

**Part 22B Activity Status, Performance Standards, Assessment Criteria for Subdivision in the Rural Zone, Coastal Zone, Wetland Conservation Zone and Forest Conservation Zone**

22B.1 [Intentionally blank]

**22B.2 Controlled Activities**

Within the Rural Zone, Coastal Zone, Wetland Conservation and Forest Conservation Zones, the subdivision activities listed below are Controlled Activities.

An application for a Controlled Activity shall be considered without public notification or limited notification unless special circumstances exist.

1. Subdivision for NETWORK AND OTHER UTILITIES in accordance with [Rule 22B.13](#).
2. Lots for Road Severances in accordance with [Rule 22B.14](#)
3. Boundary relocation or adjustments meeting the standards of Rules [22B.15](#) and [22B.7.2.iv](#).

**Notes:**

- (a) Controlled Activities require a resource consent. A controlled activity consent will be granted, however conditions may be applied. An application must be submitted in the prescribed format (available from the Council).
- (b) Applications will be assessed in terms of the matters set out in Rules [22B.7](#), [22B.8](#) and [22B.9.1](#), as well as any specific matters in the relevant subdivision rule. Conditions of consent will only relate to those matters.
- (c) The information submitted with the application shall be in accordance with Rules [52](#) and [22A.1](#) and need only be confined to matters over which the Council has reserved control. Such information provided shall be of a sufficient standard to enable a thorough consideration and assessment on such matters. The application must also clearly demonstrate compliance with the stated performance standards applicable to the activity.

### 22B.3 Restricted Discretionary Activities

Within the Rural Zone, Coastal Zone, Wetland Conservation and Forest Conservation Zones, the subdivision activities listed below are Restricted Discretionary Activities:

1. Environmental Lots within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.11.1](#) and [22B.7](#).
2. Environmental Lots outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.11.2](#) and [22B.7](#).
3. AN INCENTIVE TRANSFER LOT within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.12.2](#) and [22B.7](#).
4. A TRANSFERABLE RURAL LOT RIGHT within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.12.3](#) and [22B.7](#).
  - 4A. A TRANSFERABLE RURAL LOT RIGHT from a LOT created under Subdivision Consent 99099 transferred into the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.12.3](#) and [22B.7](#) provided that no LOT consented by Subdivision Consent 99099 is subsequently taken up in a manner which results in new certificates titles issued after 16 May 2013 on land described as Lot 6 DP 157759, Lot 3 DP 157758, Lot 1 DP 198366 & Lot 1 DP 195813 at Workman Road and Kaiaua Road, Kaiaua.
  - 4B. A transfer of any remaining environmental lots resulting from Subdivision Consent SUB0148/12 (application lodged on 27 March 2012, affecting Part Allotment 240 Parish of Mangatawhiri, CFR NA 191/215 at Graham Road, Bombay and consented by Waikato District Council on 11 June 2012), to a receiver RURAL LOT inside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in the Auckland Council's jurisdiction, in accordance with rules [22B.12.3](#) and [22B.7](#).

For the purposes of this rule:

- i. a subdivision plan is required only for the receiver property and not the donor property; and
- ii. the terms "lot/lots", "RURAL LOT(S)" and "TRANSFERABLE RURAL LOT RIGHT" in the:
  - performance standards in Rules [22B.7](#) and [22B.12.1](#)
  - restricted matters of discretion in Rule [22B.8B](#)
  - assessment criteria in Rule [22B.9](#)
  - specific performance standards in Rule [22B.12.4.1](#)
  - [Part 50](#) definitionsare treated as applying to the remaining environmental lots resulting from Subdivision

Consent

SUB0148/12.

Note: For the avoidance of doubt, 16 environmental lots existed as at 12/11/2015.

## Waikato District Plan - Waikato Section

4C. A transfer of any remaining environmental lots resulting from Subdivision Consent SUB0162/12

(application lodged on 23 April 2012, affecting Lot 8 DPS 91607 CFR SA 72B/974 at Klondyke Road, Port Waikato and consented by Waikato District Council on 30 July 2012), to a receiver RURAL LOT inside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in the Auckland Council's jurisdiction, in accordance with Rules [22B.12.3](#) and [22B.7](#).

For the purposes of this rule:

- i. a subdivision plan is required only for the receiver property and not the donor property; and
- ii. the terms "lot/lots", "RURAL LOT(S)" and "TRANSFERABLE RURAL LOT RIGHT" in the:
  - performance standards in Rules [22B.7](#) and [22B.12.1](#)
  - restricted matters of discretion in Rule [22B.8B](#)
  - assessment criteria in Rule [22B.9](#)
  - specific performance standards in Rule [22B.12.4.1](#)
  - [Part 50](#) definitionsare treated as applying to the remaining environmental lots resulting from Subdivision Consent SUB0162/12.

Note: For the avoidance of doubt, 14 environmental lots existed as at 12/11/2015.

5. A TRANSFERABLE RURAL LOT RIGHT outside, or transferred from the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) into the area outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA) in accordance with Rules [22B.12.4](#) and [22B.7](#).
6. Any subdivision activity listed under Rule [22B.2](#) or Rule [22B.3](#) which does not meet performance standard Rule [22B.7.1.2](#) Private Ways.
7. Boundary relocation or adjustments which do not meet the performance standard [22B.15.1\(e\)](#).
8. Intensive rural activity lot subdivision for GREENHOUSE, INTENSIVE FARMING or POULTRY HATCHERY activities in the Rural Zone in accordance with [Rule 22B.10](#).

Notes:

- (a) Refer to Rules [22B.4](#) and [22B.5](#) to ensure the activity does not require consent under those rules, and to Rule [22B.6](#) to ensure the activity is not a prohibited activity.
- (b) Restricted Discretionary Activities require a resource consent, and the consent may be granted or refused. An application must be submitted in the prescribed format (available from the Council).
- (c) Applications will only be assessed in terms of the matters set out in [22B.7](#), [22B.8](#) and [22B.9](#), and any specific matters in the relevant rule. Conditions of consent will be restricted to those matters. For avoidance of doubt, the [Part 53](#) assessment criteria do not apply to restricted discretionary subdivision provided for in Part [22B.3](#).
- (d) The information submitted with the application shall be in accordance with Rules [52](#) and [22A.1](#) and need only be confined to matters over which the Council has restricted its discretion. Such information provided shall be at a sufficient standard to enable a thorough consideration and assessment on such matters. The application must also clearly demonstrate compliance with the stated performance standards applicable to the activity.
- (e) An application for a Restricted Discretionary Activity may be considered without public notification or with limited notification, where the Council so determines in terms of section 95A - F of the Act.

#### 22B.4 Discretionary Activities

Within the Rural Zone, Coastal Zone, Wetland Conservation and Forest Conservation Zones the subdivision activities listed below are Discretionary Activities.

1. Any subdivision activity listed under [Rule 22B.2](#) or [Rule 22B.3](#) which does not meet one or more of the standards set out [Rule 22B.7.1](#) (General Performance Standards 1, 3-7 inclusive).
2. Any subdivision activity listed under [Rule 22B.3](#) which:
  - (i) creates new lots less than 2500 m<sup>2</sup> or greater than 10,000 m<sup>2</sup> in area (excluding the balance lot);
  - (ii) creates new lots that do not comply with Cluster Development Specific Performance Standards specified in Rules [22B.11.1.1\(k\)](#) or [22B.12.2.1\(d\)](#);
  - (iii) does not achieve planting densities in accordance with [Rule 22B.11.3.3\(a\)\(i\)](#);  
or
  - (iv) does not achieve the minimum planting width requirements for ecological corridors specified in [Rule 22B.11.1.3\(e\)](#), provided that the minimum area requirements in [Rule 22B.11.1.3\(d\)](#) are met.
3. Boundary relocation or adjustments, which do not meet the performance standard [22B.15.1\(f\)](#).
4. Intensive rural activity lot subdivision for GREENHOUSE, INTENSIVE FARMING, or POULTRY HATCHERY activities in the Rural Zone not complying with [Rule 22B.10](#).
5. Intensive rural activity lot subdivision for a PACKHOUSE or a PACKING SHED in the Rural Zone complying with Rules [22B.10.A.2](#) and [22B.10.A.3](#).
6. Intensive rural activity lot subdivision for commercial orchard activities in the Rural Zone complying with Rules [22B.10.A.2](#) and [22B.10.A.5](#).

Notes:

- (a) Discretionary Activities require a resource consent, and the consent may be granted or refused. An application must be submitted in the prescribed format (available from the Council).
- (b) In assessing a discretionary activity, the consent authority may take into account any relevant matter. In particular, applications will be assessed in terms of the matters set out in the relevant rules, and/or Rules [22B.7](#), [22B.8](#), [22B.9](#), and [53](#). Where consent is granted, conditions of consent may be imposed.
- (c) The information submitted with the application must be in terms of Rules [52.2](#) and [22A.1](#).

## 22B.5 Non-Complying Activities

Within the Rural Zone, Coastal Zone, Wetland Conservation and Forest Conservation Zones the subdivision activities listed below are Non-complying Activities.

1. Subdivision activities which do not meet one or more of the performance standards set out in Rules [22B.7.2](#), [22B.11](#) or [22B.12](#), except where [Rule 22B.4.2](#) specifically provides for the activity as a discretionary activity.
2. Any subdivision activities not provided for under Rules [22B.2](#) or [22B.3](#) or [22B.4](#), and that it is not prohibited by [22B.6](#).
3. Subdivision Activities for any lots created for MINERAL EXTRACTION AND PROCESSING (Coastal Zone only).
4. TRANSFERABLE RURAL LOT RIGHT from another Management Area to any RURAL LOT within the:
  - Tasman Coast Management Area; or
  - Hunua Forestlands Management Area
5. Except as provided for in [RULE 23B.3.4A](#), TRANSFERABLE RURAL LOT RIGHTS from a RURAL LOT outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA to a RURAL LOT within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA.
6. An additional new lot which does not contain a SPECIFIED BUILDING AREA outside of a Floodway Policy Area, as identified on the planning maps.
7. An additional new lot which does not contain a SPECIFIED BUILDING AREA outside of a SPECIAL CHARACTER AREA.
8. In the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA (EEOA), subdivision that exceeds a **maximum number** of ten (10) new lots derived from a combination of Environmental Lots and INCENTIVE TRANSFER LOTS.
9. Subdivision of any lot (including any balance lot but excluding boundary relocations and boundary adjustments) that has resulted from any previous subdivision under Rules [22B.11](#) or [22B.12](#) where the full lot entitlements relating to each rule have been utilised.

### Notes:

- (a) Non-complying Activities require a resource consent, and the consent may be granted or refused. An application must be submitted in the prescribed format (available from the Council)
- (b) Applications will be assessed in terms of the matters set out in [Part 53](#), the Objectives and Policies of the plan, and where appropriate, the matters applying to Controlled, Restricted Discretionary or Discretionary Activities. Where consent is granted, conditions of consent may be imposed.
- (c) The information submitted with the application must be in terms of Rules [52.2](#) and [22A.1](#).

## 22B.6 Prohibited Activities

The activities listed below are Prohibited Activities in the Rural Zone, Coastal Zone, Wetland Conservation and Forest Conservation Zones:

1. The subdivision of a SUBSIDIARY DWELLING from the principal DWELLING HOUSE on t SITE.
2. Any transfer of a RURAL LOT (donor lot) to a specified receiver RURAL LOT that does not fall within the definition of TRANSFERABLE RURAL LOT RIGHT because the donor lot and the specified receiver RURAL LOT are not located within the Waikato District, except as provided for in Rules [22B.3.4A](#), [22B.3.4B](#) and [22B.3.4C](#).

### **Explanation:**

Except as provided for in Rules 22B.3.4A, 22B.3.4B and 22B.3.4C and subject to compliance with the relevant performance standards, Transferable Rural Lot Rights across territorial boundaries do not achieve the objectives and policies of the district plan, which seek to manage growth in the rural zones and avoid the wide dispersal of lots. They involve a high level of cost and complexity due to the involvement of two territorial authorities as consent authorities, and uncertainty in the processing and monitoring of consents.

## Waikato District Plan - Waikato Section

2. Any transfer of a RURAL LOT (donor lot) to a specified receiver RURAL LOT that does not fall within the definition of TRANSFERABLE RURAL LOT RIGHT because the donor lot and the specified receiver RURAL LOT are not located within the Waikato District, except as provided for in Rules [22B.3.4A](#), [22B.3.4B](#) and [22B.3.4C](#).

### **Explanation:**

Except as provided for in Rules 22B.3.4A, 22B.3.4B and 22B.3.4C and subject to compliance with the relevant performance standards, Transferable Rural Lot Rights across territorial boundaries do not achieve the objectives and policies of the district plan, which seek to manage growth in the rural zones and avoid the wide dispersal of lots. They involve a high level of cost and complexity due to the involvement of two territorial authorities as consent authorities, and uncertainty in the processing and monitoring of consents.

### **Notes:**

- (a) Prohibited Activities cannot be applied for and therefore cannot be granted a resource consent.
- (b) A plan change can be initiated privately or by the Council as a way of proposing a change to a Prohibited Activity rule in the plan.



22B.7 Performance Standards

**22B.7.1 General Performance Standards**

Each subdivision (except pursuant to [Rule 22B.2.1](#)) shall meet the following Performance Standards:

1. Physical and Legal Access

- (a) Lots shall have physical and legal access to a formed legal road.
- (b) Lots shall have a minimum frontage to a formed legal road (except those accessing a 'private way' – refer 22B.7.2 below) of 6 metres and no lot shall have an internal dimension less than 6 metres in width.

2. Private Ways

- (a) Where access from the road to one or more lots is by way of Right of Way, Common Access lot, or similar, then the "private way" standards set out below shall apply.

**Private Way Standards:**

Number Of LOTS Served	Legal Width Minimum (Metres)
1-3	6m
4-6	12m
7 or more	Public ROAD Standard Applies

- (b) Private ways shall not have any part of their length with a gradient steeper than 1 (vertical) in 5 (horizontal).
- (c) The first 6 metres of a carriageway of the private way adjoining a ROAD shall be formed in a seal surface (tar seal, concrete or similar to the Council's code of practice).

Advisory Note:

The Regional Infrastructure Technical Specifications is Council's current Engineering Code of Practice.

3. Access to State Highways

Where any form of access is to be provided from a state highway, consent must first be obtained from the New Zealand Transport Agency, and this shall be submitted to the Council in writing with the subdivision consent application.

4. SITE Suitability

Lots shall contain a safe and stable building platform along with sufficient land for effluent disposal including a reserve soakage field. Alternative wastewater treatment in accordance with regional Council manuals may be considered for assessment.

5. Wastewater

## Waikato District Plan - Waikato Section

Connection to either a public sewage treatment system or an on-site sewage treatment system is required. Where an on-site sewerage treatment system is proposed, the applicant must demonstrate to the district Council that each lot has sufficient area to adequately dispose of domestic wastewater, in accordance with any relevant regional rules. If not, discharge consents must be obtained from the relevant regional Council prior to the subdivision commencing.

### 6. Stormwater

Lots shall be so sited or designed so that they would be capable of being served by an effective stormwater disposal system.

### 7. Natural Hazards

Lots shall be sited so as to avoid or mitigate the potential effects of natural hazards.

## **22B.7.2 Subdivision Limitations**

Each subdivision shall meet the following performance standards:

1. Where any IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE has been legally and/or physically protected by any subdivision consent under the previous operative district plan, or any former transitional district plans, that feature shall not be eligible for enabling further subdivision.
2. Where any IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE has been legally and/or physically protected by an Environmental Lot subdivision, that feature shall not be used for any further subdivision application under [Rule 22B.11](#), unless remaining entitlements exist from the previous subdivision of environmental lots under this rule.
3. A Boundary Relocation or Adjustment for a RURAL LOT(S) located outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA in accordance with [Rule 22B.15](#) shall not increase the entitlements for future subdivision of any title through Environmental Lot or TRANSFERABLE RURAL LOT RIGHT subdivision in accordance with Rules [22B.11](#) or [22B.12](#).
4. For a Boundary Relocation or Adjustment for a RURAL LOT(S) where there is no DWELLING HOUSE present or valid consent to build a DWELLING HOUSE, the percentage of VERSATILE LAND within the relocated or adjusted lot(s) must not be greater than the percentage of VERSATILE LAND within the RURAL LOT(S) that existed prior to the adjustment or relocation.

22B.8 Matters over which Council will reserve its Control and exercise its Discretion

Controlled activities and Restricted Discretionary activities must comply with all relevant development and performance standards.

A. In considering applications for controlled activity subdivision the Council shall reserve its control over the matters

listed in 1 to 17 below.

B. In considering applications for restricted discretionary activity subdivision the Council will restrict its discretion

to the following matters:

1. The size, shape, layout and location of lots and/or house sites (SPECIFIED BUILDING AREA) including the need to demonstrate compliance with Permitted Activity standards for land use.
2. Vehicle access, private ways and access-ways, including formation\*, gradients, sight distances, width, use of passing bays, common use, maintenance obligations and extent of earthworks.  
\* Tar seal, concrete, compacted metal or other surface to the approval of the Council.
3. Earthworks including sediment control.
4. Addressing the effects of subdivision on existing rural land use and on identified mineral resources including reverse sensitivity issues.
5. Financial Contributions in terms of [Part 10](#) of the plan.
6. Setbacks, buffers or SPECIFIED BUILDING AREAS in relation to surrounding landuse, development or features, including Development Setbacks.
7. Stormwater and wastewater disposal and management.
8. Provision of power, telephone, and utility service.
9. Provision of water supply.
10. Protection, enhancement, and restoration (where required) of an IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE, including compliance and monitoring.
11. Protection and enhancement of archaeological sites and cultural resources including compliance and monitoring.
12. [Intentionally blank]
13. The effect of subdivision on INDIGENOUS vegetation, landscape sensitivity and natural and rural character of the area.
14. The effect of subdivision that creates new allotments within an area measured 20 metres either side of the centre point of a national grid transmission line (as shown on the planning maps).
15. The effect of any enhancement or mitigation planting on an adjacent property or roads.
16. The avoidance or mitigation of the potential effects of natural hazards.
17. Amenity and mitigation planting.

## 22B.9 Assessment Criteria

For avoidance of doubt, the Part 53 assessment criteria do not apply to restricted discretionary activity subdivision provided for in [Part 22B.3](#).

### 22B.9.1 General Assessment Criteria - All Subdivision Applications

Each subdivision proposal in the zones which are identified in [Part 22A.1](#) shall be assessed against the relevant matters specified in the Act and the following matters:

1. The extent to which boundaries will assist, or constrain, the effective and efficient management and development of the resultant lots, in terms of the likely uses to which they will be put, given their size, shape and location. In particular each new boundary shall be located in accordance with the topography of the area to assist the fencing, stock control and land management and development of any new lot.
2. Each new boundary shall be designed to take account of the protection of people and property from the adverse effects of all hazards, which may include erosion, inundation, falling debris or subsidence.
3. The extent to which each new lot will have safe and stable vehicular access to the SPECIFIED BUILDING AREA, including its gradient, width (and use of passing bays as appropriate), formation and finished surface (including extent and appropriateness of seal, concrete or compacted metal finish), and the extent of any cutting, filling and earthworks that may be required to ensure this. In the case of access requirements to a state highway, whether or not the applicant obtained the consent of the New Zealand Transport Agency.
4. The Council will have regard to the effect that the subdivision and subsequent development will have on, or in terms of:
  - (a) The roading network in the locality or district, existing reserves (and the need for additional reserves or recreational facilities), and on any other services or facilities provided by the Council. The Council will consider the extent to which financial contributions in terms of [Part 10](#) of the plan would avoid or minimise any adverse effect, or ensure positive effects.
  - (b) Areas of native bush or wildlife or other natural areas, including water bodies, of significance on the property, which is the subject of the application or on adjacent properties.
  - (c) Where relevant, the coastal environment.
  - (d) Schedule 5: Conservation of Outstanding Natural Features, [5A](#): Sites of Special Wildlife Interest [5B](#): Important Geological Sites and [5C](#): Other Important Sites.
  - (e) Other schedules of important features or sites held by the Council.
  - (f) Heritage features as identified in [Schedule 8A](#) of the plan.
  - (g) Identified archaeological features on the property.
  - (h) Existing activities nearby
5. The Council will have regard to any potential for mineral extraction activities to be unreasonably or inappropriately restricted or curtailed by sensitive activities (such as future dwellings resulting as a consequence of the subdivision proposal) located in the vicinity. In carrying out this assessment, the Council will be guided by, in the case of rock extraction sites, the desirable 'buffer' distance of 500 metres between the extraction site and the sensitive activity (any proposed subdivision and SPECIFIED HOUSE SITE) and for sand extraction sites, the desirable 'buffer' distance of 200 metres.

## Waikato District Plan - Waikato Section

The extraction sites to which such buffer distances apply are as follows:

- (i) those specifically zoned, or proposed to be zoned, for such activities by this plan (not including those proposed to be zoned for such activities by a private plan change);
- (ii) those established by a resource consent (land use) which is in force at the time of receipt of the application for the subdivision proposal;
- (iii) those which hold existing use rights under section 10 of the Act;
- (iv) those specifically zoned or established via resource consent under the authority of adjacent territorial local authorities.

5A. The Council will have regard to any potential for INTENSIVE FARMING activities (and associated RURAL

INDUSTRY AND SERVICE activities) to be unreasonably or inappropriately restricted or curtailed by

sensitive activities (such as future dwellings resulting as a consequence of a subdivision proposal)

located in the vicinity. In carrying out this assessment, the Council will be guided by the desirable

buffer distance of 300 metres between the INTENSIVE FARMING activity and any proposed subdivision and SPECIFIED HOUSE SITE. The INTENSIVE FARMING activity sites to which such buffer distances apply are as follows:

- (i) those established by a resource consent (land use) which has been given effect to at the time of receipt of the application for the subdivision proposal;
- (ii) those which hold existing use rights under section 10 of the Act;
- (iii) those specifically zoned for or established through a resource consent granted by the authority of adjacent territorial local authorities.

6. Additional matters to be addressed in assessing any potential for mineral extraction activities or INTENSIVE FARMING activities (and associated RURAL INDUSTRY AND SERVICE activities) to be unreasonably or inappropriately restricted or curtailed by sensitive activities (such as future dwellings resulting as a consequence of the subdivision proposal) located in the vicinity.

- (i) the need for subdivision proposals to provide for adequate buffers internally, either through setbacks, minimum lot sizes or a SPECIFIED HOUSE SITE, to avoid or mitigate adverse effects.

## Waikato District Plan - Waikato Section

- (ii) the extent to which any aspect of the proposed subdivision might worsen or give rise to any conflict between incompatible activities on adjoining properties (including conflict due to the legitimate expectations of land owners or resource users). As a reverse sensitivity effect may only present itself in certain circumstances, consideration should be given to the following matters:

- a. The frequency of the relevant adverse effect;
- b. The duration of the relevant adverse effect and time of exposure;
- c. The character and intensity of the relevant adverse effect;
- d. The location of the relevant adverse effect;
- e. Previous experiences of people with the relevant adverse effect;
- f. Existing levels of sensitivity;
- g. Whether or not mitigation measures can be put in place;
- h. The effects of quarrying identified aggregate resources or the effects of relevant established existing activity in the particular environment having regard to factors such as direction and velocity of wind and air movement and the extent to which mitigation of adverse effects is reasonable.
- i. Whether mitigation of the reverse sensitivity effect by the applicant is reasonable by way of design (including acoustic measures), earthworks, planting, landscaping or location. This can either be by increasing the separation of the SPECIFIED HOUSE SITE from the activity, or by changing the bearing from the activity by moving a SPECIFIED HOUSE SITE within the lot.
- j. Evidence of consultation with the operator of the activity.

- (iii) the cumulative effects of the proposed subdivision.

6A. The Council will have regard to any potential for FARMING or HORTICULTURE activities to be unreasonably or inappropriately restricted or curtailed by sensitive activities (such as future dwellings resulting as a consequence of a subdivision proposal) located in the vicinity.

6B. Additional matters to be addressed in assessing any potential for FARMING or HORTICULTURE activities to be unreasonably or inappropriately restricted or curtailed by sensitive activities (such as future dwellings resulting as a consequence of a subdivision proposal) located in the vicinity.

- (i) the need for subdivision proposals to provide for adequate buffers internally, either through setbacks, minimum lot sizes or SPECIFIED HOUSE SITE, to avoid or mitigate adverse effects.
- (ii) the extent to which any aspect of the proposed subdivision might worsen or give rise to any potential conflict between incompatible activities on adjoining properties (including conflict due to the legitimate expectations of existing land owners or resource users.) Consideration should

## Waikato District Plan - Waikato Section

be given to the following matters:

- a) The nature of current and potential FARMING or HORTICULTURE activities adjacent to the  
SITE, including the potential for seasonal rotational use for a range of rural production activities;
- b) Types of effects (including potential effects) that these FARMING or HORTICULTURE activities generate as part of the normal ongoing rural production land use;
- c) The level to which the subdivision proposal, and in particular the location of any future dwelling (SPECIFIED BUILDING AREA) or new boundary on the SITE, may be incompatible with these effects;
- d) Measures proposed to avoid, remedy or mitigate the potential for incompatibilities and conflicts arising from these effects including whether mitigation of the reverse sensitivity effect is reasonable by way of design, earthworks, planting, landscaping or location. This can either be  
by increasing the separation of the SPECIFIED HOUSE SITE from the activity, or by changing  
the bearing from the activity by moving a SPECIFIED HOUSE SITE within the lot
- e) Evidence of consultation with the owner/occupier of the adjacent FARMING or HORTICULTURE activities.

(iii) the cumulative effects of the proposed subdivision.

6C. The Council may impose consent notices on new certificates of title advising:

*Many intensive agricultural/horticultural production activities are located in the rural area of Franklin, where farm management practices, such as the general use of farm machinery on and off-farm, the application of agrichemicals, pumping water for crop irrigation, use of frost fans and bird scarers, and harvesting of crops occur at various times including at night, at weekends and on public holidays. These practices have the potential to create noise, dust and odour either of a temporary or intermittent nature beyond the boundary of the property concerned but are nevertheless typical environmental effects expected for such activities and zoning consistent with their ongoing sustainability.*

7. In assessing any proposal the Council will have regard to whether the subdivision and subsequent development will require power and telephone services. The Council will generally require as a condition of consent that each new lot be served by power and telephone unless the applicant can demonstrate that this is unnecessary or inappropriate in the circumstances.
8. An "effective stormwater disposal system", as required in [Rule 22B.7.1](#), is one where stormwater flows related to any natural or altered water course or any impervious surfaces likely to be formed or

## Waikato District Plan - Waikato Section

constructed on the SITE, or from other activities on the SITE, would not cause or contribute to any “adverse effects” for adjacent SITES or any natural and physical resources in the locality. The "effective system" may include natural or constructed elements, but low impact design is preferred where:

- (a) Stream courses are maintained or restored as natural systems;
- (b) Culverts and stream crossings are minimised;
- (c) Sediments are controlled during construction;
- (d) Infiltration is optimised (especially over volcanic aquifers);
- (e) Low impact devices are utilised for storage, detention or flow restriction, such as artificial wetlands; and
- (f) Hydrological neutrality should be achieved where possible.

9. ‘Adverse effects’, as referred to in 22B.9.1.8, relates primarily to activities and developments most likely to proceed on the new lots, given their size and location, and includes scouring from uncontrolled discharges; overland flow picking up contaminants when passing over operational or farming areas; overland sheeting from heavy flows leaving impervious surfaces; and stormwater penetrating sewage effluent disposal areas.
10. Where access from the road to the lot is not by way of a Right of Way or similar then the lot shall have sufficient frontage to the road to allow safe ingress and egress.
11. [Intentionally blank]
12. The extent to which the subdivision, and the proposed or probable subsequent development of any lot, would constrain, maintain or enhance:
  - (a) The ACCESSIBILITY, VERSATILITY and life-supporting capacity of the land (particularly ‘VERSATILE LAND’) and soil resources of the property;
  - (b) The ACCESSIBILITY or VERSATILITY of the land and soil resources (particularly ‘VERSATILE LAND’) of any adjoining property.

(Note: A detailed Land Use Capability (LUC) Soil assessment may be required).
13. The extent to which the proposal is consistent with the Objectives and Policies of the district plan.
14. In addition to the above matters, where an application is made because the standards in [Rule 22B.7.1](#) have not been met, the following matters will be considered:
  - (a) Whether there are unusual or special reasons for not meeting the standard so that consent would not undermine the relevant rule.
  - (b) Whether not meeting the standard would have any adverse effect.
15. Whether the subdivision can occur without generating adverse cumulative effects on the rural or coastal character of the locality.
16. Where it is proposed to subdivide land to create new allotments within an area measured 20 metres either side of the centre point of a national grid transmission line (as shown on the planning maps), the subdivision design should have particular regard to the following matters:



## Waikato District Plan - Waikato Section

- (a) The minimisation of risk or injury and/or property damage from such lines, and
- (b) The outcome of any consultation with the utility operator, and
- (c) The extent to which any earthworks and the construction of any subsequent buildings will comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP; 34 2001, or any subsequent amendment thereof), and
- (d) The nature and location of any proposed vegetation to be planted in the vicinity of the national grid transmission lines.

### 22B.9.2 Assessment Criteria - All Environmental Lots

Each subdivision proposal for the creation of Environmental Lots shall be assessed against the relevant matters specified in the Act, [22B.9.1](#) and the following matters:

- I. The location and layout of lots and SPECIFIED BUILDING AREAS should achieve the integration of development within the existing landscape. Lot location and layout should integrate with landscape elements and patterns in order to maintain and enhance the overall rural character, while ensuring that the rural amenity and character of adjacent sites and the area are not compromised. To this end, the extent to which the size, shape, dimensions, placement of boundaries of the lot(s), and the location of SPECIFIED BUILDING AREA(S):
  - (i) recognises adverse effects from and upon: topography, steep slopes, natural features, ridgelines, aspect, water supplies, and existing vegetation. This includes whether the proposal avoids inappropriately locating SPECIFIED BUILDING AREA(S) for future buildings in areas that are highly prominent when viewed from the coast, recreation reserves or formed public roads. This requires the identification of any elevated slopes and significant ridgelines and responding to the landscape context.
  - (ii) reduces or constrains the ACCESSIBILITY and VERSATILITY of land and soil resources (particularly VERSATILE LAND) on the balance of the property. The location of the proposed lot(s) and SPECIFIED BUILDING AREAS is important in this matter. Where possible, lots and access should be located on the poorest or least VERSATILE LAND. The lots created shall be of such a size as to retain the VERSATILITY of the balance area and avoid unnecessary fragmentation of existing rural activities. The Council may take into consideration the extent to which some additional area/s could be included due to topography, landscape, existing access ways or factors related to farm management (where this would not diminish the effective or efficient management of the balance lot). Lots should not be located in a manner that creates vehicle accessways that dissect parcels of VERSATILE LAND.
  - (iii) adversely effects the rural or coastal landscape, character and amenity;
  - (iv) recognises and provides for existing and proposed buildings, developments, driveways, access lots, rights-of-way and easements or encumbrances of any type;
  - (v) results in adverse effects on protected natural and cultural features (identified in a regional policy statement or regional plan, Schedules 5 and 8 of the district plan, and any other features that are of national importance in

## Waikato District Plan - Waikato Section

respect to section 6 of the Resource Management Act 1991);

- (vi) are setback from streams and natural features so as to avoid adverse effects on the continuance, functioning and ecology of these features. Generally, lot boundaries should avoid fragmenting protected features or areas;
- (vii) encourage innovative design and location of lots to avoid ribbon development adjoining formed public roads and multiple access points that adversely affect rural roadscapes;
- (viii) where multiple lots are proposed, these are clustered together and setback from formed public roads to manage adverse effects on rural character and amenity.

2. Whether the location and design of the proposed access and roading (and earthworks undertaken) are appropriate to maintain and enhance rural and coastal character, avoid fragmentation of INDIGENOUS vegetation and NATURALLY FUNCTIONING FRESHWATER WETLANDS, and avoid the introduction of elements that create an urbanised character. Relevant factors include elements associated with the rural landscape such as narrow gently curving accessways, swales, and the absence of features generally associated with urban development such as entrance statements, kerb, channel and extensive hard surfacing.
3. Protective fencing shall be of a sufficient standard to prevent grazing animals from entering the protected natural areas and of such structure and material, as well as maintenance, to provide for a permanent ongoing means of protection.
4. The extent to which the protection, enhancement and and/or restoration improves the overall ecological value of the natural features, including opportunities to connect and buffer natural features.
5. The extent to which amenity planting and landscaping is required to provide landscape rehabilitation or to screen or soften the visual effects of buildings, roads, access ways and driveways resulting from development as a consequence of subdivision, and to maintain and/or enhance rural character and amenity.

### **22B.9.3 Assessment Criteria - All Environmental Lots and Incentive Transfer Lots Subdivision within the Environmental Enhancement Overlay Area (EEOA)**

A. Each subdivision proposal for the creation of Environmental Lots within the ENVIRONMENTAL ENHANCEMENT

OVERLAY AREA shall be assessed against the relevant matters specified in the Act, [22B.9.1](#), [22B.9.2](#) and the following matters listed in 1 to 6 below;  
and;

B. Each subdivision proposal for the creation of INCENTIVE TRANSFER LOTS (see [22B.12.2](#)) within the

ENVIRONMENTAL ENHANCEMENT OVERLAY AREA shall be assessed against the relevant matters

specified in the Act, [22B.9.1](#), [22B.9.2](#) and the matters outlined in 1, 5 and 6 below:

1. The extent to which subdivision is undertaken in an integrated and comprehensive manner to address adverse effects and to take into account other lots created from the transfers into the site.

## Waikato District Plan - Waikato Section

2. The extent to which the enhancement and restoration planting of ecological corridors has regard to regional ecological restoration planting guidelines.
3. Where planting of an identified ecological corridor is proposed, the extent to which continuous longitudinal planting along a stream is achieved to a minimum length of 250 metres, where this is possible on the SITE.
4. Whether development associated with subdivision avoids the establishment of fish barriers and/or remedies existing fish barriers.
5. The extent to which the design of cluster developments:
  - (i) locates lots in a contiguous group within an appropriate location on the property, such that the occupation of rural land is minimised and resulting buildings are not dispersed;
  - (ii) avoids ribbon development along formed roads and the proliferation of driveways and vehicle access;
  - (iii) establishes distinct boundaries and a separate identity from any existing town or village or any other cluster;
  - (iv) establishes appropriate wastewater treatment systems to serve the cluster in an integrated manner.
6. Whether the size, clustering and position of the cluster, access and driveways:
  - (i) maximises the productive use of land for farming, including allowing for the movement of stock animals, and providing for access to loading and yard facilities;
  - (ii) maximises the maintenance of rural land as open space and the retention and enhancement of environmental values;
  - (iii) maximises the retention of versatile and productive land on the balance lot;
  - (iv) recognises existing topography constraints and other features of the site.

### **22B.9.4 Assessment Criteria - Transferable Rural Lot Right - All Applications**

Each subdivision proposal pursuant to [Rule 22B.12](#) for the creation of a TRANSFERABLE RURAL LOT RIGHT shall be assessed against the relevant matters specified in the Act, [22B.9.1](#) and the following matters:

- I. The location and layout of lots and SPECIFIED BUILDING AREAS should achieve the integration of development within the existing landscape. Lot location and layout should integrate with landscape elements and patterns in order to maintain and enhance the overall rural character, while ensuring that the rural amenity and character of adjacent sites and the area are not compromised. To this end, the extent to which the size, shape, dimensions, placement of boundaries of the lot(s), and the location of SPECIFIED BUILDING AREA(S):
  - (i) recognises and provides for topography, steep slopes, natural features, ridgelines, aspect, water supplies, and existing vegetation. This includes whether the proposal avoids inappropriately locating SPECIFIED BUILDING AREA(S) for future buildings in areas that are highly prominent as viewed from the coast, recreation reserves or formed public roads. This requires the identification of any elevated slopes and significant ridgelines and responding to the landscape context.

## Waikato District Plan - Waikato Section

- (ii) reduces or constrains the ACCESSIBILITY and VERSATILITY of land and soil resources (particularly VERSATILE LAND) on the balance of the property. The location of the proposed lot(s) and SPECIFIED BUILDING AREAS is important in this matter. Where possible, lots and access should be located on the poorest or least VERSATILE LAND. The lots created shall be of such a size as to retain and enhance the VERSATILITY of the balance area and avoid unnecessary fragmentation of existing rural activities. The Council may take into consideration the extent to which some additional area/s could be included due to topography, landscape, existing access ways or factors related to farm management (where this would not diminish the effective or efficient management of the balance lot). Lots should not be located in a manner that creates vehicle accessways that dissect parcels of VERSATILE LAND.
  - (iii) adversely effects the rural or coastal landscape, character and amenity;
  - (iv) recognises and provides for existing and proposed buildings, developments, driveways, access lots, rights-of-way and easements or encumbrances of any type;
  - (v) results in adverse effects on protected natural and cultural features (identified in a regional policy statement or regional plan, Schedules 5 and 8 of the district plan, and any other features that are of national importance in respect to section 6 of the Resource Management Act 1991);
  - (vi) are setback from the riparian margins and protected natural features so as to avoid adverse effects on the continuance, functioning and ecology of these features. Generally, lot boundaries should avoid splitting (between lots) protected features or areas;
  - (vii) encourages innovative design and location of lots to avoid ribbon development adjoining formed public roads and multiple access points that adversely affect rural roadscapes;
  - (viii) where multiple lots are proposed, these are clustered together and setback from formed public roads to manage impacts on rural character and amenity.
2. Whether the location and design of the proposed access and roading (and earthworks undertaken) are appropriate to maintain and enhance rural and coastal character, avoid fragmentation of INDIGENOUS vegetation and WETLANDS, and avoid the introduction of elements that create an urbanised character. Relevant factors include elements associated with the rural landscape such as narrow gently curving accessways, swales, and the absence of features generally associated with urban development such as entrance statements, kerb, channel and extensive hard surfacing.
3. The extent to which amenity planting and landscaping is required to screen or soften the visual effects of buildings, roads, access ways and driveways resulting from development as a consequence of subdivision; and to maintain and/or enhance rural character and amenity.

22B.10 Lots for existing Intensive Rural Activities - Rural Zone

**A. PERFORMANCE STANDARDS**

1. Compliance with the performance standards in [Rule 22B.7.1](#).
2. The intensive rural activity (Rules [22B.3.9](#), [22B.4.5](#) or [22B.4.6](#)) has been operating on the SITE and producing for a continuous minimum period of 3 years.
3. The RURAL LOT to be subdivided (other than for GREENHOUSES and commercial orchard activities) has an area greater than 8 hectares.
4. The RURAL LOT to be subdivided for GREENHOUSES has an area greater than 4 hectares.
5. The RURAL LOT to be subdivided for commercial orchard activities has an area greater than 12 hectares and any new LOTS have an average area greater than 6 hectares, with no LOT having a size less than 5 hectares.

**B. ASSESSMENT CRITERIA - RESTRICTED DISCRETIONARY AND DISCRETIONARY ACTIVITIES**

Each subdivision proposal for the creation of intensive rural activity lots as either a Restricted Discretionary Activity ([Rule 22B.3.9](#)) or a Discretionary Activity (Rules [22B.4.4](#), [22B.4.5](#) and [22B.4.6](#)) shall be assessed against the relevant matters specified in the Act and the following matters:

1. The assessment criteria set out in [Rule 22B.9.1](#) and the consistency of the proposal with the Objectives and Policies of the PLAN (particularly those in [Part 17C.2.2](#)).
2. The proposal shall demonstrate that the activity is viable, sustainable and permanent and that benefits will be derived from the subdivision of the activity. The application shall be accompanied by reports from the operator and a person suitably qualified and experienced in business/economics and the intensive rural activity subject to the application. The reports shall demonstrate the physical extent of the operation on the SITE, including infrastructure and ancillary areas, as well as the matters outlined in the assessment criteria in 22B.10.B. The Council may, at the applicant's expense, commission a peer review of any submitted report(s).
3. The extent to which there has been significant capital invested in the establishment and operation of the intensive rural activity, to demonstrate that the activity is of a large and/or commercially viable scale, is permanent, and will continue to be so in the long term. The significant capital invested shall relate to buildings, structures, vegetation (that is relied upon as part of a commercial orchard activity), technology and machinery and/or infrastructure directly associated with the SITE and intensive rural activity. The Council will have particular regard to:
  - (i) the scale of the activity and volume of production and/or throughput. The Council anticipates that only large scale and/or commercially viable existing intensive rural activities should be subdivided from the existing SITE (refer to policies [17C.2.2.18](#) and [17C.2.2.19](#)). In this context 'large scale and/or commercially viable' relates to a combination of factors including the physical scale of the intensive rural activity, the level of investment in physical resources, the type of produce and its frequency of harvest, where the produce is sourced from, its value and its economic performance. For a PACKHOUSE or PACKING SHED activity, the majority of the produce shall be sourced off-site.
  - (ii) the extent that the activity generates income for the landowner(s) and/or tenants.

## Waikato District Plan - Waikato Section

Council anticipates that the intensive rural activity will be of a sufficient scale to continue to generate an on-site and sustainable income for the landowner(s) and/or tenants;

- (iii) the size of, and investment in, buildings, structures and/or infrastructure as a means to assess the scale of the intensive rural activity. It is important for applications to provide thorough documentation to address this matter;
  - (iv) the intensive rural activity's history, growth and length of operation. This information will assist in demonstrating the permanence of the activity, along with its contribution to production within the rural economy;
  - (v) the extent to which buildings, structures and infrastructure have been constructed using materials of a sufficient quality and durability demonstrating permanence of the operation;
  - (vi) the continued and long term sustainability of the intensive rural activity and other associated structures and infrastructure, and the ability to maintain a good state of repair. In particular renewals, reinvestment in buildings, technology, machinery and infrastructure and the on-going maintenance will be considered;
  - (vii) the provision of infrastructure and ancillary areas on the LOT necessary for the operation of the intensive rural activity. The Council will require that any existing infrastructure and associated processing facilities and machinery are substantive and permanent;
  - (viii) the extent to which the proposed LOT contains sufficient and suitable space to accommodate any future ancillary activities associated with the activity (eg. water storage, cool storage, heating facilities and processing and packing facilities);
  - (ix) the layout of the LOTS for a commercial orchard activity to include sufficient canopy hectares, ancillary and supporting activities and infrastructure (including accessory buildings, loading bays, irrigation, shelterbelts and access ways); and
  - (x) the extent of VERSATILE LAND on the RURAL LOT containing a commercial orchard activity.
4. The extent to which it can be demonstrated that the intensive rural activity has been established and will be operated in accordance with recognised industry practices and standards as demonstrated by an independent technical report provided with the application.
  5. The extent to which an adequate water supply and other on-site resources are available for the intensive rural activity and for its possible expansion. Where resources are imported to the SITE, the application shall demonstrate that those resources will be available in the long term.
  6. The extent to which the proposal protects existing indigenous vegetation and wetlands located on the SITE. The means to protect these natural features will be assessed with reference to [Part 22B.9.2](#).
  7. Where there is a balance LOT, whether it is of an appropriate size and shape to accommodate rural activities and would not be limited to residential or countryside living purposes.
  8. Where a DWELLING HOUSE could be developed on the LOT(s), the appropriateness of any proposed SPECIFIED BUILDING AREA shall be assessed in respect to [22B.8](#), [22B.9.1](#) and whether the DWELLING HOUSE would undermine the existing intensive rural activity, including through reverse sensitivity. Refer to the reverse sensitivity matters specified in [Rule 22B.9.1](#).
  9. The Council reserves its discretion to impose conditions of consent for either the balance LOT or

## Waikato District Plan - Waikato Section

the new LOT(s) in relation to:

- (i) matters referred to in 1 to 8 above and in [Part 22B.8](#); and
- (ii) the use of consent notices to prevent the transfer or relocation of the Intensive Rural Activity Lot(s); and
- (iii) the use of consent notices to manage or restrict the establishment of any DWELLING HOUSE, SUBSIDIARY DWELLING and ancillary/accessory buildings and shall specify:
  - The basis for the establishment of the rural intensive activity LOT is for the intensive rural activity.
  - In the case of the rural intensive activity LOT, any new DWELLING HOUSE must be ancillary to the principal use of the LOT for the intensive rural activity and shall only be used by the owners or employees of the rural intensive activity. Where necessary, the consent notice can restrict the development of a SUBSIDIARY DWELLING or other ancillary/accessory buildings.
  - Any DWELLING HOUSE and ancillary residential buildings are restricted to an approved SPECIFIED BUILDING AREA that does not compromise the function of the intensive rural activity or rural activities on the balance LOT.
  - The means to ensure the continued use of any infrastructure necessary to support the intensive rural activity or rural activities on the balance LOT.
  - In certain circumstances this could mean that the DWELLING HOUSE is removed, where the intensive rural activity disestablishes.

## 22B.11 Environmental Lots

### Explanation

Part 22B.11 provides for opportunities for directed but limited levels of growth within rural areas, consistent with Objectives [3D.6](#), [17A.9](#), [17A.11](#), [17C.2.1.7](#), [17C.2.1.8](#) and Policies [17C.2.2.6](#), [17C.2.2.7](#) and [17C.2.2.8](#). This should only occur where:

- there is significant environmental benefit through environmental protection, enhancement, or restoration;
- subdivision is managed in an integrated manner;
- subdivision avoids, remedies or mitigates adverse effects;
- subdivision does not undermine the growth management strategy, including the role of the towns and villages; and
- it avoids the proliferation of countryside living lots across the district.

The rules make a distinction between the Environmental Lots within the EEOA and those outside the EEOA. The EEOA applies to an area where:

- Significant removal or degradation of INDIGENOUS vegetation and freshwater WETLANDS has occurred;
- An extensive network of stream systems (some of which have been referred to as ecological corridors and illustrated on the planning maps) flow into the Manukau Harbour, which is a waterbody subject to considerable environmental pressure;
- There remain a number of small areas of REMNANT INDIGENOUS VEGETATION, small NATURALLY OCCURRING FRESHWATER WETLANDS and ecological corridors that can be enhanced and restored to improve the overall terrestrial and aquatic biodiversity, catchment quality and natural environment of the area; and
- The greatest level of growth has occurred.

Within the EEOA, subdivision opportunity is available for the creation of Environmental Lots where there is protection and/or enhancement of IDENTIFIED SIGNIFICANT NATURAL FEATURE. IDENTIFIED SIGNIFICANT NATURAL FEATURES are features that have a high conservation value. Subdivision opportunities provide for the protection and enhancement of these features, and where the feature is small in size, the rules require their restoration to create a larger more ecologically viable and resilient feature.

Additional subdivision opportunities are available within the EEOA for the protection, enhancement and/or restoration of a QUALIFYING NATURAL FEATURE. These features typically are small and fragmented and do not have high ecological viability or conservation values. However, such features still have ecological values and merit and, where they exist on an eligible larger rural lot, the rules provide opportunities to protect, enhance and restore existing small or degraded habitats to what would have originally existed. This approach is intended to establish more ecological corridors and/or larger ecological stepping-stones to increase the viability of indigenous biodiversity in the EEOA. Restoration is expected to result in the expansion of the QUALIFYING NATURAL FEATURES.

In the areas outside the EEOA, 'very limited' subdivision options are provided for (consistent with Objectives [17A.9](#), [17A.11](#), [17C.2.1.7](#) and Policies [17C.2.2.6](#) and [17C.2.2.8](#)). Subdivision opportunity is available for the creation of Environmental Lots where:



- there is protection, enhancement, and restoration of IDENTIFIED SIGNIFICANT NATURAL FEATURES; or
- there is protection and enhancement of a large area of QUALIFYING NATURAL FEATURE comprising REMNANT INDIGENOUS vegetation and NATURALLY FUNCTIONING FRESHWATER WETLANDS.

The limitation on subdivision eligibility and the number of lots contained in Rules 22B.11.1 and 22B.11.2 seek to achieve consistency with overall growth management objectives and policies. These limitations are specified to avoid a proliferation of lots and address potential adverse effects.

The rules require that any new lot shall have a minimum area of 2500m<sup>2</sup> and a maximum area of 10,000m<sup>2</sup>. These limits intend to conserve the usability of land resources by encouraging appropriate subdivision patterns and design.

To maintain and enhance rural character, the rules focus on establishing limits on the pattern and form of development, and overall density. Within the EEOA, these rules require a form of clustered countryside living in suitable locations and at a suitable scale. As the EEOA provides for the creation and/or relocation of a larger number of lots (including through Incentive Transfer Lot provisions), the manner in which these are developed on sites is important to maintain the long term rural character of the northern part of the district.

The anticipated outcome of cluster development is the maintenance of an open landscape with small scale sporadic developments. Whilst clusters may be visible in the landscape, their impact is required to be softened by landscaping and vegetation/amenity plantings, and mitigated by distance and wider undeveloped open spaces containing rural activities in between.

### **22B.11.1 Environmental Lots - within the Environmental Enhancement Overlay Area - Performance Standards**

#### **22B.11.1.1 General Performance Standards for all Environmental Lots in the EEOA**

Each subdivision for the creation of Environmental Lot(s) in the EEOA shall meet all the following Performance Standards:

- (a) The RURAL LOT is located within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA.
- (b) The IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE shall be protected, enhanced (and restored where required), and certified, in accordance with Rule 22B.11.3.
- (c) Plantings required to achieve the minimum areas shall be established, maintained, self-sustaining and protected in accordance with Rule 22B.11.3.
- (d) All REMNANT INDIGENOUS VEGETATION contiguous with the QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE within the RURAL LOT shall be legally protected.
- (e) Any RURAL LOT shall not have resulted from an amalgamation in accordance with the TRANSFERABLE RURAL LOT RIGHTS rules contained in Rule 22B.12 (unless the RURAL LOT had an entitlement for an Environmental Lot(s) prior to amalgamation).
- (f) Any new LOT shall have a minimum area of 2500m<sup>2</sup> and a maximum area of 10,000m<sup>2</sup> exclusive of any protected area (excluding the balance lot).

## Waikato District Plan - Waikato Section

- (g) A SPECIFIED BUILDING AREA (on the new LOT(S) and balance or parent LOT) shall be identified on the plan for subdivision. A condition of consent shall be recorded as a consent notice and may be registered against the title requiring the DWELLING HOUSE to be located on a SPECIFIED BUILDING AREA.
- (h) Any IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE that is within part of any area required to be vested as an esplanade or other reserve in accordance with the Act, shall be taken into account where it qualifies in accordance with Rules 22B.11.
- (i) Any IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE proposed to be legally protected shall not be eligible for compensation in accordance with the Act nor shall it qualify as a financial or development contribution (including reserve contribution).
- (j) A condition of consent shall be recorded as a consent notice and will be registered against all new certificates of title (including that for the balance lot) to record that subdivision entitlements have been utilised in full or in part.
- (k) Where more than one new LOT is proposed, the CLUSTER development standards below apply:
  - (i) LOTS shall be agglomerated in CLUSTERS of 4 LOTS and thereafter in a subsequent CLUSTER(S) utilising the remaining entitlements, until the full entitlements are utilised;
  - (ii) LOTS (apart from the balance LOT) shall be contiguous with another LOT(S) within the same CLUSTER;
  - (iii) Where more than one CLUSTER is located on the SITE, there shall be a minimum separation distance of 250 metres between a SPECIFIED BUILDING AREA in one CLUSTER and the nearest SPECIFIED BUILDING AREA in another CLUSTER;
  - (iv) SPECIFIED BUILDING AREAS within a CLUSTER shall be at least 75 metres from an existing formed public ROAD boundary, or shall be completely screened from view from a ROAD by topography and/or vegetation if closer than 75 metres to the ROAD;
  - (v) Where a combination of Environmental Lots, TRANSFERABLE RURAL LOT RIGHTS and additional INCENTIVE TRANSFER LOT are proposed they shall collectively comply with the CLUSTER standards.
  - (vi) Where consents have been granted previously under Rule 22B.11.1.1(k) and where further subdivision is proposed under Rule 22B.11.1.1(k) to use any remaining entitlements, the new LOTS shall be created in accordance with the next threshold for eligible LOTS.
  - (vii) As an alternative to standards iii and iv above, the applicant may present a CLUSTER development plan to the Council, with standards that vary from those stated above, and shall submit a detailed assessment of landscape and visual effects by a suitably qualified and experienced person as part of the subdivision consent application. The CLUSTER development plan shall be assessed in accordance with the relevant assessment criteria in 22B.9 and with regard to standards iii and iv above.

### **22B.11.1.2 Specific Performance Standards - Environmental Lots - Identified Significant Natural Features in the EEOA**

The creation of Environmental Lot(s) under this rule shall meet all the following Performance Standards:

- (a) Compliance with the Performance Standards specified in Rules 22B.11.1.1.

Waikato District Plan - Waikato Section

- (b) This rule shall only apply to a RURAL LOT within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA which contains an IDENTIFIED SIGNIFICANT NATURAL FEATURE that is not legally protected.
- (c) The minimum area of IDENTIFIED SIGNIFICANT NATURAL FEATURE and any required minimum area of environmental enhancement and restoration, and the total maximum number of LOT entitlements shall be in accordance with the those requirements specified in Table 22B.11.1A.

**Table 22B.11.1A**

A. Minimum area (hectares) of IDENTIFIED SIGNIFICANT NATURAL FEATURE for the LOT entitlements in B. *	B. LOT Entitlements - Maximum number of new LOTS (Yield) complying with A.
2	1
4	2
7	3
10	4
13	5
16	6
19	7
22	8 (Maximum yield)

\*LOT entitlement can be used where previous consents granted under Rules 22B.11.1.2 and/or 22B.11.1.3 have not fully realised the allowable maximum new lot yield in accordance with Table 22B.11.1A.

- (d) Where the IDENTIFIED SIGNIFICANT NATURAL FEATURE is less than 2 hectares, contiguous restoration planting shall be undertaken in accordance with Rule 22B.11.3.3 to extend the area of the IDENTIFIED SIGNIFICANT NATURAL FEATURE to a minimum area of 2.0 ha in order to qualify for the 1 lot entitlement.
- (e) Where the IDENTIFIED SIGNIFICANT NATURAL FEATURE is greater than 2 hectares in area, but less than 4.0 hectares, contiguous restoration planting may be undertaken in accordance with Rule 22B.11.3.3 to extend the area of the IDENTIFIED SIGNIFICANT NATURAL FEATURE to the next qualifying minimum area in Table 22B.11.1A to qualify for the second LOT.

**22B.11.1.3 Specific Performance Standards - Environmental Lots - Qualifying Natural Features in the EEOA**

The creation of Environmental Lot(s) under this rule shall meet all the following Performance Standards:

- (a) Compliance with the Performance Standards specified in Rules 22B.11.1.1
- (b) This rule shall only apply to a RURAL LOT located within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA that has a gross area of 15 hectares or greater.

Waikato District Plan - Waikato Section

- (c) The eligible RURAL LOT shall contain a QUALIFYING NATURAL FEATURE comprising:
- (i) a minimum contiguous area of 0.5 ha of REMNANT INDIGENOUS VEGETATION and/or NATURALLY FUNCTIONING FRESHWATER WETLAND that is not legally protected and achieves a Biodiversity Significance of 750 or greater (refer [Rule 52.3.1](#));
- or
- (ii) an ecological corridor that is identified on the planning maps and that is not legally protected.
- (d) The eligible minimum RURAL LOT area, combined minimum area of QUALIFYING NATURAL FEATURE and area required to be protected, enhanced, and/or restored (with plantings), and the total maximum number of new LOTS (Lot Entitlements), shall be in accordance with Table 22B.11.1B:

**Table 22B.11.1B**

A. Minimum Area of the RURAL LOT to be Subdivided (hectares) for the LOT entitlements in C.	B. Combined Minimum Area (hectares) of protection, enhancement and/or restoration of a QUALIFYING NATURAL FEATURE for the LOT entitlements in C.	C. Lot Entitlements- Maximum number of new Lots (Yield) complying with A and B. *
15	2	1
20	4	2
30	7	3
40	10	4
50	13	5
60	16	6
70	19	7
80 or greater	22	8 (maximum yield)

\* LOT entitlement can be used where previous consents granted under Rule 22B.11.1.3 have not fully realised the allowable maximum new lot yield in accordance with Table 22B.11.1B.

- (e) An ecological corridor shall also be planted in accordance with Table 22B.11.1C and Rule 22B.11.3.3 until the minimum areas in Table 22B.11.1B are achieved;

**Table 22B.11.1C**

A. Ecological Corridor	B. Minimum width of planting measured horizontally from the edge of the stream

Waikato District Plan - Waikato Section

Where the stream forms a property boundary.	An average of 30 metres and a minimum of 15 metres on one side
Where the stream is within the property.	An average of 30 metres on each side and a minimum of 15 metres on each side (or to the property boundary where the width between the stream and the property boundary is less than the above)

**22B.11.2 Environmental Lots - Outside Environmental Enhancement Overlay Area (EEOA) - Performance Standards**

**22B.11.2.1 Performance Standards for all Environmental Lots outside the EEOA**

Each subdivision for the creation of Environmental Lot(s) outside the EEOA shall meet all the following Performance Standards:

- (a) The RURAL LOT is located outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA.
- (b) The RURAL LOT either:
  - (i) has a gross area of 20 hectares and an unprotected contiguous QUALIFYING NATURAL FEATURE that achieves a Biodiversity Significance of 750 or greater (refer to [Rule 52.3](#)) and is not legally protected; or
  - (ii) contains an IDENTIFIED SIGNIFICANT NATURAL FEATURE that is not legally protected.
- (c) Any RURAL LOT shall not have resulted from an amalgamation in accordance with the TRANSFERABLE RURAL LOT RIGHTS rules contained in [Rule 22B.12](#) (unless the RURAL LOT had an entitlement for an Environmental Lot(s) prior to amalgamation).
- (d) The LOT entitlement shall be in accordance with Table 22B.11.2A:

**Table 22B.11.2A**

<b>A. Minimum area (hectares) of unprotected contiguous QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE*</b>	<b>B. Lot Entitlement - Maximum number of new Lots (Yield).</b>
3	1
8 or greater	2

\*LOT entitlement can be used where previous consents granted under Rules 22B.11.2.1 have not fully realised the allowable maximum new lot yield in accordance with Table 22B.11.2A.

- (e) Where the IDENTIFIED SIGNIFICANT NATURAL FEATURE is less than 3 hectares, contiguous restoration planting shall be undertaken in accordance with Rule 22B.11.3.3 to extend the area of the IDENTIFIED SIGNIFICANT NATURAL FEATURE to a minimum area of 3.0 ha in order to qualify for the 1 lot entitlement. For the avoidance of doubt, a QUALIFYING NATURAL FEATURE cannot be extended through contiguous restoration planting to meet the 3.0 ha minimum area.
- (f) The QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE shall be protected, enhanced, and certified, in accordance with 22B.11.3.
- (g) All REMNANT INDIGENOUS VEGETATION contiguous with the QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE within the RURAL LOT shall be legally protected.
- (h) Any new LOT shall have a minimum area of 2500m<sup>2</sup> and a maximum area of 10,000m<sup>2</sup> exclusive of any protected area (excluding the balance lot).
- (i) A SPECIFIED BUILDING AREA (on the new LOT(S) and balance or parent LOT) shall be

## Waikato District Plan - Waikato Section

identified on the plan for subdivision. A condition of consent shall be recorded as a consent notice and may be registered against the title requiring the DWELLING HOUSE to be located on a SPECIFIED BUILDING AREA.

- (j) Any QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE that is within part of any area required to be vested as an esplanade or other reserve in accordance with the Act, shall be taken into account where it qualifies in accordance with Rules 22B.11.
- (k) Any QUALIFYING NATURAL FEATURE or IDENTIFIED SIGNIFICANT NATURAL FEATURE proposed to be legally protected shall not be eligible for compensation in accordance with the Act nor shall it qualify as a financial or development contribution (including reserve contribution).
- (l) A condition of consent shall be recorded as a consent notice and will be registered against all new certificates of title (including that for the balance lot) to record that subdivision entitlements have been utilised in full or in part.

### **22B.11.3 Protection, Certification and Planting Requirements**

#### **22B.11.3.1 Protection**

For the purpose of Rule 22B.11, “Protected” requires:

- (a) Legal protection in perpetuity of the IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE and any area of required enhancement or restoration plantings. An agreement to the satisfaction of 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 Act. The legal protection mechanism shall be in accordance with the relevant terms of the Reserves Act 1977 or the Queen Elizabeth II National Trust Act 1977. The legal instrument shall provide protection in perpetuity, and shall include enforcement and penalty provisions. Legal protection shall be prepared and implemented at the applicant's expense.
- (b) The IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE and any area of required enhancement or restoration plantings to be protected is maintained free of livestock through appropriate stock proof fencing or where livestock access is prevented by topographical or natural features.
- (c) In every case where enhancement or restoration planting is required as a condition of the subdivision consent, the release of a section 224(c) certificate will only be issued after the required works have been undertaken and the planting has satisfied the required consent conditions.
- (d) In every case where legal protection is to be placed on a IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE and any area of required enhancement or restoration plantings, the release of a section 224(c) certificate will only occur after all invasive plant pests are eradicated from the area, both at time of planting and/or completion of the protective fencing. “Invasive plant pests” are those plant species listed as “total control pests”, “containment pests”, or “surveillance pests” in the regional council’s proposed or operative Regional Pest Management Strategy.
- (e) In every case where legal protection is to be placed on a IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE and any area of required enhancement or restoration plantings, the release of a section 224(c) certificate will only occur after the effective implementation of a animal pest management plan. Animal pests” are those animal species listed as “total control pests”, “containment pests”, or “surveillance pests” in the regional council’s proposed or operative Regional Pest Management Strategy.
- (f) A condition of consent shall be recorded as a consent notice and shall be placed on the certificate of title containing the IDENTIFIED SIGNIFICANT NATURAL FEATURE or QUALIFYING NATURAL FEATURE and any area of required enhancement or restoration plantings, requiring the ongoing control of animal and plant pests in accordance with an approved management plan.

#### **22B.11.3.2 Certification prior to S224(C)**

A report from an appropriately qualified and experienced ecologist that certifies that the enhancement and/or restoration requirements of the relevant standards in Rule 22B.11.1 or Rule 22B.11.2 has been achieved.

#### **22B.11.3.3 Rules for Restoration and/or Enhancement Planting**

Where restoration and/or enhancement planting is proposed and/or required it shall be illustrated on a planting plan prepared by an appropriately qualified independent person, and shall comply with the following:



## Waikato District Plan - Waikato Section

- (a) The planting of native vegetation shall be:
  - (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 environments, and riparian margins;
  - (ii) sourced from the ecological district and to be appropriate for the soil, aspect, exposure and topography;
  - (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.
- (b) The planting plan shall identify:
  - (i) The ecological district of the site.
  - (ii) The characteristics of the soil (ie. clay, silt, loam etc.).
  - (iii) Soil drainage.
  - (iv) Topography of the area to be planted.
  - (v) Aspect of the area to be planted.
  - (vi) Exposure of site to wind, frost, sunlight and salt spray.
  - (vii) Presence of plant and animal pests.
  - (viii) Extent of natural feature.
  - (ix) Any restrictions on planting, such as safety or existing access issues etc.
- (c) The planting plan shall contain:
  - (i) Purpose of the planting in relation to the feature (including buffering, corridors, linkages).
  - (ii) Location and extent of planting.
  - (iii) Site preparation for planting, including stock-proof fencing of planting areas, weed and animal pest control.
  - (iv) 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.
  - (v) Maintenance plan of planting, including releasing plants, fertiliser, plant and animal pest control and mulching and replacement of plants which do not survive, and a management plan for animal and plant pest control.

### **22B.11.3.4 Matters to be addressed in Management Plans implemented prior to issue of a Section 224(C)**

- (a) The maintenance of plantings:
  - (i) shall include the establishment of secure fencing;
  - (ii) shall occur until the plantings have reached a sufficient maturity to be self-sustaining, and have been in the ground for at least 3 years for wetlands, and have reached 80% canopy closure for other ecosystem types. The survival rate shall ensure a minimum 90% of the original density and species.

## Waikato District Plan - Waikato Section

- (iii) shall include the ongoing replacement of plants that do not survive;
  - (iv) shall ensure that all invasive plant pests are eradicated from the planting site both at the time of planting and on an ongoing basis and plants released from kikuyu as necessary to ensure adequate growth;
  - (v) shall ensure animal pest control occurs.
- (b) The assessment of whether the requirements in Rule 22B.11.3.4(a) have been achieved shall be undertaken by an appropriately qualified independent ecologist.

## 22B.12 Transferable Rural Lot Right

### 22B.12 Explanation

As outlined in Part 16 of the plan, there are many properties which have several vacant titles that have not yet been developed or do not contain dwellings. In some areas, these titles are on land that is highly valued for rural production as the land is versatile or is held in large property holdings which rely on large land areas and accessibility.

If the existing vacant titles were to be developed where demand is greatest (particularly in the EEOA), then this would result in widely dispersed and poorly managed countryside living development. This pattern of development may:

- have adverse effects upon the rural character and amenity of the area;
- undermine the growth management strategy including the role of villages (Refer to Parts 3 and 16 of the plan);
- increase reverse sensitivity and conflicts;
- create largely irreversible effects of land fragmentation; and
- negate opportunities to retain land versatility and size.

Through the transfer titles system, landowners are offered another option for the use of these vacant titles. Many landowners would like to realise the financial benefits of selling vacant titles, and with no other option, may eventually sell these titles in their current form and location. The ability to transfer titles provides an opportunity for productive farming units to better manage the use of soils and land, while still benefiting from the sale of titles.

A two-fold approach is taken to manage opportunities for subdivision. Firstly, the EEOA is applied to the northern area of the district where the greatest pressure for development is occurring and where a high level of fragmentation has occurred. Secondly, a very limited approach is provided for subdivision outside the EEOA. It is also considered appropriate for the transfer of lot rights between qualifying rural lots in specified circumstances.

Within the EEOA, Objective 17C.2.1.6 and Policy 17C.2.2.7 provide opportunities for:

- (a) Incentive lots as the result of transferring existing lots to lots greater than 40 hectares.
- (b) Transfer of lots between sites on a one for one basis.

The opportunity to transfer titles (that must have been created prior to 11 July 2006) onto larger lots in order to realise Incentive Transfer Lots encourages a reorganisation and reduction of the widespread dispersed existing vacant lots that occur within this area. This incentive rule also enables environmental effects of countryside living to be appropriately addressed. The Incentive Transfer Lot rule further encourages lot amalgamations and transfers to reduce the overall potential cumulative effects that could arise from the development of dispersed existing vacant lots.

While additional lots can be created through the Incentive Transfer Lot rule, the thresholds direct the form of subdivision and development, integrate subdivision (including the promotion of Environmental Lots within the EEOA) and reduce the overall adverse effects on rural amenity and character. The requirement for the incentive transfer lot provisions to only apply to properties that are at least 40 hectares in area is necessary to manage overall capacity. This prerequisite is consistent with the

objectives and policies contained in Parts 3 and 17 of the plan (Objectives 3D.6, 17A.9, 17A.11, 17C.2.1.6, 17C.2.1.7 and Policies 17C.2.2.6 and 17C.2.2.7) and with the Auckland Council Regional Policy Statement. Within the EEOA, subdivisions involving a combination of Environmental Lots, Incentive Transfer Lots and Transferable Rural Lot Rights are possible, provided that the total quantity of new lots (excluding Transferable Rural Lot Rights) does not exceed 10 lots (refer to Rule 22B.5.8).

Preventing the transfer of rural lots from outside the EEOA into the EEOA is necessary to prevent further fragmentation of existing lots within this area, reduce cumulative effects and avoid an increase in lots within this area (Refer Policy 17C.2.2.7(vi)). It is evident that there is a considerable demand differential (and lot price) between properties inside and outside of the EEOA. There is also a considerable number of vacant lots outside the EEOA where demand is not as significant. It is highly likely that, without the prevention of transfers into the EEOA, the transfer of lots from outside the EEOA to the EEOA will undermine the key aim of reducing the extent of dispersed lots within the EEOA and undermine the overall approach to managing growth as explained in Parts 3 and 17 of the plan. The high risk of this occurring will negate the positive benefits gained through the incentive transfer lot provisions. The provisions allow for the transfer of lots from the EEOA to the area outside the EEOA.

The transfer of titles into the Coastal Management Areas or Hunua Forestlands Management Area is inappropriate and is to be prevented (Refer to Policy 17C.2.2.9). Such transfers have the ability to undermine the purpose of those Management Areas and increase the number of lots and development in the environmentally sensitive coastal and forest areas, thereby altering their character.

The rules require that any new lot shall have a minimum area of 2500m<sup>2</sup> and a maximum area of 10,000m<sup>2</sup>. These limits intend to conserve the usability of land resources by encouraging appropriate subdivision patterns and design.

To maintain and enhance rural character, the rules focus on establishing limits on the pattern and form of development, and overall density. Within the EEOA, these rules require a form of clustered countryside living in suitable locations and at a suitable scale. As the EEOA provides for the creation and/or relocation of a larger number of lots (including through Incentive Transfer Lot provisions), the manner in which these are developed on sites is important to maintain the long term rural character of the northern part of the district.

The anticipated outcome of cluster development is the maintenance of an open landscape with small scale sporadic developments. Whilst clusters may be visible in the landscape, their impact is required to be softened by landscaping and vegetation/amenity plantings, and mitigated by distance and wider undeveloped open spaces containing rural activities in between.

The Environment Court decision in *Madsen Lawrie Consultants & Nicholls & Ors v Auckland Council, Waikato District Council & Hauraki District Council* [2013] NZEnvC 109 provides a one-off exception to Policy 17C.2.2.7(iv) and the associated rules in Part 22B.12 based on an exceptional set of circumstances. This exception has been made in respect of Subdivision Consent 99099 because that 2003 consent provides subdivision opportunities on a property unsuited for it and some

160 hectares of ISNF was covenanted in reliance on the ability to transfer the consented lots. The 2003 consent predates a shift in policy to prevent the transfer of lots to inside the EEOA. The transfer of lots resulting from Subdivision Consent 99099 (to inside the EEOA) is a restricted discretionary activity subject to compliance with the performance standards in [22B.12.3](#) and [22B.7](#). In paragraph [163] of the Environment Court's decision it stated that this opportunity to transfer lots is provided only on the basis that the subdivision will be transferred off the Olsen property and no part of it will be taken up on the property.

## **22B.12.1 Transferable Rural Lot Right Performance Standards - All Applications**

### **1. PERFORMANCE STANDARDS**

The creation of TRANSFERABLE RURAL LOT RIGHT shall meet the following performance standards (and other Specific Performance Standards as specified in subsequent rules):

- (a) TRANSFERABLE RURAL LOT RIGHTS are given to RURAL LOT(s) where:
  - (i) Both the lot(s) to be subdivided (receiving lot(s)) and the site(s) to be amalgamated (donor lot(s)) comply with the definition of 'RURAL LOT' in [Rule 50](#).
  - (ii) The sites to be amalgamated (donor lots) has:
    - 1. no DWELLING HOUSE present or valid consent to build a DWELLING HOUSE on the RURAL LOT; or
    - 2. a DWELLING HOUSE present OR valid consent to build a DWELLING HOUSE, but the amalgamation of the RURAL LOTS will result in that DWELLING HOUSE becoming a Permitted Activity through a resultant property area of at least 40 hectares.
- (b) No TRANSFERABLE RURAL LOT RIGHT shall be transferred:
  - (i) to a RURAL LOT within the Tasman Coast Management Area, or Hunua Forestlands Management Area from outside these Management Areas;
  - (ii) between RURAL LOTS in the Tasman Coast Management Area, or Hunua Forestlands Management Area.
  - (iii) [Deleted]
- (c) A TRANSFERABLE RURAL LOT RIGHT may occur from a donor lot to a receiver lot within the Tasman Coast Management Area, or Hunua Forestlands Management Area.
- (d) Except as provided for in [Rule 22B.3.4A](#), no TRANSFERABLE RURAL LOT RIGHTS shall be transferred from sites outside the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA to within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA.
- (e) Each new lot on the receiving RURAL LOT shall meet the subdivision standards in [Part 22B.7](#).
- (f) Any new lot shall have a minimum area of 2500m<sup>2</sup> and a maximum area of 10,000m<sup>2</sup>.
- (g) A condition of consent shall be recorded as a consent notice and will be registered against all relevant Certificates of Title (including that for the balance lot) to record that the entitlement for TRANSFERABLE RURAL LOT RIGHTS (and INCENTIVE TRANSFER LOTS) has been utilised either in full or in part, as applicable.
- (h) For each RURAL LOT nominated for transfer (donor lot) there shall be a reduction by one in the number of titles or approved lots on the plan of subdivision. The reduction shall be achieved by a

requirement that the title or approved lot is either amalgamated or rescinded, or in the case of approved lots, either surrendered (in part or full) or the initial subdivision consent varied to remove or reduce the lot being transferred. Irrespective of the method used, the reduction shall be carried out in such a way that new titles could not be issued in terms of the Resource Management Act 1991. Where such a TRANSFERABLE RURAL LOT RIGHT involves the transfer of a lot created in accordance with Rule 22B.11 or the former Conservation Lot rules, all environmental enhancement required as a condition of that resource consent shall be undertaken prior to the issue of a s224(c) applying to the receiver lot subdivision.

- (i) It shall be a condition of approval for the subdivision which is utilising the transferred title (receiver lot) that a s224(c) certificate shall not be issued until standard (h) has been fulfilled.
- (j) TRANSFERABLE RURAL LOT RIGHTS shall only be used to create new titles on receiver lots that contain the same as, or a lesser percentage of VERSATILE LAND than, that which is within the area of the eligible donor lot (including any approved RURAL LOT used in such a transfer) that is being extinguished by the amalgamation.

The percentage of VERSATILE LAND is calculated for:

- the area of the eligible donor lot to be extinguished (not the amalgamated retained lot); and
- only the area of the new lot created (not the balance area of the receiving lot).  
A detailed Landuse Capability (LUC) Soil assessment may be required and is to be undertaken by a suitably qualified independent person. The Landuse Capability (LUC) Soil assessment will be used to demonstrate compliance with (j) while recognising the limitations in determining precise percentage measurements. As a guide a margin of error of plus or minus 10% of the calculated percentage figure is considered acceptable.

- (k) SPECIFIED BUILDING AREAS may be registered against the certificate of titles for the new lots by way of a consent notice.

## **22B.12.2 An Incentive Transfer Lot within Environmental Enhancement overlay Area (EEOA) - Performance Standards**

### **1. SPECIFIC PERFORMANCE STANDARDS**

Applications shall meet the following performance standards:

- (a) Compliance with the Performance Standards specified in Rule 22B.12.1
- (b) INCENTIVE TRANSFER LOTS may be used to create new titles only where:
  - (i) the donor lot(s) is an existing\* RURAL LOT(S) located within the ENVIRONMENTAL ENHANCEMENT AREA OVERLAY AREA; and
  - (ii) the receiving lot is a RURAL LOT with a gross area of 40 hectares or greater located within the ENVIRONMENTAL ENHANCEMENT AREA OVERLAY AREA, excluding the Coastal Management Areas.

\* Existing RURAL LOT(s) is a lot(s) that existed, and for which a certificate of title has been issued, prior to 11 July 2006 and which has not been subject to any further subdivision. Subdivision of any other lots is a Non-complying Activity.

- (c) The size of the receiving RURAL LOT, the number of TRANSFERABLE RURAL LOT RIGHTS

## Waikato District Plan - Waikato Section

required to obtain an INCENTIVE TRANSFER LOT, the number of INCENTIVE LOT RIGHTS obtained, and the total combined number of TRANSFERABLE RURAL LOT RIGHTS and additional INCENTIVE TRANSFER LOTS on any site shall be accordance with Table 22B.12.2A as follows:

**Table 22B.12.2A**

A. Size of receiving RURAL LOT (hectares)	B. Number of TRANSFERABLE RURAL LOT RIGHTS required to obtain an INCENTIVE TRANSFER LOT.	C. Additional new lots (INCENTIVE TRANSFER LOTS) for every 3 TRANSFERABLE RURAL LOT RIGHTS.	D. Total combined maximum number of TRANSFERABLE RURAL LOT RIGHTS and additional INCENTIVE TRANSFER LOTS on any site.
40	3	1	4
40	6	2	8
60	9	3	12
80	12	4	16
100 or greater	15	5	20

(d) CLUSTER Development:

- (i) LOTS shall be agglomerated in CLUSTERS of 4 LOTS and thereafter in a subsequent CLUSTER(S) utilising the remaining entitlements, until the full entitlements are utilised;
- (ii) LOTS (apart from the balance LOT) shall be contiguous with another LOT(S) within the same CLUSTER;
- (iii) Where more than one CLUSTER is located on the SITE, there shall be a minimum separation distance of 250 metres between a SPECIFIED BUILDING AREA in one CLUSTER and the nearest SPECIFIED BUILDING AREA in another CLUSTER;
- (iv) SPECIFIED BUILDING AREAS within a CLUSTER shall be at least 75 metres from an existing formed public ROAD boundary, or otherwise shall be completely screened from view from a ROAD by topography and/or vegetation if closer than 75 metres to the ROAD;
- (v) Where a combination of Environmental Lots, TRANSFERABLE RURAL LOT RIGHTS and additional INCENTIVE TRANSFER LOT are proposed they shall collectively comply with the CLUSTER standards.
- (vi) Where consents have been granted previously under Rule 22B.12.2.1(d) and where further subdivision is proposed under Rule 22B.12.2.1(d) to use any remaining entitlements, the new LOTS shall be created in accordance with the next threshold for eligible LOTS.
- (vii) As an alternative to standards iii and iv above, the applicant may present a CLUSTER development plan to the Council, with standards that vary from those stated above, and shall submit a detailed assessment of landscape and visual effects by a suitably qualified and experienced person as part of the subdivision consent application. The CLUSTER development plan shall be assessed in accordance with the relevant assessment criteria in

[22B.9](#) and with regard to standards iii and iv above.

**22B.12.3 A Transferable Rural Lot Right within Environment Enhancement Overlay Area (EEOA)**  
**1. SPECIFIC PERFORMANCE STANDARDS**

Applications shall meet the following performance standards:

- (a) Compliance with the Performance Standards specified in [Rule 22B.12.1](#)
- (b) Except as provided for in Rule [22B.3.4A](#), this rule shall only apply to a donor RURAL LOT and receiver RURAL LOT located within the ENVIRONMENTAL ENHANCEMENT OVERLAY AREA.
- (c) A TRANSFERABLE RURAL LOT RIGHT may be used to create new titles on the basis of one (1) new title for every one (1) TRANSFERABLE RURAL LOT RIGHT transferred to the qualifying receiver RURAL LOT. The receiver RURAL LOT size, the maximum number of TRANSFERABLE RURAL LOT RIGHTS able to be transferred to any RURAL LOT, and the minimum and maximum lot size of any new lots created shall be in accordance with the following table:

Receiver RURAL LOT Size	Maximum Number of TRANSFERABLE RURAL LOT RIGHTS To Any One Rural LOT	Minimum and Maximum Lot Size of New Lots Created
Less than 4.0 hectares	1	2500m <sup>2</sup> Minimum and 10,000m <sup>2</sup> Maximum
4.0 hectares or greater	2	2500m <sup>2</sup> Minimum and 10,000m <sup>2</sup> Maximum

**22B.12.4 A Transferable Rural Lot Right - Transfers outside the Environmental Enhancement Overlay Area (EEOA), or Transfers from within the EEOA to outside the EEOA**  
**1. SPECIFIC PERFORMANCE STANDARDS**

Applications shall meet the following performance standards:

- (a) Compliance with the performance Standards specified in [Rule 22B.12.1](#).
- (b) This rule shall only apply to:
  - (i) a donor RURAL LOT and receiver RURAL LOT located outside the ENVIRONMENTAL ENHANCEMENT AREA OVERLAY AREA; or
  - (ii) a donor RURAL LOT located inside the ENVIRONMENTAL ENHANCEMENT AREA OVERLAY AREA and receiver RURAL LOT located outside the ENVIRONMENTAL ENHANCEMENT AREA OVERLAY AREA.
- (c) TRANSFERABLE RURAL LOT RIGHTS may be used to create new titles on the basis of one (1) new title for every one (1) TRANSFERABLE RURAL LOT RIGHT transferred to the qualifying receiver RURAL LOT (provided the receiver RURAL LOT is not within a Coastal Management Area or the Hunua Forestlands Management Area). The receiver RURAL LOT size, the maximum number of TRANSFERABLE RURAL LOT RIGHTS able to be transferred to any RURAL LOT, and the minimum and maximum lot size of any new lots created shall be in accordance with the following table:



Waikato District Plan - Waikato Section

Receiver RURAL LOT Size	Maximum Number Of Transferable Lots To Any One RURAL LOT	Minimum and Maximum Lot Size of New Lots Created
Less than 4.0 hectares	1	2500m <sup>2</sup> Minimum and 10,000m <sup>2</sup> Maximum
4.0 hectares or greater	2	2500m <sup>2</sup> Minimum and 10,000m <sup>2</sup> Maximum

22B.13 Lots for Network and Other Utilities

**1. SPECIFIC PERFORMANCE STANDARDS:**

The utility is required:

- (a) to be a permitted activity in terms of [Part 15.1](#) and to have been established on the site; or
- (b) to have been granted resource consent for the utility; or
- (c) to have had land designated for the required purpose.

**2. SPECIFIC MATTERS OVER WHICH COUNCIL MAY EXERCISE CONTROL**

In addition to the general matters for control specified in [Rule 22B.8](#), the Council reserves control over the following matters:

- (a) The degree to which the proposed size of the allotment allows sufficient land area to:
  - (i) Accommodate the activity and associated structures; and
  - (ii) Provide amenity treatment sufficient to mitigate potential adverse effects where it is practicable to do so.
- (b) The extent to which the creation of a new lot is consistent with the resource consent approval or where the activity is permitted, any of the relevant standards and assessment criteria in [Part 15](#).
- (c) The extent to which the creation of a new lot will affect the practical utilisation of the balance area.

22B.14 Lots for Road Severences

**Explanation:**

Houses on a road severance lot require resource consent to ensure they are appropriate for the site. Road severance lots are often poorly located and of difficult sizes and shapes. A land use consent process can deal with adverse effects and can set appropriate conditions or decline an inappropriate land use at the outset. If a land use can occur after a rigorous assessment, then once established, subdividing around it should not create any further adverse effects.

**1. SPECIFIC PERFORMANCE STANDARDS**

- (a) A resource consent has been granted to erect a dwelling on the ROAD SEVERANCE.
- (b) The new lot has a minimum area of 4000m<sup>2</sup>.
- (c) Compliance with the General Performance Standards in [22B.7.1](#).

**2. SPECIFIC MATTERS OVER WHICH COUNCIL MAY EXERCISE CONTROL**

General matters the Council may exercise control over in [22B.8](#).

## 22B.15 Boundary Relocation or Adjustment

### **Explanation:**

Where a property contains either an existing title or a lot which the Council has consented to, then one or the other may be relocated within the property or with common property boundaries, subject to the standards and criteria set out below. Lots are to be relocated within the property and reduced down to a minimum size of 2500m<sup>2</sup> each, provided that the balance lot is in one title.

Many properties in the district consist of more than one title as subdivision has occurred in accordance with various rules over the years but the titles have never been sold. Often these titles are not ideal sizes and do not correspond well with either countryside living needs or rural activity needs, that is, they are too big or too small. Boundary Relocation rules in the operative district plan attempted to provide for the re-organisation of titles into a more appropriate and logical layout. However, they were not utilised due to the requirement that titles had to be reduced in number upon relocation. The Boundary Adjustment rule has been used instead to achieve more logical layout of existing titles.

The new provision merges the adjustment and relocation rules so that no titles need to be lost in the process. A key consideration when creating countryside living lots adjacent to rural production lots is reverse sensitivity. It is important that lots and house sites are located in ways that reduce the potential for conflict between landowners. It is also imperative that the configuration, size and location of lots reflect the soil resource, landform and landscape. The re-configuration of lots is particularly necessary in the Central Rural Management Area to preserve versatile land and enable it to be effectively used for rural production.

For new Environmental Lot and Transferable Rural Lot Right subdivision, the plan specifies limits on lot sizes for countryside living to avoid the fragmentation of versatile land. The minor boundary adjustment rule sets a limit on the extent of boundary shift (no more than 20% area change) to ensure that the small size of those lots is maintained.

### **22B.15.1 Specific Performance Standards**

#### **1. SPECIFIC PERFORMANCE STANDARDS:**

- (a) Compliance with [Rule 22B.7](#).
- (b) The subdivision must not result in the creation of additional titles.
- (c) All lots shall have a minimum area of 2500m<sup>2</sup>.
- (d) In the case of lots in the Rural and Coastal Zones, only RURAL LOTS shall be eligible for relocation or adjustment under this rule.
- (e) Where lots are within 500 metres of any rock extraction site or 200m of any sand extraction site, the written approval of the operator of the extraction site shall be obtained and provided to the Council. Otherwise, the subdivision shall be assessed as a restricted discretionary activity in accordance with the assessment criteria of [Rule 22B.9.1](#), in particular 22B.9.1.5 and 22B.9.1.6. In the absence of special circumstances, an application may be considered on a limited notified basis.

The extraction sites to which the above buffer controls shall apply are as follows:

- (i) Those specifically zoned in this plan, or a proposed plan change, for mineral or aggregate extraction activities (not including those proposed to be zoned for such activities by a private

plan change);

- (ii) Those authorised by a resource consent (land use) which is in force at the time of receipt of the application for the subdivision;
  - (iii) Those which hold existing use rights under section 10 of the Act;
  - (iv) Those for which a resource consent (land use) application has been received by the Council and for which the decision has been made by the Council regarding notification or non-notification of the extraction activity application.
- (f) For any lot created after 21 October 2013, a minor boundary relocation or adjustment is limited to a 20% adjustment to the area of the lot.

#### **22B.15.2 Specific Matters over which Council may exercise Control**

In addition to the general matters for control specified in [Rule 22B.8](#) the Council reserves control over the following matters:

- (a) The extent to which the subdivision:
  - (i) reduces or constrains the ACCESSIBILITY and VERSATILITY of land and soil resources (particularly VERSATILE LAND) on the balance of the property. The location of the proposed lot(s) is important in this matter. For example lots should not be located at the rear of the property and be served by long driveways or driveways that dissect parcels of VERSATILE LAND; where possible, and appropriate in terms of environmental effects, lots and driveways should be located on the poorest or least VERSATILE LAND;
  - (ii) adversely affects the rural landscape due to layout of lots and proposed building areas
- (b) SPECIFIED BUILDING AREAS may be registered against the title by way of a consent notice.