal protection, ecological restoration and active management techniques in areas set aside for the purposes of mitigating or offsetting adverse effects on indigenous biodiversity; or
  - (c) linking biodiversity outcomes to other aspects of the development such as the provision of infrastructure and open space.
- (5) Enable activities which ...

...

## FINAL RURAL SUBDIVISION PROVISIONS FOLLOWING ENVIRONMENT COURT DECISION [2021] NZEnvC 010

### **E39. Subdivision - Rural**

#### **E39.1. Introduction**

Subdivision is the process of dividing a site or a building into one or more additional sites or units, or changing an existing boundary location.

Objectives, policies and rules in this section apply to subdivision in the following zones:

- Rural - Rural Production Zone, Rural - Mixed Rural Zone, Rural - Rural Coastal Zone, Rural - Rural Conservation Zone and Rural - Countryside Living Zone;
- Rural - Waitakere Foothills Zone and Rural - Waitakere Ranges Zone;
- Future Urban Zone; and
- Special Purpose - Quarry Zone.

For subdivision provisions in all other zones refer to E38 Subdivision - Urban.

#### **E39.2. Objectives**

- (1) Land is subdivided to achieve the objectives of the zones, the relevant overlays and Auckland-wide provisions.
- (2) Land is subdivided in a manner that provides for the long-term needs of the community and minimises adverse effects of future development on the environment.
- (3) Land is vested to provide for esplanades, reserves, roads, stormwater, infrastructure and other purposes.
- (4) Infrastructure supporting subdivision and development is planned and provided for in an integrated and comprehensive manner and provided for to be in place at the time of the subdivision or development.
- (5) Infrastructure is appropriately protected from incompatible subdivision, use and development, and reverse sensitivity effects.
- (6) Subdivision has a layout which is safe, efficient, convenient and accessible.
- (7) Subdivision manages adverse effects on historic heritage or Maori cultural heritage.
- (8) Subdivision maintains or enhances the natural features and landscapes that contribute to the character and amenity values of the areas.
- (9) The productive potential of rural land is enhanced through the amalgamation of smaller existing land holdings sites, particularly for sites identified in Appendix 14 Land

amalgamation incentivised area, and the transfer of titles to certain Rural - Countryside Living Zone areas.

- (10) Fragmentation of rural production land by:
  - (a) subdivision of land containing elite soil is avoided;
  - (b) subdivision of land containing prime soil is avoided where practicable; and
  - (c) subdivision of land avoids inappropriate rural lifestyle lots dispersed throughout the rural and coastal areas.
- (11) Subdivision avoids or minimises the opportunity for reverse sensitivity effects between agriculture, horticulture, mineral extraction activities, rural industry, infrastructure and rural lifestyle living opportunities.
- (12) Rural lifestyle subdivision is primarily limited to the Rural - Countryside Living Zone, and to sites created by protecting, restoring or creating significant areas of indigenous vegetation or wetlands.
- (13) Subdivision of any minor dwellings and workers' accommodation from the parent site is avoided.
- (14) Subdivision is provided for, by either:
  - (a) Limited in-situ subdivision through the protection and enhancement of significant indigenous vegetation or wetlands and/or indigenous revegetation planting; or
  - (b) Transfer of titles to the Rural-Countryside Living Zone, through the protection and enhancement of indigenous vegetation and wetlands and/or through indigenous revegetation planting.
- (15) Subdivision maintains or enhances the natural features and landscapes that contribute to the character and amenity values of rural areas.
- (16) Rural subdivision avoids or minimises adverse effects in areas identified in the Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay, Outstanding Natural Landscape Overlay and Significant Ecological Areas Overlay.
- (17) Subdivision:
  - (a) outside of urban and serviced areas avoids adverse effects to people, property, infrastructure and the environment from natural hazards;
  - (b) avoids where possible, and otherwise mitigates, adverse effects associated with subdivision for infrastructure or existing urban land uses; and
  - (c) maintains the function of flood plains and overland flow paths to safely convey flood waters while taking into account the likely long term effects of climate change;

### E39.3. Policies

- (1) Provide for subdivision which supports the policies of the zones.
- (2) Require subdivision to manage the risk of adverse effects resulting from natural hazards in accordance with the objectives and policies in E36 Natural hazards and flooding, and to provide safe and stable building platforms and vehicle access.
- (3) Manage rural subdivision and boundary adjustments to facilitate more efficient use of land for rural production activities by:
  - (a) restricting further subdivision in the Rural - Rural Production Zone, Rural - Mixed Rural Zone and Rural - Rural Coastal Zone for a range of rural production activities; and
  - (b) providing for the transfer of titles to certain Rural - Countryside Living Zones.
- (4) Require subdivisions to be designed to retain, protect or enhance features including those in the Historic Heritage Places Overlay and Sites and Places of Significance to Mana Whenua Overlay, or otherwise remedy adverse effects.
- (5) Provide for subdivision around existing development and subdivision where it enables creation of sites for uses that are in accordance with an approved land use resource consent, where there is compliance with Auckland-wide and zone rules and appropriate provision is made for areas of common use.
- (6) Provide for minor boundary adjustments which enable a more efficient and effective use of land where there is compliance with Auckland-wide and zone rules.
- (7) Require any staged subdivision to be undertaken in a manner that promotes efficient development.
- (8) Avoid the fragmentation by subdivision of land containing elite soil and avoid where practicable fragmentation by subdivision of land containing prime soil.
- (9) Encourage the amalgamation of small fragmented land parcels identified in Appendix 14 Land amalgamation incentivised area through transferable rural site subdivision.
- (10) Require any proposal for rural lifestyle subdivision to demonstrate that any development will avoid or mitigate potential reverse sensitivity effects between it and any rural production activities, mineral extraction activities, rural industries and infrastructure.
- (11) Restrict subdivision for rural lifestyle living to where:
  - (a) the site is located in the Rural - Countryside Living Zone;
  - (b) the site is created through the protection / enhancement of significant indigenous vegetation and wetlands; or
  - (c) the site is created through indigenous revegetation planting.
- (12) Enable the transfer of titles to sites in the Rural - Countryside Living Zone which are identified using the subdivision variation control on the planning maps.

- (13) Manage reverse sensitivity conflicts between rural lifestyle living and countryside living and rural production activities by the design and layout of subdivisions and locations of identified building areas and house sites.
- (14) Avoid the subdivision of minor dwellings and workers' accommodation from the parent site in the rural areas.

*Protection of indigenous vegetation and wetland and revegetation planting*

- (15) Enable:
  - (a) Transfer of titles; and
  - (b) Limited in-situ subdivision
    - through the protection of indigenous vegetation or wetlands identified in the Significant Ecological Areas Overlay or shown on Map [X] or areas meeting the factors for Significant Ecological Areas in Policy B7.2.2(1) and in terms of the descriptors contained in Schedule 3 Significant Ecological Areas - Terrestrial Schedule and indigenous revegetation planting.
- (16) Require indigenous vegetation or wetland within a site being subdivided to be legally protected in perpetuity.
- (17) Provide limited opportunities for in-situ subdivision in rural areas while ensuring that:
  - (a) there will be significant environmental protection of indigenous vegetation including restoration, or wetlands;
  - (b) subdivision avoids the inappropriate proliferation and dispersal of development by limiting the number of sites created;
  - (c) subdivision avoids inappropriate development within areas of the Outstanding Natural Landscape Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay and the coastal environment;
  - (d) adverse effects on rural and coastal character are avoided, remedied or mitigated;
  - (e) sites are of sufficient size to absorb and manage adverse effects within the site; and
  - (f) reverse sensitivity effects are managed in a way that does not compromise the viability of rural sites for continued production.
- (18) Avoid the subdivision of sites in the Quarry Buffer Area Overlay and in areas of significant mineral resources that would result in development that could compromise the operation of mineral extraction activities.

*Natural features and landscape*

- (19) Require subdivision, including site boundaries and specified building areas and access, to:

- (a) recognise topography including steep slopes, natural features, ridgelines, aspect, water supplies, and existing vegetation;
- (b) avoid inappropriately located buildings and associated accessways including prominent locations as viewed from public places;
- (c) avoid adverse effects on riparian margins and protected natural features; and
- (d) avoid fragmentation of features and landscape in the Significant Ecological Areas Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay, Outstanding Natural Landscapes Overlay, Outstanding Natural Features Overlay or Sites and Places of Significance to Mana Whenua Overlay, or areas between sites.

#### *Esplanade Reserves and Strips*

- (20) Require esplanade reserves or strips when subdividing land adjoining the coast and other qualifying water-bodies.
- (21) Avoid reducing the width of esplanade reserves or strips, or the waiving of the requirement to provide an esplanade reserve or strip, except where any of the following apply:
  - (a) safe public access and recreational use is already possible and can be maintained for the future;
  - (b) the maintenance and enhancement of the natural functioning and water quality of the adjoining sea, river or other water body will not be adversely affected;
  - (c) the land and water-based habitats on and adjoining the subject land area will not be adversely affected;
  - (d) the natural values, geological features and landscape features will not be adversely affected;
  - (e) any Scheduled Historic Heritage Places and Sites and Places of Significance to Mana Whenua will not be adversely affected;
  - (f) it can be demonstrated that the reduced width of the esplanade reserve or strip is sufficient to manage the risk of adverse effects resulting from natural hazards, taking into account the likely long-term effects of climate change;
  - (g) it can be demonstrated that a full width esplanade reserve or strip is not required to maintain the natural character and amenity of the coastal environment;
  - (h) a reduced width in certain locations can be offset by an increase in width in other locations or areas, which would result in a positive public benefit in terms of access and recreation;
  - (i) restrictions on public access are necessary to ensure a level of security for business activities in limited circumstances having regard to Policy B8.4.2(3) relating to public access in the coastal marine area; or



- (j) direct access to the sea or other water body is required for a business activity in limited circumstances.
- (22) Require esplanade reserves rather than esplanade strips unless any of the following apply:
- (a) land has limited conservation and recreational value;
  - (b) conservation and historic heritage values that are present can be adequately protected in private ownership;
  - (c) opportunity to acquire an esplanade reserve is unlikely to arise but continuity of access is desirable;
  - (d) creation of esplanade strips can secure public benefits and resource management objectives without alienating land from private ownership;
  - (e) land is subject to natural hazards or stability issues taking into account the likely long term effects of climate change; or
  - (f) a marginal strip of at least 20 metres under the Conservation Act 1987 has not been set aside on land that is Treaty Settlement Land.

#### *Amenity*

- (23) Require subdivision to avoid creating ribbon development along public roads or multiple access points that may adversely affect the character or amenity values or the adequate functioning of rural roads.
- (24) Require accessways, public walkways and roads to be designed so rural and coastal character and amenity values are maintained or enhanced.
- (25) Restrict the location and design of sites and specified building areas to:
- (a) integrate development with the existing landscape; and
  - (b) ensure the character and amenity values of adjacent sites and the locality are not adversely affected.
- (26) Require rural subdivision to avoid, remedy or mitigate adverse effects on the rural or coastal character and to complement the rural or coastal character of the area.

#### *Infrastructure*

- (27) Require infrastructure servicing rural subdivision to avoid, remedy or mitigate adverse effects on rural character and amenity.
- (28) Require all sites capable of containing a building, in areas where service connections are available to a public reticulated network, to be able to connect to the following networks:
- (a) wastewater;
  - (b) stormwater; and

- (c) potable water.
- (29) Require all new sites capable of containing a building, in areas with no reticulated water supply, stormwater or wastewater network, to be of a size and shape that provides for:
- (a) the treatment and disposal of stormwater in a way that does not lead to significant adverse off-site effects including degraded water quality, erosion, land instability, creation or exacerbation of flooding;
  - (b) management of wastewater via an on-site wastewater treatment system, or approval to connect to a private wastewater network; and
  - (c) potable water
- (30) Require subdivision to manage stormwater:
- (a) in accordance with any approved stormwater discharge consent or network discharge consent;
  - (b) in a manner consistent with stormwater management policies in E1 Water quality and integrated management;
  - (c) by applying an integrated stormwater management approach to the planning and design of development in accordance with stormwater management policies in E1 Water quality and integrated management;
  - (d) to protect natural streams and maintain the conveyance function of overland flow paths;
  - (e) to maintain or progressively improve water quality;
  - (f) to integrate drainage reserves and infrastructure with surrounding development and public open space networks; and
  - (g) in an integrated and cost-effective way.
- (31) Manage subdivision and development to avoid, remedy or mitigate adverse effects on infrastructure including reverse sensitivity effects, which may compromise the operation and capacity of existing or authorised infrastructure.
- (32) Enable subdivision for network utility purposes while avoiding, remedying or mitigating the adverse effects.

#### **E39.4. Activity table**

Tables E39.4.1 to E39.4.5 specify the activity status of subdividing land pursuant to section 11 of the Resource Management Act 1991 within the following zones:

- Rural – Rural Production Zone,
- Rural - Mixed Rural Zone,
- Rural – Rural Coastal Zone,

- Rural – Rural Conservation Zone
- Rural – Countryside Living Zone;
- Rural – Waitākere Foothills Zone
- Rural – Waitākere Ranges Zone;
- Future Urban Zone; and
- Special Purpose – Quarry Zone.

For subdivision within the National Grid Corridor Overlay, the activity status for subdivision in the rural zones as listed in Tables E39.4.1 to E39.4.5 below will apply unless there are different provisions in D26 National Grid Corridor Overlay in which case the overlay provisions will take precedence.

For all other subdivision refer to E38 Subdivision – Urban.

An activity listed in Table E39.4.1 Subdivision for specified purposes may only comprise a specific element of a subdivision activity. The other elements of a subdivision may also be listed in Tables E39.4.2 Subdivision in rural zones, E39.4.3 Subdivision in Future Urban Zone, E39.4.4 Subdivision in Special Purpose – Quarry Zone and E39.4.5 Subdivision in Rural - Waitākere Foothills Zone and Rural – Waitākere Ranges Zone.

Where a proposed subdivision activity fits into activities listed in Table E39.4.1 and those listed in Tables E39.4.2, E39.4.3, E39.4.4, or E39.4.5, then the activity status listed for each activity in each table also applies.

Refer to D12 Waitākere Ranges Heritage Area Overlay for areas and sites subject to specific subdivisions provisions in the Waitākere Ranges Heritage Area.

**Table E39.4.1 Subdivision for specified purposes**

Activity		Activity Status
(A1)	Lease in excess of 35 years of a building or part of a building where a cross-lease, company lease, or unit title subdivision is not involved	P
(A2)	Subdivision for a network utility	P
(A3)	Amendments to cross-lease or unit title, including additions and alterations to buildings, accessory buildings and areas for exclusive use by an owner or owners	C
(A4)	Boundary adjustments not exceeding 10 per cent of the original site area and meeting Standard E39.6.3.2	C
(A5)	Subdivision establishing an esplanade reserve	RD
(A6)	Subdivision establishing an esplanade strip	D
(A7)	Any reduction or waiver of esplanade reserves or strips	D

(A8)	Subdivision of land within any of the following natural hazard areas: <ul style="list-style-type: none"> <li>• 1 per cent annual exceedance probability floodplain;</li> <li>• coastal storm inundation 1 per cent annual exceedance probability (AEP) area;</li> <li>• coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m sea level rise area;</li> <li>• coastal erosion hazard area; or</li> <li>• land which may be subject to land instability.</li> </ul>	RD
(A9)	Any subdivision listed in this table not meeting standards in E39.6.1	D
(A10)	Boundary adjustments unable to comply with controlled activity rule and standards in E39.6.3.2 and E39.6.3	D

**Table E39.4.2 Subdivision in rural zones (excluding Rural – Waitākere Foothills Zone and Rural – Waitākere Ranges Zone)**

Activity		Activity Status
(A11)	Subdivision for open spaces, reserves or road realignment	D
(A12)	Subdivision in the Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone and Rural – Rural Conservation Zone complying with Standard E39.6.5.1	D
(A13)	Subdivision in the Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone and Rural – Rural Conservation Zone not complying with Standard E39.6.5.1	NC
(A14)	Subdivision in the Rural – Countryside Living Zone complying with Standard E39.6.5.2	D
(A15)	Subdivision in the Rural – Countryside Living Zone not complying with Standard E39.6.5.2	NC
(A16)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay, and complying with Standard E39.6.4.4	RD
(A17)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay not complying with Standard E39.6.4.4	NC
(A17A)	In-situ subdivision creating additional sites through protection of indigenous vegetation or freshwater wetland shown on Map [X] up to	RD

	a maximum of 6 sites from protection of indigenous vegetation and 2 sites from protection of freshwater wetland complying with Standards E39.6.4.4(2) to (12) (except that Standard E39.6.4.4(2B) does not apply) on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931).	
(A17B)	In-situ subdivision creating additional sites through protection of indigenous vegetation or freshwater wetland shown on Map [X] on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931) not complying with Standards E39.6.4.4(2) to (12) (except that Standard E39.6.4.4(2B) does not apply).	NC
(A17C)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and complying with Standard E39.6.4.4	<u>RD</u>
(A17D)	In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and not complying with Standard E39.6.4.4	NC
(A18)	In-situ subdivision creating additional sites through establishing revegetation planting and complying with Standard E39.6.4.5	RD
(A19)	In-situ subdivision creating additional sites through establishing revegetation planting not complying with Standard E39.6.4.5	NC
(A20)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay complying with Standard E39.6.4.6	RD
(A21)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay not complying with Standard E39.6.4.6	NC
(A21A)	Transferable rural sites subdivision through protection of indigenous vegetation or freshwater wetland shown on Map [X] up to a maximum of 76 sites from protection of indigenous vegetation and 6 sites from protection of freshwater wetland complying with Standard E39.6.4.6 (except that Standards E39.6.4.4(1) and E39.6.4.4(2B) do not apply) on land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931).	RD
(A21B)	Transferable rural sites subdivision through protection of indigenous vegetation or freshwater wetland shown on Map [X] on land described	NC

	as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931) not complying with Standard E39.6.4.6 (except that Standards E39.6.4.4(1) and E39.6.4.4(2B) do not apply).	
(A21C)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and complying with Standard E39.6.4.6	RD
(A21D)	Transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) and not complying with Standard E39.6.4.6	NC
(A22)	Transferable rural sites subdivision through establishing revegetation planting complying with Standard E39.6.4.6	RD
(A23)	Transferable rural sites subdivision through establishing revegetation planting not complying with Standard E39.6.4.6	NC
(A24)	Transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land amalgamation incentivised area complying with Standard E39.6.4.7	RD
(A25)	Transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land amalgamation incentivised area not complying with Standard E39.6.4.7	NC
(A26)	Subdivision of the minor dwelling from the principal dwelling where the proposed sites do not comply with the minimum site size requirement for subdivision in the applicable zone	Pr
(A27)	Any other subdivision not provided for in Tables E39.4.1 or E39.4.2	NC

**Table E39.4.3 Subdivision in Future Urban Zone**

<b>Activity</b>	<b>Activity Status</b>
(A28) Subdivision for open spaces, reserves or road realignment	D
(A29) Any other subdivision not provided for in Table E39.4.1 or E39.4.3	NC

**Table E39.4.4 Subdivision in Special Purpose – Quarry Zone**

Activity		Activity Status
(A30)	Any other subdivision not provided for in Table E39.4.1	D

**Table E39.4.5 Subdivision in Rural – Waitākere Foothills Zone and Rural – Waitākere Ranges Zone**

Activity		Activity Status
(A31)	Subdivision in the Rural – Waitākere Foothills Zone creating site size with a minimum site size of 4ha complying with Standard E39.6.3.2	C
(A32)	Subdivision in the Rural – Waitākere Foothills Zone creating site size less than 4ha in site area and not complying with Standard E39.6.3.2, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	D
(A33)	Subdivision in the Rural – Waitākere Ranges Zone creating a minimum net site area of 2ha and complying with Standard E39.6.5.3	D
(A34)	Subdivision in the Rural – Waitākere Ranges Zone not complying with Standard E39.6.5.3, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	Pr
(A35)	Subdivision of the minor dwelling from the principal dwelling where the proposed sites do not comply with the minimum site size requirement for subdivision in the applicable zone	Pr
(A36)	Subdivision in the Rural – Waitākere Foothills Zone or Rural – Waitākere Ranges Zone not otherwise provided for in Tables E39.4.1 and E39.4.5, unless otherwise provided for in D12 Waitākere Ranges Heritage Area Overlay	NC
(A37)	<i>[deleted]</i>	

**E39.5. Notification**

- (1) An application for resource consent for a controlled activity listed in Table E39.4.1 or Table E39.4.5 will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (2) Any application for resource consent for an activity listed in Tables E39.4.1 to E39.4.5 and which is not listed in E39.5(1) will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.

- (3) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

## **E39.6. Standards**

Subdivision listed in Tables E39.4.1 to E39.4.5 must comply with the relevant standards in E39.6.1 General standards (except as otherwise provided in Standard E39.6.5.1(2)), and the relevant standards for permitted, controlled, restricted discretionary and discretionary activities in E39.6.2 to E39.6.5.

### **E39.6.1. General standards**

#### **E39.6.1.1 Specified building area**

- (1) A specified building area must be clearly identified on every site on a subdivision scheme plan on which a building is to be constructed.
- (2) Where the site contains an existing dwelling at the time the subdivision application is made, the specified building area must include:
  - (a) the location of the existing dwelling;
  - (b) indicate that the dwelling will be removed from the site; or
  - (c) the new location of the existing dwelling that will be relocated.
- (3) The specified building area must meet all of the following:
  - (a) include a single area of at least 2,000m<sup>2</sup> clear of all of the following:
    - (i) all yards;
    - (ii) one per cent annual exceedance probability floodplain areas;
    - (iii) coastal storm inundation 1 per cent annual exceedance probability (AEP) area;
    - (iv) coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1m sea level rise area;
    - (v) coastal erosion hazard area;
    - (vi) land which may be subject to land instability;
    - (vii) access to all proposed building platforms or areas; and
    - (viii) on-site private infrastructure required to service the intended use of the site.
  - (b) be able to be linked by adequate and appropriate vehicle access to a formed public road;
  - (c) be identified as the only place within the site where dwellings, any accessory buildings, and related parking and manoeuvring areas can be located; and



(d) be located outside of the Quarry Buffer Area Overlay.

#### **E39.6.1.2 Access and entrance strips**

- (1) All proposed sites must be provided with legal and physical access to a road, unless they meet one of the following:
  - (a) are being created for reserves, network utilities or road closure; or
  - (b) will be amalgamated with another site that already has legal and physical access to a road.

#### **E39.6.1.3 Services**

- (1) For all proposed sites capable of containing a building, or for cross-lease, unit title, strata title or company lease, each building must be designed and located so that provision is made for all of the following services:
  - (a) collection, treatment and disposal of stormwater;
  - (b) collection, treatment and disposal of wastewater;
  - (c) water supply;
  - (d) electricity supply; and
  - (e) telecommunications.
- (2) Where no reticulated water supply is available, sufficient water supply and access to water supplies for firefighting purposes in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided.

#### **E39.6.1.4. Staging**

- (1) Where a subdivision is to be carried out in stages, the applicant must provide adequate detail of the proposed timetable and sequencing of the staging at the time they apply for the overall subdivision consent. This detail must include all of the following:
  - (a) the time period over which the development is likely to take place;
  - (b) the areas of land subject to the proposed stages; and
  - (c) the balance area of the site remaining after the completion of each stage.

#### **E39.6.1.5 Overland flow paths**

- (1) All subdivision must be designed to incorporate overland flow paths existing on the site.
- (2) Stormwater must exit the site in a location that does not increase the risks of hazards to downstream properties.

### **E39.6.1.6 Existing vegetation on the site**

- (1) All subdivision plans, excluding boundary adjustments subdivision plans, must show any of the following features that exist on, or on the boundary of, the land being subdivided:
  - (a) any areas identified as a Significant Ecological Area in the D9 Significant Ecological Areas Overlay; or
  - (b) any other areas of indigenous vegetation, wetlands, waterways, streams, rivers and lakes.

### **E39.6.2. Standards - permitted activities**

Subdivision listed as a permitted activity in Table E39.4.1 Subdivision for specified purposes must comply with the relevant standards in E39.6.1 General standards, and E39.6.2 Standards – permitted activities.

#### **E39.6.2.1. Lease in excess of 35 years of a building or part of a building where a cross-lease, company lease or unit title subdivision is not involved**

- (1) The subject building must be lawfully established.
- (2) The boundaries of the proposed sites must follow existing or proposed walls, ceilings and floors.
- (3) The scheme plan must show the proposed sites in relation to the exterior of the building and provide upper and lower elevations in terms of a datum to be established.
- (4) Each lease area must have either frontage to a legal road or allow for access through common areas to a legal road.

#### **E39.6.2.2. Subdivision for a network utility**

- (1) The network utility activity must meet one of the following:
  - (a) be a permitted activity pursuant to E26 Infrastructure; or
  - (b) have all resource consents or notices of requirements approved.
- (2) A covenant or consent notice must be required to state that land that is no longer required for the network utility after it disestablishes, must be amalgamated with the adjoining land.
- (3) The balance sites must comply with the relevant overlays, Auckland-wide and zone standards, other than the minimum site size, unless resource consent has been granted for any infringements.
- (4) Sites must have access to a legal road through an appropriate legal mechanism.

### **E39.6.3. Standards - controlled activities**

Subdivision listed as a controlled activity in Table E39.4.1 Subdivision for specified purposes and Table E39.4.5 Subdivision in Rural – Waitākere Foothills Zone and Rural – Waitākere

Ranges Zone must comply with the relevant standards in E39.6.1 General standards and in E39.6.3 Standards – controlled activities.

#### **E39.6.3.1. Amendments to cross-lease or unit title, including additions and alterations to buildings, accessory buildings and areas for exclusive use by an owner or owners**

- (1) All buildings must meet one of the following:
  - (a) have existing use rights;
  - (b) comply with the relevant overlays, Auckland-wide and zone standards; or
  - (c) be in accordance with an approved land use resource consent.
- (2) All areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or other such purpose.
- (3) Subdivision consent affecting a building or any part of a building, any proposed covenant, unit or accessory unit boundary, must not result in any infringements of any relevant overlays, Auckland-wide and zone rules.
- (4) Parking spaces must not be created as principal units, unless provided for by a resource consent, and only created as accessory units or common areas when associated with an approved use or activity.
- (5) All service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism.

#### **E39.6.3.2. Boundary adjustments that do not exceed 10 per cent of the original site size**

- (1) All sites prior to the boundary adjustment must be contained within the same zone.
- (2) All service connections and on-site infrastructure must be located within the boundary of the site they serve, or have legal rights provided by an appropriate legal mechanism.
- (3) All sites must remain compliant with the applicable minimum site area and minimum average site area for the relevant zones.
- (4) Boundary adjustments must not result in the creation of additional titles.
- (5) If any boundary adjustment under this control creates the potential for additional subdivision creating additional sites or additional dwellings over and above what was possible for each site prior to the boundary adjustment a legal covenant or consent notice under s. 221 of the RMA is to be registered on the titles prohibiting any further such subdivision or new dwellings under Rules in Chapters E39 and H19.

#### **E39.6.4 Standards - restricted discretionary activities**

Subdivision listed as a restricted discretionary activity in Table E39.4.1 Subdivision for specified purposes or Table E39.4.2 Subdivision in rural zones must comply with the relevant standards set out in E39.6.1 General standards and E39.6.4 Standards – restricted discretionary activities unless otherwise specified.

#### **E39.6.4.1. Subdivision establishing an esplanade reserve**

- (1) Any subdivision involving the creation of sites less than 4 hectare which adjoins the line of the mean high water springs, or the bank of a river or stream 3 metres or more in width, or any lake, must provide a minimum 20 metre wide esplanade reserve in accordance with section 230 of the Resource Management Act 1991. This must be shown on the application plan and the subsequent land transfer plan.
- (2) The esplanade reserve must be measured in a landward direction at 90 degrees to the line of mean high water springs, or the bank of a river, stream or the margin of any lake.
- (3) Standards E39.6.4.1(1) and (2) do not apply to the subdivision of Treaty Settlement Land where a marginal strip of at least 20 metres has been set aside under the Conservation Act 1987.

#### **E39.6.4.2. Subdivision of a site within the one per cent annual exceedance probability floodplain**

- (1) Each proposed site within the one per cent floodplain that is to contain a more vulnerable activity must meet one of the following:
  - (a) contain a specified building area that meets the requirements of Standard E39.6.1 General standards; or
  - (b) be in accordance with a land use consent that authorises development or building in the floodplain.

#### **E39.6.4.3. Subdivision of land in the coastal erosion hazard area; or the coastal storm inundation 1 per cent annual exceedance probability (AEP) area**

- (1) Each proposed site on land in the coastal erosion hazard area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) area must demonstrate that all of the relevant areas/features in (a) to (c) below are located outside of any land subject to coastal erosion or coastal storm inundation:
  - (a) a specified building area that meets the requirements of Standard E39.6.1 General standards;
  - (b) access to all proposed building platforms or areas; and
  - (c) on-site private infrastructure required to service the intended use of the site.

#### **E39.6.4.4. In-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; and in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1)**

Refer to Appendix 15 Subdivision information and process for further information in relation to in-situ subdivisions.

- (1) The indigenous vegetation or wetland to be protected must either be:
- (a) identified in the Significant Ecological Areas Overlay or shown on Map [X]; or
  - (b) must be assessed by a suitably qualified and experienced person (e.g. for example, ecologist) who must determine that it meets one or more of the Significant Ecological Areas factors identified in Policy B7.2.2(1) and detailed in the factors and sub-factors listed in Schedule 3 Significant Ecological Areas - Terrestrial Schedule. A report by that person must be prepared and must be submitted to support the application.
- (2) The maximum number of sites created from the protection of indigenous vegetation or wetland must comply with Table E39.6.4.4.1.

**Table E39.6.4.4.1 Maximum number of new rural residential sites to be created from protection of indigenous vegetation or wetland either identified in Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1).**

FEATURE PROTECTED	TRANSFERABLE RURAL SITE SUBDIVISION (TRSS) YIELD		IN-SITU SUBDIVISION YIELD	
	AREA OF FEATURE PROTECTED	MAXIMUM NUMBER OF NEW SITES FOR TRSS	AREA OF FEATURE PROTECTED	MAXIMUM NUMBER OF NEW IN-SITU SITES
<b>INDIGENOUS VEGETATION</b>	2ha - 9.9999ha	1	4ha - 9.9999ha	1
	10ha - 14.9999ha	2	10ha - 20ha	2
	15ha - 19.9999ha	3	Thereafter for every additional 10ha	+1 To a total of 12 maximum
	20ha - 30ha	4		
	Thereafter for every additional 10ha	+1 No maximum		
<b>WETLAND</b>	0.5ha - 0.9999ha	1	0.5ha - 1.9999ha	1
	1ha - 1.9999ha	2	2ha - 3.9999ha	2
	2ha - 3.9999ha	3	4ha and over	3 maximum
	4ha - 9ha	4		
	Thereafter for every additional 5ha	+1 No maximum		

Note 1 for Table E39.6.4.4.1: Where indigenous vegetation is proposed to be protected using Table E39.6.4.4.1. the area of indigenous vegetation protected can consist of either indigenous vegetation identified in the Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) or a combination of both. Where a wetland is proposed to be protected using Table E39.6.4.4.1 the area of wetland can consist of either wetland identified in the Significant Ecological Areas Overlay or shown on Map [X] or meeting the Significant

Ecological Area factors identified in Policy B7.2.2(1) or a combination of both. For example, where the indigenous vegetation comprises 1ha of indigenous vegetation identified in the Significant Ecological Areas Overlay and 1ha meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) the 2ha area will be sufficient to generate one site for TRSS.

Note 2 for Table E39.6.4.4.1: If Rules (A17A) or (A17B) are used to create in-situ sites through protection of indigenous vegetation or freshwater wetland, the number of in-situ sites created must be subtracted from the maximum number of sites that may be created for Transferable Rural Site Subdivision under Rules (A21A) or (A21B).

Note 3 for Table E39.6.4.4.1: If Rules (A21A) or (A21B) are used to create Transferable Rural Site Subdivision through protection of indigenous vegetation or freshwater wetland, any number of sites created over 70 through the protection of indigenous vegetation or any number of sites created over 4 through the protection of freshwater wetland must be subtracted from the maximum number of in-situ sites that may be created under Rules (A17A) or (A17B).

- (2A) The maximum number of in-situ sites created through any combination of the protection of indigenous vegetation, wetland and established native revegetation planting under E39.6.4.4 and E36.6.4.5 must not exceed a cumulative total of 12 sites.
- (2B) Where a combination of TRSS and in-situ sites are proposed to be created in one subdivision application through the protection of indigenous vegetation (SEA) or wetland, the number of new sites for TRSS must be calculated first using the upper threshold of the area required by Table E39.6.4.4.1 for each TRSS site. The number of new in-situ sites shall then be calculated using the area required by Table E39.6.4.4.1 for each in-situ site. The cumulative maximum number of in-situ sites must not be exceeded.
- (3) A 20 metre buffer is to be applied to the perimeter of the wetland and included as part of the protected area.
- (4) The additional in-situ sites must be created on the same site as the indigenous vegetation subject to protection.

Note: Standard E39.6.4.6 provides a separate subdivision option to enable the transfer of additional lots created via Standard E39.6.4.4.

- (5) The additional in-situ sites must have a minimum site size of 1 hectare and a maximum site size of 2 hectares.
- (6) Any indigenous vegetation or wetland proposed to be legally protected in accordance with Appendix 15 Subdivision information and process must be identified on the subdivision scheme plan.
- (7) Areas of indigenous vegetation or wetland to be legally protected as part of the proposed subdivision must not already be subject to legal protection.
- (8) Areas of indigenous vegetation or wetland to be legally protected as part of the proposed subdivision must not have been used to support another transferable rural site subdivision or subdivision under this Plan or a previous district plan.

- (9) The subdivision resource consent must be made subject to a condition requiring the subdivision plan creating the sites to be deposited after, and not before, the protective covenant has been registered against the title of the site containing the covenanted indigenous vegetation or wetland.
- (10) All applications must include all of the following:
- (a) a plan that specifies the protection measures proposed to ensure the indigenous vegetation or wetland and buffer area remain protected in perpetuity. Refer to legal protection mechanism to protect indigenous vegetation, wetland or revegetation planting as set out in Appendix 15 Subdivision information and process for further information;
  - (b) the planting plan for restorative planting must follow the specifications as set out in Appendix 15 Subdivision information and process that specifies any restoration measures proposed to be carried out within or adjacent to the indigenous vegetation or wetland proposed to be protected;
  - (c) the plan required in E39.6.4.4(10)(a) and (b) must be prepared by a suitably qualified and experienced person.
- (11) Indigenous vegetation or wetland to be protected must be made subject to a legal protection mechanism meeting all of the following:
- (a) protection of all the indigenous vegetation or wetland and wetland buffer existing on the site at the time the application is made, even if this means protecting vegetation or a wetland larger than the minimum qualifying area; and
  - (b) consistent with the legal protection mechanism to protect indigenous vegetation, wetland or revegetation planting as set out in Appendix 15 Subdivision information and process.
- (12) All applications must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
- (a) the establishment of secure stock exclusion;
  - (b) the maintenance of the indigenous vegetation or wetland must ensure that all invasive plant pests are eradicated; and
  - (b) the maintenance of the indigenous vegetation or wetland must ensure animal and plant pest control occurs.

**E39.6.4.5. In-situ subdivision creating additional sites through establishing native revegetation planting**

- (1) Any established revegetation planting must meet all of the following:
- (a) not be located on land containing elite soil or prime soil;
  - (b) be located outside any Outstanding Natural Character, High Natural Character or Outstanding Natural Landscape overlays;

- (c) be contiguous with existing indigenous vegetation or wetland identified in the Significant Ecological Area Overlay or meeting the Significant Ecological Area factors identified in Policy B7.2.2(1); and
  - (d) the criteria as set out in Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings.
- (2) The maximum number of new sites created through establishing revegetation planting must comply with Table E39.6.4.5.1.

**Table E39.6.4.5.1 Maximum number of new sites from establishing native revegetation planting (to be added to existing indigenous vegetation or wetland identified in the Significant Ecological Area Overlay or meeting the Significant Ecological Areas factors identified in Policy B7.2.2.(1)) subject to protection**

TRANSFERABLE RURAL SITE SUBDIVISION (TRSS) YIELD		IN-SITU SUBDIVISION YIELD	
ESTABLISHED AREA OF NATIVE REVEGETATION PLANTING PROTECTED	MAXIMUM NUMBER OF NEW SITES FOR TRSS	ESTABLISHED AREA OF NATIVE REVEGETATION PLANTING PROTECTED	MAXIMUM NUMBER OF NEW IN-SITU SITES
5ha - 9.9999ha	1	5ha - 9.9999ha	1
10ha - 14.9999ha	2	10ha - 14.9999ha	2
15ha - 19.9999ha	3	15ha and over	3 maximum
20ha - 24.9999ha	4		
Thereafter for every additional 5ha	+1 to maximum of 6		

- (2A) The maximum number of in-situ sites created through any combination of the protection of established native revegetation planting, indigenous vegetation and wetland under E39.6.4.4 and E36.6.4.5 must not exceed a cumulative total of 12 sites.
- (2B) Where a combination of TRSS and in-situ sites are proposed to be created in one subdivision application through the protection of established native revegetation planting, the number of new sites for TRSS must be calculated first using the upper threshold of the area required by Table E39.6.4.5.1 for each TRSS site. The number of new in-situ sites shall then be calculated using the area required by Table E39.6.4.5.1 for each in-situ site. The cumulative maximum number of in-situ sites must not be exceeded.
- (3) Any new in-situ site must have a minimum site size of 1 hectare and a maximum site size of 2 hectares.
- (4) Any established revegetation planting proposed must be legally protected.



- (5) Areas subject to revegetation planting must be subject to a legal protection mechanism that:
- (a) protects all the existing indigenous vegetation on the site at the time of application as well as the additional area subject to any revegetation planting; and
  - (b) meets the requirements as set out in Appendix 15 Subdivision information and process.
- (6) All applications must include all of the following:
- (a) a plan that specifies the protection measures proposed to ensure the indigenous vegetation remain protected in perpetuity. Refer to the legal protection mechanism to protect indigenous vegetation, wetland or revegetation planting as set out in Appendix 15 Subdivision information and process for further information;
  - (b) a planting plan for revegetation planting which outlines the revegetation planting proposed to be carried out within or adjacent to the indigenous vegetation proposed to be protected in accordance with Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings; and
  - (c) the plans required in E39.6.4.5(6)(a) and (b) must be prepared by a suitably qualified and experienced person.
- (7) All applications must include a management plan that includes all of the following matters, which must be implemented prior to the Council issuing a section 224(c) certificate:
- (a) the establishment of secure stock exclusion;
  - (b) the maintenance of plantings that must occur until the plantings have reached a sufficient Maturity to be self-sustaining, and have reached 80 per cent canopy closure. The survival rate must ensure a minimum 90 per cent of the original density and species;
  - (c) the maintenance of plantings must include the ongoing replacement of plants that do not survive;
  - (d) the maintenance of plantings must ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an on-going basis to ensure adequate growth; and
  - (e) the maintenance of plantings must ensure animal and plant pest control occurs.
- (8) The subdivision resource consent must be made subject to a condition that requires the subdivision plan creating the sites to be deposited after, and not before, the protective covenant has been registered against the title of the site containing the covenanted indigenous vegetation to be protected.

**E39.6.4.6. Transferable rural site subdivision through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; or transferable rural sites subdivision through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1); or transferable rural sites subdivision through establishing revegetation planting**

Refer to Appendix 15 Subdivision information and process and Appendix 16 Guideline for native revegetation plantings for further information on transferable rural sites subdivisions and revegetation planting.

- (1) All transferable rural sites subdivisions applications involving protection of indigenous vegetation or wetlands must meet all of the standards that are applicable for:
  - (a) the protection of indigenous vegetation or wetlands identified in the Significant Ecological Areas Overlay or shown on Map [X] as set out in Standard E39.6.4.4; or
  - (b) the protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors identified in Policy B7.2.2(1) as set out in Standard E39.6.4.4; or
  - (c) the creation of sites through establishing revegetation planting as set out in Standard E39.6.4.5.
- (2) A donor site (being the site with the indigenous vegetation, wetland or the revegetation planting to be protected) must not be the same site as a receiver site.
- (3) The receiver site must be located within a Rural - Countryside Living Zone and be identified as an eligible receiver site by the subdivision variation control on the planning maps.
- (4) Sites being subdivided must have a minimum net site area and average net site area that complies with the transferable rural sites subdivision in the Rural - Countryside Living Zone as set out in Table E39.6.5.2.1 Minimum and average net site areas.
- (5) The subdivision resource consent must be made subject to a condition requiring the subdivision plan creating the receiver site or sites to be deposited after, and not before, the protective covenant has been legally registered against the title containing the covenanted indigenous vegetation or wetland as applicable.

**E39.6.4.7. Transferable rural site subdivision through the amalgamation of donor sites, including sites identified in Appendix 14 Land amalgamation incentivised area**

- (1) Prior to amalgamation of donor sites, all applications for amalgamation of donor sites must meet the following:
  - (a) donor sites must be abutting;
  - (b) one of the two donor sites must not contain a dwelling unless the resulting amalgamated site is permitted by this Plan to have more than one dwelling;

- (c) donor sites must be zoned either Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone or Rural - Rural Conservation Zone;
  - (d) the land must contain at least 90 per cent elite soil or prime soil. The applicant must provide a detailed Land Use Capability (LUC) soil assessment confirming that donor sites contain at least 90 per cent elite land or prime land. The assessment must be prepared by a suitably qualified and experienced person;
  - (e) each site must have a net site area of between 1 and 20 hectares;
  - (f) sites must have been in existence, or be shown on an approved scheme plan of subdivision; and
  - (g) sites must not comprise part or all of a closed road, road severance, or designation.
- (2) Following amalgamation of donor sites, all donor sites must meet all of the following:
- (a) be held in a single certificate of title;
  - (b) rescinded in such a way that replacement titles cannot be reissued;
  - (c) made subject to a legal protection mechanism that states all of the following:
    - (ix) the residential development rights attaching to the donor sites have been used to create a transferable rural sites subdivision under the Plan and must not accommodate any further residential development unless it is allowed as a permitted activity subject to the relevant zone rules or by the granting of a resource consent;
    - (x) the new site cannot be further subdivided other than by amalgamation with another qualifying site or by boundary adjustment; and
    - (xi) the new site has no further potential to be used for the purpose of a transferable rural site subdivision.
- (3) Following amalgamation of donor sites, all receiver sites must meet all of the following:
- (a) be subdivided into no more sites than those permitted by Table E39.6.4.7.1 Maximum number of new sites for transfer from the amalgamation of sites;

**Table E39.6.4.7.1 Maximum number of new sites for transfer from the amalgamation of sites**

<b>Transferable rural sites subdivision by way of amalgamation</b>	
<b>Criteria</b>	<b>Maximum number of new sites for transfer</b>
Amalgamation of two eligible donor sites as identified in Appendix 14 Land amalgamation incentivised	Two new sites for every two donor sites amalgamated

area and complying with Standard E39.6.4.7(1)	
Amalgamation of two eligible donor sites outside the land amalgamation incentivised area and complying with Standard E39.6.4.7(1)	One new site for every two donor sites amalgamated

- (b) the donor site must not be the same site as a receiver site;
- (c) be located within sites zoned as Rural – Countryside Living Zone and be identified as an eligible receiver site by the Subdivision Variation Control on the planning maps;
- (d) have a minimum net site area complying with the minimum net site area and average net site area with transferable rural sites subdivision as set out in Table E39.6.5.2.1 Minimum and average net site areas;
- (e) be made subject to a condition of subdivision consent that requires the subdivision plan creating the receiver site or sites to be deposited after, and not before, the plan of subdivision for the amalgamation of donor sites has been deposited.

### **E39.6.5 Standards - discretionary activities**

Subdivision listed as a discretionary activity in Table E39.4.2 and Table E39.4.2.5 must comply with the relevant standards in E39.6.1 General standards and E39.6.5 Standards - discretionary activities.

#### **E39.6.5.1 Subdivision in the Rural - Rural Production Zone, Rural - Mixed Rural Zone, Rural - Rural Coastal Zone, and Rural - Rural Conservation Zone**

- (1) Subdivision in these rural zones must meet the minimum average site size and minimum site size requirement as set out in Table E39.6.5.1.1 Minimum average site size and minimum site size for subdivision.

**Table E39.6.8.1.1 Minimum average site size and minimum site size for subdivision**

Zone	Minimum average site size (ha)	Minimum site size (ha)
Rural - Rural Production	100	80
Rural - Mixed Rural	50	40
Rural - Rural Coastal	50	40
Rural - Rural Conservation	20	10

- (2) Subdivision of the land described as at 14 March 2018 as Lot 1 Deposited Plan 173316, Deposited Plan 25125 and Deposited Plan 7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931)
- (a) Is not required to comply with General Standards E39.6.1.1 to E39.6.1,5 where the subdivision resource consent is made subject to a legal mechanism to ensure no dwellings can be established on the new sites created (although this mechanism shall not affect the establishment of dwellings on the balance parent site);
- (b) Shall be deemed to meet the access requirements in Standards E39.6.1.1(3)(b) and E39.6.1.2 if access by sea to the proposed sites is provided.

### **E39.6.5.2. Subdivision in the Rural – Countryside Living Zone**

- (1) Subdivision in the Rural – Countryside Living Zone must meet all of the following:
- (a) proposed site sizes and average net site areas must comply with the minimum net site areas specified in Table E39.6.5.2.1 Minimum and average net site areas;
- (b) the average net site area of all sites following subdivision must be calculated per subdivision scheme plan, and no credits will be carried forward to future subdivision scheme plans;
- (c) the minimum frontage for all front sites must be 15 metres; and
- (d) the minimum frontage for rear sites must be 6 metres.

Transferable rural site subdivision receiver sites must be located in the Rural – Countryside Living Zone locations listed in Table E39.6.5.2.1 Minimum and average net site areas and be identified as eligible receiver sites by the Subdivision Variation Control on the planning maps.

In this table, N/A means the transferable rural site subdivision mechanism is not provided for in that particular location.

**Table E39.6.5.2.1 Minimum and minimum average net site areas**

<b>Location of Rural – Countryside Living Zone</b>	<b>Minimum net site area and average net site area without transferable rural site subdivision</b>	<b>Minimum net site area and average net site area with transferable rural site subdivision</b>
Rural – Countryside Living Zone areas not identified below	Minimum: 2ha	N/A
Wellsford Kaukapakapa Helensville	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Warkworth	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha

Matakana Kumeu - Huapai Paremoremo - Albany Heights	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Algies Bay	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Puhoi Parakai	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Average: 1ha
Waimauku	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
South Rodney	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Whitford (excluding precinct and Caldwell's Road)	Minimum: 2ha Minimum average: 4ha	N/A
Whitford - Caldwell's Road	Minimum: 1ha Minimum average: 2ha	N/A
Papakura	Minimum: 1ha	N/A
Point Wells	Minimum: 5,000m <sup>2</sup> Minimum average: 7,500m <sup>2</sup>	N/A
Runciman	Minimum: 2ha	Minimum: 8,000m <sup>2</sup> Minimum average: 1ha
Swanson (outside precinct)	Minimum: 4ha	N/A

### E39.6.5.3. Subdivision in Rural – Waitākere Ranges Zone

- (1) The average site size must be greater than 4 hectares.
- (2) The average site size must be calculated over the net site area of the site as it existed as of 14 October 1995.
- (3) The minimum net site area must be 2 hectares.
- (4) The subdivision must not create any new road.
- (5) Subdivision must not create development or establishment of buildings within land areas identified in the Significant Ecological Areas Overlay.

## **E39.7. Assessment – controlled activities**

### **E39.7.1. Matters of control**

The Council will reserve its control to the following matters when assessing a controlled activity resource consent application:

- (1) all controlled activities:
  - (a) compliance with an approved resource consent except for boundary adjustment subdivision;
  - (b) the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces;
  - (c) the effects of infrastructure provision; and
  - (d) the effects on historic heritage and cultural heritage items.

### **E39.7.2. Assessment criteria**

The Council will consider the relevant assessment criteria for controlled activities from the list below:

- (1) all controlled activities:
  - (a) compliance with an approved resource consent except for boundary adjustment subdivision:
    - (i) refer to Policy E39.3(6);
  - (b) the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:
    - (i) the extent to which the design, size, shape, gradient and location of any site including access, existing buildings, manoeuvring areas and outdoor living space affect the safety of pedestrians and cyclists and other users of the space or access;
    - (ii) whether the sites created are able to accommodate development in accordance with the relevant Auckland-wide and zone rules; and
    - (iii) refer to Policy E39.3(24), (25) and (26);
  - (c) the effects of infrastructure provision:
    - (i) whether provision is made for infrastructure including creation of common areas over parts of the parent site that require access by more than one site within the subdivision; and
    - (ii) refer to Policy E39.3(27) and (31).
  - (d) the effects on historic heritage and cultural heritage items;

- (i) whether the protection or avoidance of any Scheduled Historic Heritage Place, or Site and Places of Significance to Mana Whenua is ensured; and
- (ii) refer to Policy E39.3(4).

(2) Subdivision in the Rural – Waitākere Foothills Zone:

- (a) Policies E39.3(1), (4), (6), (10), (11), (13), (16), (167), (19), (24) and (27) - (32).

## **E39.8. Assessment - restricted discretionary activities**

### **E39.8.1. Matters of discretion**

The Council will restrict its discretion to the following matters when assessing a restricted discretionary resource consent application:

- (1) subdivision of a site within the one per cent annual exceedance probability floodplain:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to flood hazard events.
- (2) subdivision of a site in the coastal storm inundation 1 per cent annual exceedance probability (AEP) area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1 m sea level rise area:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal storm inundation events.
- (3) subdivision of a site in the coastal erosion hazard area:
  - (a) the effects of the erosion on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal erosion.
- (4) subdivision of sites subject to land instability including those areas defined in the Plan as “land which may be subject to land instability”, or other unstable soils as identified through a specific site assessment:
  - (a) the effects of remediating the land instability hazard and the effect of the hazard on the intended use.
- (5) subdivision establishing an esplanade reserve:
  - (a) the effect of the design, purpose and location of any esplanade reserve established by subdivision in terms of public access, and the conservation of coastal and/or riverbank ecological values, natural values, geological features and landscape features.
- (6) in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay areas but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard E39.6.4.4; in-situ subdivision creating additional sites through establishing revegetation planting:



- (a) effects associated with the following matters, having regard to the need to ensure that environmental benefits including the long term protection of Significant Ecological Areas or areas shown on Map [X], do not unnecessarily compromise other elements of rural character and amenity:
  - (i) the number of sites created, site size, building platforms locations, access;
  - (ii) the rural character, landscapes and amenity;
  - (iii) the location of the indigenous vegetation, wetland and/or revegetation planting relative to proposed new sites and to existing vegetation;
  - (iv) the quality of the indigenous vegetation, wetland and/or revegetation planting to be protected;
  - (v) the compliance with Auckland-wide rules;
  - (vi) any management plans for the ongoing protection and management of indigenous vegetation, wetland or revegetation planting;
  - (vii) the provision of adequate access to existing and new infrastructure and provision of appropriate management of effects of stormwater;
  - (viii) the legal protection for indigenous vegetation, wetland or revegetation planting;
  - (ix) any reverse sensitivity effects; and
  - (x) the location of identified building areas platforms relative to areas of significant mineral resources.
  
- (7) transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard E39.6.4.4; or transferable rural sites subdivision through establishing revegetation planting:
  - (a) effects associated with the following matters, having regard to the need to ensure that environmental benefits including the long term protection of Significant Ecological Areas or areas shown on Map [X], do not unnecessarily compromise other elements of rural character and amenity:
    - (i) the matters listed in E39.8.1(6)(a)(i) to (x);
    - (ii) the number and size of new sites created on the receiver sites and compliance with minimum and average net site areas in the Rural Countryside: Living Zone; and
    - (iii) the timing and co-ordination of the protection of indigenous vegetation, wetland and revegetation planting on donor site relative to the creation of new sites on the receiver site.

- (8) transferable rural site subdivision through the amalgamation of donor sites, including those sites identified in Appendix 14 Land amalgamation incentivised area:
  - (a) effects associated with the below matters, having regard to the need to ensure the long term protection of elite soils and their availability for rural production purposes, without compromising other elements of rural character and amenity, or rural resources:
    - (i) the matters listed in E39.8.1(6)(a)(i) to (x);
    - (ii) the location and the soil qualities of the donor sites;
    - (iii) the degree to which new sites created from receiver sites comply with the Auckland-wide rules;
    - (iv) the suitability of the transferred sites for rural residential purposes having regard to the objectives, policies and rules for the Rural – Countryside Living Zone.

### **E39.8.2. Assessment criteria**

The Council will consider the relevant assessment criteria for restricted discretionary activities from the list below:

- (1) subdivision of a site within the one per cent annual exceedance probability floodplain and flood prone areas:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to flood hazard events:
    - (i) whether measures are proposed to ensure the long term protection of flood plain conveyance functions;
    - (ii) whether the location and design of development including building platforms and access ways are located to avoid the hazard;
    - (iii) the extent to which changes to the landform and the design of mitigation structures/features are necessary for the subdivision; and
    - (iv) refer to Policy E39.3(2).
- (2) subdivision of a site in the coastal storm inundation 1 per cent annual exceedance probability (AEP) area or the coastal storm inundation 1 per cent annual exceedance probability (AEP) plus 1 m sea level rise area:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal storm inundation events:
    - (i) whether the location and design of development including proposed and existing building platforms and access ways include the ability to relocate uses within the proposed site area;
    - (ii) whether the use of defences to protect the land and any buildings or structures on the land from coastal storm inundation are necessary;

- (iii) whether there is any residual risk posed by coastal storm inundation to the site(s) associated with any existing or proposed coastal defences;
  - (iv) whether there are effects on landscape values resulting from associated built and/or land form modifications required to provide for the intended use of the site; and
  - (v) Policy E39.3(2).
- (3) subdivision of site in the coastal erosion hazard area:
  - (a) the effects of the hazards on the intended use of the sites created by the subdivision and the vulnerability of these uses to coastal erosion:
    - (i) whether public access to the coast is affected;
    - (ii) the extent to which the installation of hard protection structures to be utilised to protect the site or its uses from coastal erosion hazards over at least a 100 year timeframe are necessary; and
    - (iii) Policy E39.3(2).
- (4) subdivision of sites subject to land instability including those areas defined in the Plan as "land which may be subject to land instability", or other unstable soils as identified through a specific site assessment:
  - (a) the effects of remediating the land instability hazard and the effect of the hazard on the intended use:
    - (i) the extent to which the proposed sites are stable and suitable;
    - (ii) the extent to which the site instability will affect the intended use, including the provision for onsite infrastructure (where applicable) and accessways; and
    - (iii) Policy E39.3(2).
- (5) subdivision establishing an esplanade reserve:
  - (a) the effect of the design, purpose and location of any esplanade reserve established by subdivision in terms of public access, and the conservation of coastal and/or riverbank ecological values, natural values, geological features and landscape features:
    - (i) the extent to which the design purpose and location of the esplanade reserve enables public access and the conservation of coastal and/or riverbank ecological values, natural values, geological features and landscape features; and
    - (ii) Policies E39.3(1), (21), (22) and (23).
- (6) in-situ subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X];  
in-situ subdivision creating additional sites through protection of indigenous vegetation

or wetland not identified in the Significant Ecological Areas Overlay areas but meeting the Significant Ecological Area factors in Policy B7.2.2.(1) as set out in Standard E39.6.4.4; in-situ subdivision creating additional sites through establishing revegetation planting:

- (a) Policies E39.3(1), (15), (16), (17), (18), (23) - (26) and (28) - (30).
- (7) transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or shown on Map [X]; transferable rural sites subdivision creating additional sites through protection of indigenous vegetation or wetland not identified in the Significant Ecological Areas Overlay but meeting the Significant Ecological Area factors in Policy B7.2.2(1) as set out in Standard E39.6.4.4; transferable rural sites subdivision through establishing revegetation planting:
- (a) Policies E39.3(1), (11), (12), (13), (15), (16), (17), (18), (23) - (26) and (28) to (30).
- (8) transferable rural sites subdivision through the amalgamation of donor sites including sites identified in Appendix 14 Land amalgamation incentivised area:
- (a) Policies E39.3(1), (3), (9), (11), (12), (13), (15), (16), (17), (18) and (28) to (30).

#### **E39.9. Special information requirements**

There are no special information requirements in this section.

[Map X to be added]

# FINAL RURAL SUBDIVISION PROVISIONS FOLLOWING ENVIRONMENT COURT DECISION [2021] NZEnvC 010

## **H19. RURAL ZONES**

### **H19.1 Background**

There are five rural zones: ...

### **H19.7 Rural – Countryside Living**

#### **Zone H19.7.1. Zone description**

This zone provides for rural lifestyle living in identified areas of rural land which are generally closer to urban Auckland or rural and coastal towns. There is a diversity of topography, land quality and landscape character within the zone which results in a diversity of site sizes. The zone is the receiver area for transferable rural site subdivision from other zones.

This zone incorporates a range of ....

**FINAL RURAL SUBDIVISION PROVISIONS FOLLOWING ENVIRONMENT COURT  
DECISION [2021] NZEnvC 010**

**Appendix 15 Subdivision information and process**

**15.1. Introduction**

This appendix includes additional information for subdivision resource consent applications. Refer to the Council’s website for further information on how to apply for subdivision resource consent.

All references to the Significant Ecological Area Overlay in this Appendix should be read as also including the areas on Map [X]

**15.2. Vesting of Assets**

...

**15.3. Transferable rural site subdivision**

**15.3.1. Process**

- (1) A Transferable Rural Site Subdivision (TRSS) is the transfer of the rural - residential development potential of rural sites from one location to the Countryside Living Zone through a subdivision process. This process may be carried out in the following ways:
  - (a) through the protection of indigenous vegetation or wetland either identified in the D9 Significant Ecological Areas Overlay or meeting Significant Ecological Areas factors as set out in the regional policy statement, and established revegetation planting meeting relevant criteria; or
  - (b) through the amalgamation of donor sites: amalgamating two existing and abutting rural zoned sites (excluding a Rural - Countryside Living Zone site), and transferring the development potential of the 'amalgamated' site to the Countryside Living Zone.
- (2) The new or additional site is located in Rural - Countryside Living zoned sites identified on the planning maps by the Subdivision Variation Control.
- (3) The process is the same if more than two donor sites are amalgamated, or if more than one block of qualifying indigenous vegetation or wetland is protected.

**Table 15.3.1.1 Transferable rural site subdivision process**

Step	Transferable rural site subdivision process through the amalgamation of donor sites	Transferable rural site subdivision process through the protection of indigenous vegetation or wetland identified in the Significant Ecological Areas Overlay or meeting the Significant Ecological Areas

		<b>factors or established revegetation planting meeting relevant criteria</b>
1	<p>Identify the following:</p> <p>a. two donor sites abutting each other, one of which is vacant;</p> <p>b. a site zoned Rural - Countryside Living Zone identified as suitable as a receiver site for TRSS - see Table E39.6.5.2.1 Minimum and minimum average net site areas in E39 Subdivision - Rural</p>	<p>Identify the following:</p> <p>a. an area of indigenous vegetation or wetland (on the donor site) that:</p> <ul style="list-style-type: none"> <li>- is identified in the Significant Ecological Areas overlay;</li> <li>- meets the Significant Ecological Areas factors set out in Policy B7.2.2(1); or</li> <li>- is established with revegetation planting meeting relevant criteria.</li> </ul> <p>b. a site zoned Rural - Countryside Living Zone identified as suitable as a receiver site for TRSS - see Table E39.6.5.2.1 Minimum and minimum average net site areas in E39 Subdivision - Rural.</p>
2	<p>Application made to Council:</p> <p>a. to amalgamate two donor sites into one new site; and</p> <p>b. to subdivide the receiver site.</p>	<p>Application made to Council:</p> <p>a. subdivide the property containing indigenous vegetation, wetland or revegetation planting to create the residential development opportunity; and</p> <p>b. transfer the residential development opportunity to the receiver site in a Countryside Living Zone.</p>
3	Gain subdivision consent approval	Gain subdivision consent approval
4	Comply with consent conditions	Comply with consent conditions
5	<p>Apply to Land Information New Zealand to:</p> <p>a. issue one new certificate of title in place of the original donor sites; and</p>	<p>Apply to Land Information New Zealand to:</p> <p>a. attach an appropriate legal protection mechanism to the</p>

	<p>b. issue two new certificates of title for the new sites created from the receiver site after the title for the donor sites has been issued.</p>	<p>donor site for the protection of the indigenous vegetation, wetland or revegetation planting; and</p> <p>b. issue two new certificates of title for the new sites created from the receiver site.</p>
--	---	--

### 15.3.2. Explanation of terms

- (1) A donor site may be one of the following:
- (a) two abutting rural sites being amalgamated;
  - (b) a rural site containing rural-residential development potential created from one of the following situations:
    - (i) a site containing indigenous vegetation or wetland identified in the D9 Significant Ecological Areas Overlay;
    - (ii) A site containing an indigenous vegetation area or wetland meeting the Significant Ecological Areas factors as identified in Policy B7.2.2(1); or
    - (iii) a site establishing revegetation planting.
- (2) A receiver site is a Rural - Countryside Living zoned site identified on the planning maps by the Subdivision Variation Control.

### 15.4. Protection of existing indigenous vegetation

...

### 15.5 Legal protection mechanism to protect indigenous vegetation, wetland or re-vegetation planting:

- (1) The legal protection mechanism must include all of the following:
- (a) permanent protection of the vegetation or wetland on the site;
  - (b) implementation of a management plan;
  - (c) permanent exclusion of all livestock from the protected area; and
  - (d) the protected area to be maintained in perpetuity, including carrying out pest control measures.
- (2) Where the Plan refers to indigenous vegetation or wetland to be subject to a legal protection mechanism, that mechanism must include the following:
- (a) legal protection of the indigenous vegetation or wetland and any area of required revegetation plantings in perpetuity. An agreement to the satisfaction of the council regarding an encumbrance, bond, consent notice, covenant or vesting as



reserve must be entered into before the issue of the section 224(c) certificate under the Resource Management Act 1991;

- (b) where applicable the legal protection mechanism must be in accordance with the relevant terms of the Reserves Act 1977 or the Queen Elizabeth II National Trust Act 1977. The legal instrument must provide protection in perpetuity, and must include enforcement and penalty provisions;
  - (c) where revegetation planting is required as a condition of the subdivision consent, the section 224(c) certificate will be issued only after the required works have been undertaken and the planting has satisfied the required consent conditions. This includes implementation of an animal and plant pest management plan. 'Animal pests' are those animal species listed as 'total control pests', 'containment pests', or 'surveillance pests' in the Auckland Council's current Regional Pest Management Strategy;
  - (d) all certification required must be carried out by a suitably qualified and experienced person and at the applicant's expense, and a report must be provided to Council. In this context, a person will not be considered to be suitably qualified and experienced unless they are a qualified ecologist with appropriate experience in this type of work.
- (3) The indigenous vegetation or wetland and any area of required revegetation plantings to be protected must be maintained free of livestock through appropriate stock proof fencing, or if livestock access to the vegetation is prevented by topographical or natural features then stock proof fencing may not be required.

### **15.6 Revegetation planting**

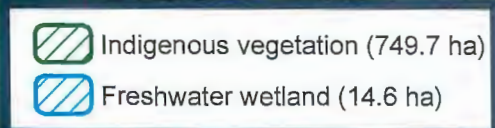
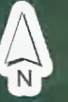
- (1) A planting plan for any revegetation planting is required prior to a section 224(c) certificate being issued and must identify the following:
- (a) the ecological district of the site;
  - (b) the characteristics of the soil (i.e. clay, silt, loam etc.);
  - (c) soil drainage;
  - (d) topography of the area to be planted;
  - (e) location and extent of the area to be planted;
  - (f) exposure of the site to wind, frost, sunlight and salt spray;
  - (g) presence of plant and animal pests;
  - (h) presence of any threatened species and if necessary the process for the translocation of threatened species,
  - (i) stock-proof fencing that should be at least a full seven wire, post and batten fence, planting areas, weed and animal pest control;

- (j) extent of the existing Significant Ecological Areas (indigenous vegetation) and an outline of the biodiversity of the Significant Ecological Areas (indigenous vegetation) and the land in the subdivision;
  - (k) any restrictions on planting, such as existing infrastructure, safety or existing access issues;
  - (l) how revegetation planting will be ecologically linked to an area of contiguous Significant Ecological Areas (indigenous vegetation) and if possible any other additional existing ecological corridors or connections;
  - (m) how revegetation planting will provide robust and high value ecological connections without gaps to the Significant Ecological Areas;
  - (n) how revegetation planting will buffer the Significant Ecological Areas and ensure long term viability and resilience of the Significant Ecological Areas;
  - (o) site planting, including species to be planted, size and spacing of plants and where they are to be planted, requirements for replacement of pest plants with appropriate native species and measures to minimise reinvasion of pest plants;
  - (p) measures for the maintenance of planting, including releasing plants, fertiliser, plant and animal pest control and mulching and replacement of plants which do not survive, and measures for animal and plant pest control;
  - (q) protective measures proposed to ensure the Significant Ecological Areas (indigenous vegetation) and any proposed restoration planting remain protected in perpetuity;
  - (r) details confirming that revegetation planting is only to be carried out contiguous to the Significant Ecological Areas (consisting of indigenous vegetation);
  - (s) confirmation that the assessment of whether the maintenance of plantings has been achieved shall be undertaken by a suitably qualified independent ecologist according to a quantitative monitoring programme.
- (2) The location and species composition of the restoration planting is to achieve the following:
- (a) provide necessary protection and restoration of the Significant Ecological Areas to ensure its long term viability, health, and significance;
  - (b) facilitate the use of natural regeneration processes to ensure that in the long term these natural regeneration processes take over;
  - (c) provide for the protection and restoration of the Significant Ecological Areas and provide robust linkages between ecological features;
  - (d) provide a sustainable, potentially significant forest, wetland or shrubland.
- (3) The following matters must be implemented prior to a section 224(c) certificate is issued and confirmation is provided:

- (a) the establishment of secure stock exclusion that is at least a full seven wire, post and batten fence;
  - (b) the planting of native vegetation at a density detailed below or at some other density considered more appropriate for the site circumstances by Council:
    - (i) an average density of 1.4 metre centres (5,100 stems per hectare) reducing to 1 metre centres (10,000 stems per hectare) in kikuyu and wetland and riparian margins;
    - (ii) sourced from the ecological district and to be appropriate for the soil, aspect, exposure and topography; and
    - (iii) reflect the composition of former natural vegetation likely to have occupied the site and include appropriate native species that will enable natural processes of succession;
  - (c) the maintenance of any plantings must occur until the plantings have reached a sufficient maturity to be self-sustaining, and have reached 80 per cent canopy closure. The survival rate must ensure a minimum 90 per cent of the original density and species;
  - (d) the maintenance of any plantings must include the ongoing replacement of plants that do not survive;
  - (e) the maintenance of any plantings must ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an on-going basis and plants released from kikuyu as necessary to ensure adequate growth; and
  - (f) the maintenance of any plantings must ensure animal and plant pest control occurs.
- (4) The planting plan must be prepared and confirmed by a suitably qualified and experienced person.

Annexure D





**DISCLAIMER:**  
 This map/plan is illustrative only and all information should be independently verified on site before taking any action. Copyright Auckland Council. Land Parcel Boundary information from LINZ (Crown Copyright Reserved). Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and plan completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information. Height datum: Auckland 1946.

**Indigenous vegetation and freshwater wetland recognised as Significant Ecological Areas on Lot 1 DP173316, DP 25125, DP7067 (CFR NA106B/436) and Part Island of Kawau (CFR NA55B/931)**



Scale @ A3 = 1:14,129

Date Printed: 15/03/2018



**Auckland Council**  
 Te Kaitiaki o Tāmaki Makaurau