

## 3.7. SUBDIVISION

### 3.7.1. OVERVIEW

Subdivision requires specific consent under section 87(b) of the Act.

Management of the physical act of subdivision, either of land or buildings, has historically been a planning technique used to regulate land use. The Resource Management Act now requires consideration of the effects of subdivision.

In much the same way as subdivision was not considered to be a land use under the Town and Country Planning Act, subdivision while it is an activity controlled under the Resource Management Act, is not a land use activity as such as the creation of a new allotment on a plan has, in itself, no direct effects upon the environment.

However, while subdivision is a legal mechanism for changing the boundaries, sizes, and ownership of parcels of land, it is also a physical process that, in most cases, can have very direct effects upon the environment. The removal of vegetation and earthworks, associated road construction, physical access to public roads, and the provision of reticulated services that prepare the land for a change in ownership and possibly a change in land use, represent very real examples of changes which have an effect upon the natural and physical resources of the District.

Furthermore, the design of the subdivision itself can have a significant effects on future development options, particularly in terms of service infrastructure within the urban environment and can also effect public access to natural resources.

Consequently, Council considers it better to identify and deal with these effects at the earliest possible stage so as to avoid problems at a later stage.

Subdivision also gives rise to expectations of future development and occupation by new owners, for example, new or additional houses or an intensification of activities.

In these circumstances, the real issue that arises from subdivision is not actually the subdivision itself, but the use or activity that is ultimately permitted on that parcel of land and the effects that arise from that use.

The activity or use that is to establish on the site after it is subdivided will be subject to the rules and performance standards of other sections of the Plan, and may require additional resource consents. The onus is therefore on the developer to be conscious of what activity is to follow the subdivision to ensure that its design and services are appropriate to its intended use.

**THE PRESUMPTION MADE IN THE PAST, THAT ONCE LAND HAS BEEN SUBDIVIDED A LAND USE CONSENT, (PARTICULARLY FOR A DWELLING HOUSE), WILL AUTOMATICALLY BE GRANTED, SHOULD NOT BE MADE IN THIS DISTRICT PLAN.**

Council's previous powers of control over subdivision were derived mainly from the provisions of the Local Government Act 1974. The Resource Management Act 1991 now deals with both subdivision and land use. The same section of the Act applies when Council is making a decision in respect of subdivision and land use consents.

The Act also clarifies the relationship between freehold, cross lease and unit title subdivisions in the District Plan. Crosslease and unit title development are now considered subdivisions and are subject to the control of the Plan.

The issues affecting both the legal mechanism and physical process of subdivision are now addressed in four ways.

1. The District Plan will address the circumstances, by way of objectives, policies and rules, in which subdivision can occur throughout the District.
2. The provision of services and all financial matters relating to their provision, and contributions either in land or money for reserves, will be specified in the District Plan.
3. The construction standards required in the physical development and servicing of a subdivision will be those specified under NZS 4404, which may be modified to suit Council's specific requirements.
4. Subsequent land use on the site is subject to separate objectives, policies and rules of the Plan, and if not permitted will require a separate resource consent.

The Otago Regional Council may also have a role to play in respect of the physical aspect of the subdivision process where discharges to land or water are involved.

No person may discharge any:

- (a) Contaminant or water into water; or
- (b) Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
- (c) contaminant into or onto land from any place or any other source

unless it is provided for by the regional plan, proposed regional plan, a resource consent or regulations.

### 3.7.2. THE ISSUES

- **Inappropriate subdivision can create a demand for the unsustainable development of public network resources.**

#### Explanation

Subdivision, particularly in urban or on the fringe of urban areas, can have a significant effect on public services such as water, stormwater and sewerage reticulation, and the roading resource. Inappropriate subdivision can create pressure to extend services to a level where the general public cannot sustain them.

- **Subdivision controls under previous legislation often set arbitrary minimum area requirements or 'economic unit' controls which had little or no relationship to the ultimate use of that land.**

#### Explanation

Previous controls were often arbitrary and inflexible, and did not readily adjust to changes in the economy, technology or the market.

- **Consent to subdivision in the past, often lead to the presumption that consent to the subsequent land use would automatically follow.**

#### Explanation

Subdivision has often been used as the 'control' mechanism for subsequent land use. This approach is no longer applicable under the "effects based" approach.

- **The design and servicing of a subdivision can have a significant influence on the sustainable management of the districts natural and physical resources**

### Explanation

Design of any subdivision must ensure that the resource is capable of being used efficiently. Consequently, developers will need to be conscious of the ultimate use of the resource before a subdivision is designed.

The servicing of a subdivision may also involve discharges to land or water which can significantly affect the sustainable management of the Districts natural and physical resources. Consent in these circumstances may be required from the Otago Regional Council.

- **Subdivision can lead to closer settlement of land which can have an adverse effect on public access to the Districts reserves, waterbodies and other public lands.**

### Explanation

Maintaining and enhancing public access to the recreational resources of the District can be made more difficult when land use intensifies. This is because people accessing these resources generally have less effect in terms of impacting on property management practices and privacy of occupants of large properties, than on more intensively used properties. Furthermore, negotiating public access rights is an easier task when dealing with a small number of landowners

## 3.7.3. OBJECTIVES AND POLICIES

### OBJECTIVE SUB.1

**To provide a flexible approach to both urban and rural subdivision that allows, in the majority of circumstances, the market to dictate allotment size, while ensuring adverse effects are avoided, remedied or mitigated.**

### Explanation

In adopting this approach to subdivision, Council is conscious of the potential problems that may arise through this change in philosophy.

While it is accepted that many other Councils may stay with the historical approach, Council believes the Resource Management Act offers the opportunity to overcome the problems that were inherent in the "economic unit" type controls and the anomalies that they created in Rural Subdivision.

The preference therefore, is towards a system whereby each case is treated on its merits rather than pre-determining a minimum area which, in many cases, has little or no relationship to the ultimate use of the land or the effect of that use on adjoining properties or the environment.

*(Refer Policy SUB 1, 2, 3 and 5).*

### OBJECTIVE SUB.2

**To ensure that subdivision and development promotes sustainable management of the districts natural and physical resources.**

### Explanation

As discussed in 3.7.1 Overview, merely creating a new title should have little physical effect on the environment, however it has a significant influence on the efficient use and development of the District's resources. Subdivision must not compromise the achievement of sustainable development.

*(Refer Policy SUB.1 to 11)*

### OBJECTIVE SUB.3

**To maintain and enhance public access to the natural and physical resources of the District, in particular the District waterbodies, coastline and recreational resources by ensuring subdivision makes appropriate provision for such access.**

#### Explanation

This objective will ensure that subdivision and any resultant closer settlement maintains and, where appropriate, provides for public access to the Districts recreational resources.

*(Refer Policy SUB.11 and Policy FIN.9 to 11)*

### OBJECTIVE SUB.4 NATURAL HAZARDS

**Subdivisions take into account the physical limitations of the land and are designed to ensure risk from any such limitations is appropriately avoided or mitigated.**

### POLICY SUB.1

**To establish subdivisional consent procedures which are simple and easily understood.**

#### Explanation

Council wishes to simplify and streamline the consent process wherever possible. There are many situations where delegated authority can be used to process applications. For example simple boundary adjustments and amendments to flat plans which comply with the building requirements can be processed as an administrative function. While technically boundary adjustments are a form of subdivision, Council believes there is no valid reason why they should not be processed in this fashion.

Furthermore, some parts of the previous procedure (under the Local Government Act) were an essential part of the process and Council considers they should be continued. A good example of this is the scheme plan which clearly illustrated, in diagrammatic form, the intention of the proposal.

*(Refer Rule SUB.5).*

### POLICY SUB.2

**To avoid, remedy or mitigate the adverse effects on the District's natural and physical resources that subdivision may have, including public access to these resources.**

#### Explanation

As explained in *Objective SUB.2*, subdivision can have a significant effect on the sustainability of the District's resources. Controlling certain aspects of the development process, which often begins with subdivision, will ensure development is sustainable. As noted in the issues, subdivision can adversely impact on public access to the Districts recreational resources. Where this is a possibility, subdivision will need to maintain or enhance access opportunities.

*(Refer Rule SUB.1 to 4 and Rule FIN.8)*

### POLICY SUB.3

**To provide for the majority of subdivisions as restricted discretionary activities.**

### Explanation

It is Council's view that the issues that have to be addressed at the time of subdivision are primarily the confirmation of the physical suitability of the land in anticipation of a change in land use, and the effect subdivision may have on public services.

The issues that arise at this stage are largely matters which affect the Council on behalf of the community and the owner of the land at that time and can generally be dealt with by way of conditions of consent. Very rarely does it affect other parties. Consequently, the majority of these subdivisions will not require the consent of adjoining owners or public notification.

The exception to this situation is where a subdivision may front a State Highway. In situations where there is a change of use or the State Highway is a limited access road, the question of access is referred to Transit New Zealand for comment.

*(Refer Rule SUB.1)*

## POLICY SUB.4

### **To facilitate innovative design for subdivision.**

#### Explanation

To promote the efficient use of resources and to facilitate innovative design, the District Plan prescribes minimum site areas for subdivision in the Rural Settlement and Transitional Resource Area only. However, it therefore becomes necessary to set out the assessment criteria upon which Council will judge each subdivisional application.

*(Refer Rule SUB.1)*

## POLICY SUB.5

### **To ensure the adverse effects of servicing both existing and proposed subdivisions of land and buildings are avoided, remedied or mitigated by providing engineering, design and other site performance standards.**

#### Explanation

In order to establish the basis of design criteria and to minimise the likelihood of dispute during the subdivisional process, Council has adopted NZS 4404 as the basis of engineering design within the District. Council believes that it is highly desirable that clear standards and requirements for engineering subdivisional design be established.

It is important to recognise that NZS4404 must be read as part of the subdivisional requirements for this District Plan.

Other performance standards relating to natural hazards, access, waste disposal etc must also be met. Discharges to land or water may require consent from the Otago Regional Council. The Plan also contains performance standards in relation to the consequent land use activity.

*(Refer Rule SUB.4)*

## POLICY SUB.6

### **To ensure the adverse effects of providing roading and physical access to both existing and proposed subdivisions of land and buildings are avoided, remedied or mitigated.**

### Explanation

Creating separate ownership often results in a need for new entrances onto the existing roading system. If the new properties cannot access existing roads at a point with adequate visibility, the potential for accidents increases. Furthermore, frequent access points can impact adversely on the free flow of traffic, reducing efficiency.

Council has an interest in this issue to ensure that the roads that it administers operate safely and efficiently. There is also an additional responsibility placed upon Council in taking over new roads once subdivision or development is complete.

Where individual properties are utilising a common entrance point, the parameters upon which physical access can be shared are established.

These parameters have been in place for some years throughout the District and have proved to be an appropriate performance standard.

*(Refer Rule SUB.1(d)D and Rule SUB.4.B)*

## POLICY SUB.7

**To avoid the adverse effects that subdivision can have on public utility services.**

### Explanation

Within the District Plan there are a number of areas which have been identified for use for urban purposes.

Within these urban areas, there are two distinct categories.

- 1) Those areas for which Council has provided a reticulated system for water and sewerage disposal.
- 2) Those areas for which provision has been made for urban settlement but no provision has been made for a reticulated system of network utility services in the form of water and sewerage disposal.

*(See Policy SUB.8)*

Where the services are available, Council has generally defined the Urban Resource Areas in this District Plan as being determined by the area which is capable of accommodating the urban development within the design parameter of the existing systems.

Subdivisions will be assessed to determine what impact they have on reticulation systems. Adverse effects on these systems must be fully compensated for.

*(Refer Rule SUB.1(d).D)*

## POLICY SUB.8

**To ensure that allotments created for residential purpose can safely and adequately dispose of domestic effluent without contaminating any waterbodies.**

### Explanation

In those urban areas where no public network utility services of water and sewerage disposal have been provided, the minimum site area shall be determined following appropriate sub soil testing. Sites to be used for residential purposes will need to be capable of adequately disposing of domestic waste. The cumulative effects of this type of disposal will also be a factor taken into consideration. Consent may be required from the Regional Council for discharge of effluent to water or discharges to land, in circumstances where contaminants may enter water.

*(Refer Rule SUB.4.C(4))*

#### POLICY SUB.9

**To ensure that allotments for residential purposes contain a hazard free building site.**

Explanation

Council has a duty under both the Resource Management Act and the Building Act to avoid or mitigate the adverse effects of natural hazards. Natural hazards are a constraint which should be identified and considered at the subdivision stage rather than at the building stage. They arise because of the particular circumstances of a site, and it is considered more appropriate to forewarn prospective purchasers through caveats on the title at the subdivision stage, rather than being left to the point in time when buildings are proposed to be erected on a site.

Where possible known natural hazards will be identified as hazard sites on the District Plan Maps. In some instances the existence of some hazards (such as instability and subsidence) may not be known and therefore the Planning Maps cannot be taken as absolute proof that hazards do not exist at a site. The Planning Maps will be updated as more information on hazards becomes available.

*(Refer Rule SUB.1B and 4.A(1) and Section 3.9 Natural Hazards).*

#### POLICY SUB.10

**To ensure that subdivision does not facilitate development that may adversely affect:**

- **the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers, and their margins**
- **outstanding natural features and landscapes**
- **areas of significant indigenous vegetation and significant habitats of indigenous fauna**

Explanation

Throughout the District there are areas that are significant because their natural qualities, including the visual diversity of their scenic attractions. Areas in this category, amongst others, include the Catlins locality and the Coastal Resource Area. Subdivision in these areas will be subject to a more rigorous test in respect of the effect on natural values.

*(see Rule SUB.1(d)A(2) and C)*

#### POLICY SUB.11

**To refuse to grant a subdivision consent in circumstances where the proposed subdivision would not be in the public interest, including the following circumstances;**

- (a) the subdivision would result in the expenditure of ratepayers money, either as part of supplying services to the subdivision or as on-going maintenance of services supplied to the subdivision that has no benefit to the general ratepayers of the District**
- (b) the subdivision would result in the restriction of public access rights to and/or along the coast, lakes and rivers, and other recreational, historical or culturally important sites or resources.**

Explanation

Notwithstanding the fact that a proposed subdivision may have met all the requirements of the Plan, there are circumstances where it is not in the interest of the public at large to grant consent to a subdivision. Unless matters of public interest are addressed in the first instance by subdividing owners, subdivision consents will not be granted.

(Refer Rule SUB.1(d)F)

## POLICY SUB.12 SITES SUBJECT TO NATURAL HAZARDS

With respect to land that is, or is likely to be, subject to the effects of natural hazards or contains significant drainage systems, Council shall only grant a subdivision consent where either:

- (a) The area of the subdivision to be used for building or other development purposes is unlikely to be subject to material damage from natural hazards; or
- (b) The subdivision an intended land use will not impede or alter the flow and efficiency of the drainage system; or
- (c) The subdivision is a boundary adjustment and/or is not materially changing the land use status quo; or
- (d) The purpose of the subdivision is to facilitate land stabilisation, erosion protection, flood protection or some other method of avoiding, remedying or mitigating the effects of the natural hazard; or
- (e) The effects of the natural hazard can be avoided or mitigated by conditions attached to the consent including the provision of appropriate works, the adoption of minimum floor levels and controls on earthworks; or
- (f) Other exceptional circumstances exist; or
- (g) If there are no effects beyond the area of the subdivision, (including on the flow and efficiency of any significant drainage system) the subdivider is willing to accept any potential risk and is prepared to have the resultant certificates of title registered accordingly.

## 3.7.4. RULES

### RULE SUB.1. RESTRICTED DISCRETIONARY ACTIVITIES

- (a) Minor boundary adjustments and amendments to flat plans where building works comply with the provisions of the District Plan will be considered as a restricted discretionary activity, and Council shall restrict the exercise of its discretion to the creation of appropriate easements.

For the purposes of this section, boundary adjustment means a minor adjustment of boundaries between adjoining properties (being either one land holding or one certificate of title) for the purpose of,

- (i) recognising and providing for the logical physical boundary as the actual legal boundary of a property, including minor adjustments due to road severance, movement in waterbodies, and the lands contour in respect of fencelines, or
- (ii) facilitating the reduction or increase in residential yard space to provide for increased family outdoor leisure areas, the erection of accessory buildings, reduction in an elderly persons open space, or
- (iii) for other similar purposes.

### REASON

Council considers that these activities can be dealt with by way of delegated authority. Consideration was given to classifying these subdivision types as “permitted activities” however there is often the need to create easements by way of condition. Furthermore, what constitutes a boundary adjustment is often debatable.

- (b) Subdivision in the Rural Settlement Resource Area (other than in those settlements listed in Rule SUB.3 or affected by Rule SUB.2(b) below) that complies with the following standards:



- (i) the site has a minimum area of not less than 1600m<sup>2</sup> PROVIDED that this does not apply to network and public utilities and
- (ii) the site is capable of the adequate and safe disposal of effluent in terms of Rule RST.8.
- (iii) the standards set out in Rule SUB.4 are met.

is a restricted discretionary activity. Council shall restrict the exercise of its discretion to those matters set out in subsection (d) below.

- (c) Subdivision in the Urban, Transitional, Industrial and Rural Resource Areas (other than those subdivisions provided for in Rule SUB.2(b) below) that complies with the standards set out in Rule SUB.4 are restricted discretionary activities. Council shall restrict the exercise of its discretion to those matters set out in subsection (d) below.

#### **PROVIDED THAT**

Subdivision to below a site area of 4000m<sup>2</sup> in the Transitional Resource Area (other than for network and public utilities) is a prohibited activity until such time as the site is fully reticulated.

#### **REASON**

Restricted Discretionary activity status enables Council to refuse subdivision where it is considered that there will be a significant adverse effect on public services in the locality. Notification or adjoining owners consent will generally not be needed as the majority of effects will be on Council owned services.

- (d) Matters to Which Council Has Restricted the Exercise of its Discretion

Council, in considering subdivisions under this rule, has restricted the exercise of its discretion to the following matters.

#### **A. THE EFFECTS OF SUBDIVISION DESIGN**

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##### **1. THE ABILITY OF THE SUBDIVISIONS DESIGN TO:**

- facilitate convenient, safe and easy access by both people and vehicles, to a public road.
- facilitate and provide for convenient and easy public access to the coast, any river, stream or lake, or any public reserve
- facilitate the provision and operation of essential services
- facilitate access to passive solar energy sources.
- relate to adjoining development.
- connect to appropriate network utility services particularly sewerage, water, stormwater, electricity and telephone reticulation.
- to facilitate any foreseeable subsequent resubdivision or redevelopment having regard to:
  - (i) the provision of road access
  - (ii) the economic provision of network utility services securing an appropriate and coordinated ultimate pattern of development.

Conditions may be imposed that require the design of the subdivision to address these issues.

##### **2. THE SUBDIVISIONS EFFECT ON NATURAL AND SIGNIFICANT FEATURES INCLUDING:**

- registered historic places
- archaeological sites and waahi tapu
- significant trees and significant stands of indigenous vegetation

- the habitats of indigenous fauna and valued non-indigenous fauna
- waterways, lakes, wetlands and their margins
- ridgelines and hills contributing to the character of the rural and urban areas.
- areas of outstanding landscape character.
- outstanding natural features
- The efficient functioning of natural drainage systems

Conditions may be imposed that require the design of the subdivision to protect these features.

## B. THE EFFECTS OF NATURAL HAZARDS

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1. The effects of natural hazard on the site, and the subdivisions potential in causing natural hazard events to adjoining land.
2. The extent of earthworks necessary.
3. In exercising its discretion in relation to this issue Council may,
  - (i) Require the submission of a report from a person experienced in soils engineering (and more particularly land slope and foundation stability) as to the suitability of the land for its intended purpose, in particular, where it is intended to accommodate buildings which are to be occupied by people.
  - (ii) Impose conditions that require the provision of remedial or protective measures (including essential services, works and reserves) or that avoids or restricts development on those areas of land subject to constraints.

## C. NATURAL VALUES

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The effects the subdivision may have on the following areas;

- (i) the margins of wetlands, lakes and rivers or any area that may impact on wetlands, lakes and rivers,
- (ii) areas considered to be outstanding natural features and/or landscapes (see Table 13.3A and B)
- (iii) areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- (iv) areas of high visual amenity,

In exercising its discretion in relation to this issue Council may impose conditions that;

- preserves the visual amenity created by the backdrop of indigenous vegetation
- recognise the visual significance of any protected land in the locality
- protects the open character of the rural environment
- protects the natural character of the margins of rivers, lakes and wetlands
- recognises the intrusion that structures can create in the landscape.
- protects the intrinsic values of these areas

## D. PROVISION OF NETWORK UTILITY SERVICES

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### 1. GENERAL

Council shall exercise its discretion in respect of the provision and construction standards of network utility services, including roads to and within any subdivision.

The subdivider or developer shall be responsible for meeting the full costs of making such provisions (including where the work is carried out by Council) unless otherwise provided by section 3.8 Financial and Reserve Requirements or any assessment carried out under SUB.1(d)D.4(ii)-(v).

Any road shall vest in Council or Transit NZ, as appropriate, on deposit of the survey plan.

Any other works, services or facilities, except works of network utility operators other than the Council which are located within a street or reserve, or the circumstances are such that public control is warranted, shall vest in Council on deposit of the survey plan.

## 2. STORMWATER AND SEWERAGE DISPOSAL

- (a) For any subdivision which results in additional allotments to be used for urban or industrial purposes, or for any development for two or more household units provision shall be made for a sewerage and stormwater system as follows:
- the installation or upgrading of a public sewer or stormwater system extending from the main sewerage or stormwater system to an appropriate boundary of each proposed allotment or to each household unit
  - a connection from the common public sewer to an appropriate boundary of each proposed allotment or to each household unit
  - a connection from each allotment or household unit to an acceptable point of discharge for stormwater
- (b) Any sewerage or stormwater drainage system required under subclause (a) above, including the upgrading of existing facilities to accommodate increased flows attributable to the subdivision or shall be constructed to the standard specified in NZS 4404 1981 Urban Land Subdivision unless Council determines otherwise in any particular case.

*Note: For subdivision in unreticulated areas, see Rule SUB.4.C(4).*

- (c) Assessment Criteria - (*Note: The assessment criteria do not form part of the rule*)

In determining the appropriate systems and standards of construction under this section, Council will have regard to the following:

- (i) Any actual or potential adverse environmental effects including any contaminants of ground water, surface water, wetlands, watercourses, rivers or lakes which could adversely affect the environment or create a risk to health.
- (ii) The integrity of the sewerage or stormwater system, its economic provision and the equitable distribution of its cost including:
- the need for any sewerage or stormwater system to be carried out in an integrated manner for an overall catchment
  - ensuring financial equity between the various subdividers and developers contributing to the overall system
  - ensuring the efficient and economic use of existing sewerage or stormwater systems, by making the costs of providing such works a charge on development of new urban areas thereby avoiding uneconomic public investment in new sewers.
- (iii) The nature of the development and proposed use of the site with respect to the potential for an increased volume of sewage and stormwater relative to the existing and planned capacity of the sewer system having particular regard to high density developments and to activities generating significant trade wastes.

*(Note: The provisions of subclause (iii) do not require the Council to accept trade wastes into any sewerage system.)*

- (iv) Any proposed alternative sewerage or stormwater disposal system and its feasibility taking into account other resource consents which may be necessary to give effect to any such proposal.

*Note: Consents may be required from the Otago Regional Council in respect of discharges to watercourses or to land in circumstances where contaminants may enter water.*

### 3. WATER SUPPLY

- (a) For any subdivision which results in additional allotments to be used for urban or industrial purposes or for subdivision of two or more household units provision shall be made as part of that subdivision for a water reticulation connection to an appropriate boundary of each proposed allotment or to each household unit.
- (b) Any water supply system required under subclause (a) above, including the upgrading of existing facilities to accommodate increased water demand arising from the subdivision or development of land, shall be constructed to the standard specified in the NZS 4404 1981 Urban Land Subdivision unless Council determines otherwise in any particular case.
- (c) Assessment Criteria - (Note: The assessment criteria do not form part of the rule)

In determining the appropriate systems and standards of construction Council will have regard to the following:

- (i) Any actual or potential adverse environmental effects including:
- the risk to health through a lack of adequate potable water
  - the possibility of damage to the environment or property or of danger to people arising from inadequate fire fighting capability
- (ii) The integrity of the water supply system, its economic provision and the equitable distribution of its cost including:
- the need for any water supply system to be carried out in an integrated manner for particular areas of the District;
  - ensuring financial equity between the various subdividers and developers contributing to any particular system;
  - securing the efficient and economic use of the existing water supply systems;
  - avoiding uneconomic investment in new water supply facilities by making the costs of such works a charge on development of new urban areas;
- (iii) The nature of the site and of the proposed development with respect to the potential demand for water likely to be generated relative to the existing and planned capacity of the water supply system having particular regard to activities involving high water usage or high fire risk.
- (iv) Any proposed alternative water supply system and its feasibility, taking into account other resource consents which may be necessary to give effect to any such proposal.

### 4. ROADING

- (a) Where any subdivision results in additional allotments and provision for new roads and/or accessways, or the upgrading of existing roads, is required, then except as provided in the following subclauses, all such roads and facilities shall be constructed by the subdivider and vested in Council or Transit NZ as appropriate.
- (b) Where a subdivision of land within any part of the District results in additional allotments and the subdivision fronts an existing road then
- where the road is unformed or is only a road reserve, or is existing but is not of adequate standard then the road shall be constructed as part of the subdivision by the subdivider;
  - where road widening or a segregation strip is required as a consequence of the subdivision then such land shall vest as part of the subdivision.

*Note: Also refer to Rule TRAN.1.*

- (c) Assessment Criteria - (Note: The assessment criteria do not form part of the rule).

In determining the appropriateness of the roading serving the subdivision and its construction standards Council will have regard to the following:

- (i) Any actual or potential adverse environmental effects including:

- air pollution, noise, and the inefficient use of fuel arising from restrictions on the free flow of traffic
  - impacts on neighbourhood amenities and on safety arising from excessive traffic flows on local streets
  - impacts on the physical environment as a result of inappropriate road construction and location.
- (ii) The integrity of the roading network, its economic provision and the equitable distribution of its cost including:
- the provision of an integrated and effective roading hierarchy giving convenient access throughout the locality and to the rest of the District
  - the extent to which a road meets local, district or regional traffic needs and the impact of the development on roads in neighbouring areas
  - ensuring financial equity between the various subdividers and developers contributing to the overall roading network and the availability of public funds
  - securing the efficient and economic use of existing roading facilities
  - avoiding uneconomic public investment in new roading facilities by making a reasonable proportion of the costs of such works a charge on development of new urban areas
  - the standard of existing road formation.
- (iii) The nature and location of the site and its proposed development and use with respect to the potential traffic generation relative to the existing and planned capacity of the roading network, with particular regard to the establishment or expansion of:
- suburban shopping centres and major shopping facilities on the fringe of the central area
  - major community facilities such as hospitals and tertiary educational institutions
  - major recreation facilities and large residential institutions or developments.
- (iv) The need to provide for the movement of pedestrians and cyclists and for the accommodation of essential services.
- (v) With respect to forming roads and upgrading existing roads, Council shall consider the following matters when determining a reasonable and equitable contribution:
- the standard and specification of the road required, given its intended use;
  - the expenditure required to meet these standards;
  - the use or likely future use of the road by all parties including the general public, and the contributions, if any, made or to be made by such parties;
  - the contribution made by Government or outside organisations towards the roads development;
  - the effect on the general public (see Rule SUB.1(d)F).

## **5. TELECOMMUNICATIONS AND ELECTRICITY**

Telecommunications, electricity reticulation and street lighting shall be provided at the time of land subdivision and shall be in accordance with the requirements of the relevant supply authority and with the NZS 4404 1981 Urban Land Subdivision unless Council determines otherwise in any particular case. Electricity and Telecommunication reticulation shall generally be installed in a manner which minimises potential hazards, and shall be provided underground and within road berms.

## **6. ENGINEERING ASPECTS**

Where any subdivision or development involves any engineering aspect, certified design plans from a suitably qualified person shall be submitted with any application.

## **E. FINANCIAL AND RESERVE REQUIREMENTS**

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Council shall, where considered appropriate, impose conditions requiring financial and reserve contributions in accordance with the provisions of Section 3.8 Financial and Reserve Requirements.

## F. PUBLIC INTEREST

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The effect the subdivision has on the general public particularly in respect of:

- expenditure of ratepayers money, either as part of supplying services to the subdivision or as on-going maintenance of services supplied to the subdivision that has no benefit to the general ratepayer of the District
- any restriction of public access rights to and/or along the coast, lakes and rivers, and other recreational, historical, or culturally important sites or resources.

## G. ELECTRICITY TRANSMISSION LINE CORRIDOR

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- (i) The extent to which the design and construction of any subdivision allows for earthworks, buildings and structures to comply with the safe separation distance requirements in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP: 34 2001).
- (ii) The extent to which the subdivision or subsequent building design mitigates the effects of the lines and the risk of potential injury and/or damage to property e.g. through the location of roads and reserves under the route of the line.
- (iii) The ability for continued access to existing National Grid lines for maintenance, inspections and upgrading.
- (iv) The extent to which potential adverse effects (including visual) are mitigated through the location of building platforms.
- (v) The extent to which the design and construction of the subdivision allows for activities to be set back from National Gridlines to ensure adverse effects on and from the National Grid and on public safety are appropriately avoided, remedied, or mitigated.
- (vi) The nature and location of any proposed vegetation to be planted in the vicinity of National Grid lines
- (vii) The provision for the on-going operation, maintenance and planned upgrade of National Grid lines:
- (viii) The risk to the structural integrity of the National Grid transmission network; and
- (ix) The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the National Grid.

## RULE SUB.2 DISCRETIONARY ACTIVITIES

- (a) Subdivision in the Coastal Resource Area is a discretionary activity. Council shall consider the standards and criteria contained in Rule SUB.1(d) and SUB.4, the Objectives and Policies of the Coastal Resource Area, the Regional Policy Statement, Regional Coast Plan, and the New Zealand Coastal Policy Statement.

### REASON

The Act stipulates that the preservation of the natural character of the Coast is a matter of national importance. Intensive development, of which subdivision is generally the forerunner, has the ability to compromise this character.

- (b) Subdivision of land subject to, or which is in Council's opinion potentially subject to, the effects of any natural hazard, is a discretionary activity.

### REASON

Discretionary activity status in this instance enables Council to consider the full ramifications of allowing the subdivision.

## RULE SUB.3 NON COMPLYING ACTIVITIES

Subdivision in the following Rural Settlements is a non-complying activity

- Bull Creek
- Toko Mouth
- Willsher Bay
- Newhaven

## RULE SUB.4 SUBDIVISION PERFORMANCE STANDARDS

All subdivisions, excluding minor boundary adjustments and amendments to flats plans, shall be designed to comply with the following standards.

### A. LAND SUITABILITY STANDARD

1. Unless not relevant to its likely development or use, the land to be subdivided must provide a sufficient area of land capable of accommodating any foreseeable building and associated development which
  - is above the 50 year flood level (2% probability flood level) or any flood level identified on the District Planning Maps.
  - Complies with Rule NHZ.3
  - does not contain uncontrolled fill, peat soils or other unconsolidated material
  - is not closer than 20m to
  - any stream or river of 3 metres in width or greater
  - any wetland or lake identified in Table 13.5,
  - any other wetland or lake 2 hectares or greater in area,
  - any waterbody within those water supply catchments identified on the Planning Maps.
  - any waterbody identified in Schedule 6.6
  - in any Urban, Transitional or Rural Settlement Resource Area or within 50 metres of the bank of any such defined water body in any Rural or Coastal Resource Area.
  - does not involve significant earthworks or where earthworks cannot be avoided, the characteristics of the site allows for the mitigation of any effects associated with those earthworks.
2. Where the subdivision involves the creation of allotments for separate parts of a building, or involves a building adjoining an allotment boundary, the structural integrity and fire safety of that building shall comply with the Building Act 1991.
3. Drainage Systems

Where significant drainage systems are located within the land to be subdivided, or the site is located within the area provided for by the "Milton 2060 strategy: A Flood Risk Management Strategy for Milton and the Tokomairiro Plain", a structure plan shall be prepared that sets out the measures to be put in place that ensure the efficiency of the drainage system and its associated overland flow paths are not compromised by the subdivision design and any subsequent development.

Such structure plans shall provide for the following:

- A subdivision design that recognises and protects the integrity of the drainage system.
- Measures that ensure any subsequent development does not accelerate worsen or significantly change the pattern of the existing overland flows. Such measures may include the control of earthworks within the subdivision; the design and orientation of fences,

retaining walls; the location and orientation of dwellings and ancillary buildings; the location and orientation of infrastructure, including roading and reserves.

- On-site stormwater management systems (retention/detention and secondary flow paths) that are designed for a 1 in 100 years average recurrence interval event. Stormwater retention/detention measures shall be provided on-site as part of the overall development.
- A rate of stormwater discharge that remains equal to or less than that of the pre-development up to the 1 in 100 years average recurrence interval event.
- The integration of infrastructure, including roading and reserves, with the stormwater management systems.

## B. MINIMUM FRONTAGE AND PROVISION OF VEHICULAR ACCESS

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1. The minimum frontage for any allotment of any subdivision shall be 3.5 metres (except as provided by Section 321 of the Local Government Act 1974). This dimension may be encumbered or subject to right of way or registrable interest

### **PROVIDED THAT**

for multiple access, physical access shall be provided for as shown in (5) below.

2. Where any subdivision involves the division of any land and buildings into separate allotments for the individual occupancies to be held under freehold title, cross lease, company lease or unit titles then the size, shape and arrangement of such allotments shall make provision for access thereto in a manner that;
  - ensures the convenience of the occupants
  - facilitates service deliveries
  - avoids nuisances to neighbours
  - maintains public amenities
  - protects the environment
  - ensures suitable access by the public in respect of any commercial premises
  - avoids traffic conflict on roads and railways
  - avoids hazards to neighbours and the surrounding area.
  - facilitates disabled access.
  - facilitates on-site manoeuvring
3. All weather vehicular access shall be provided to any subdivision of land or to each allotment of any subdivision either directly from a street or over an individual or shared access to a standard adequate to:
  - accommodate a 90 percentile car in the case of land intended to be used for residential purposes
  - accommodate a 90 percentile truck where the land is likely to be used for industrial or commercial purposes.

The requirements for these vehicles is set out in Figure 6.

4. The location and design of all points of access from a legal road within the District shall comply with the requirements set out under Section 3.3.5 Rule TRAN. 4.
5. The width of such access shall be as follows;



No. of Parcels or Units	Access Width
1-3	3.5 m
4-6	6.0m - a 5m wide carriageway and 0.9m footpath
7or more	A public or private road which complies with Council's minimum engineering standards as set out in NZS 4404 1981 Urban Land Subdivision or the "Guide to Geometric Standards for Rural Roads", New Zealand Counties Assoc, National Roads Board New Zealand, 1985).

**PROVIDED THAT:**

- the width of a vehicular access serving a single household unit may be reduced to 3m if the driveway has unrestricted visibility and the length does not exceed 30m;
- where an access lot of less than 6.0m in width and serving more than one allotment has a length greater than 100m or unrestricted visibility is not available over its full length then an appropriately located passing bay shall be provided
- a legal roadline shall have a width of no less than 12 metres.

**C. DESIGN FACTORS**

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1. The subdivision shall be planned, designed, constructed and maintained so as to:
  - protect and preserve the coast, or any river, stream, lake, wetland and their margins, or public drain
  - provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the development or subdivision or in other areas.
  - ensure that waters drained from the subdivision is substantially free of adverse contaminants including sedimentary materials, of any greater quantity than would occur in the absence of subdivision and improvement
  - ensure that waters are drained from the subdivision in such a manner that they will not cause erosion or flooding outside the subdivision to any greater extent than would occur in the absence of the subdivision and improvements
  - avoid flooding of land in the subdivision or in other areas by keeping impervious surfaces to a minimum and by limiting discharge from the land
  - ensure that there is no significant adverse effect on natural river or stream beds or aquatic ecosystems by the construction of bridges or culverts
  - ensure that it is possible to dispose of sewage and waste water effluent from any site in the subdivision, in a manner which does not decrease existing water quality of any receiving water.

*Note: Consents may be required from the Otago Regional Council in respect of discharges.*

2. Where a site is intended to accommodate a building the site shall contain an adequate buildable area free of impediments such as drainage lines and the yard and open space requirements of the relevant Resource Area (see Section 4). If the allotment is located within the "National Grid Subdivision Corridor", all allotments shall identify an indicative building platform outside of the National Grid Yard for all buildings (including dwellings) that may be facilitated by the subdivision.
3. Where a site is intended to be used for multi-unit residential development then the minimum site area shall be determined by:
  - the adequacy of residential amenities provided on site. See Rule URB.4.

- the provision made for access, manoeuvring and parking required on site. See Rule TRAN. 5 and 6.
  - the amount of landscaping provided
  - any foreseeable extension of the principal building and accessory buildings
  - the provision and allocation of the land not built upon.
4. Where the allotment is in a non-serviced area the minimum area shall be determined in each case by the method adopted to:
- dispose of stormwater and sewage effluent in a manner that avoids contamination of water resources including any cumulative adverse effects on ground water.

**PROVIDED THAT** with respect to the disposal of sewage effluent,

- any site created less than 4000m<sup>2</sup> or

where the activity on the site will generate quantities of effluent in excess of three household units or the equivalent thereof regardless of area it shall be certified by Council's Environmental Health Officer or by a person suitably qualified in effluent disposal that the site meets this criteria.

- avoid, remedy or mitigate any disturbance to any river, lake and wetland ecosystems.
- avoid, remedy or mitigate any disturbance to any area of indigenous vegetation.

<b>RULE SUB.5 PROCEDURES</b>
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**A. SUBDIVISIONS TO COMPLY**

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No subdivision of land or buildings into allotments may be carried out except in accordance with the requirements of the Act and with the provisions of this District Plan and shall comply with any conditions imposed in any resource consent.

**B. PRELIMINARY CONSULTATION**

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Prior to formal application for a subdivision consent which will have an effect on a public service (for example, urban and rural water schemes, sewerage system, roading etc), the applicant shall submit a concept proposal which enables the servicing issues to be addressed with Council before the final design is drawn.

**C. APPLICATIONS FOR SUBDIVISIONAL CONSENT**

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Any person wishing to subdivide land shall make application for a subdivision consent in accordance with the provisions of Section 3.1.

**D. SUBMISSION OF SCHEME PLAN**

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Any application made in accordance with (c) above shall be accompanied by a Scheme Plan which clearly illustrates, in visual form, the subdivision which is intended.

### **3.7.5. NOTIFICATION REQUIREMENTS**

1. A subdivision which is a controlled activity shall not be notified in accordance with Section 93 of the Act unless Council considers special circumstances exist.
2. A resource consent application for subdivision which is a discretionary activity or a restricted discretionary activity may be considered by the Council without the need to obtain written

approval of affected persons and shall not be notified in accordance with Section 93 unless Council considers special circumstances exist.

3. A resource consent application for a subdivision which is a non-complying activity need not be notified if it complies with the requirements of Section 94(2) of the Act.
4. Notwithstanding any of the above, resource consent applications for subdivision which will potentially intensify or change the use of land that has access to a State Highway, or access is to a Limited Access Road, Council will refer the application to Transit New Zealand for comment.

### **3.7.6. OTHER METHODS**

#### **METHOD SUB.1 MONITORING**

To assess the effectiveness of these policies and rules Council shall:

- consult with practitioners on the operation of the consent process
- analyse the number and type of subdivision consent applications
- monitor the relationship between subdivision and land use activities.

### **3.7.7. ANTICIPATED ENVIRONMENTAL RESULTS**

1. The sustainable management of the District's towns.
2. Avoidance of significant effects on water quality from development.
3. The sustainable management of public resources.
4. Avoidance of natural hazards.
5. Preservation of the natural character of the coast, wetlands, lakes, rivers and their margins.
6. Public access to and along the coast, lakes, and rivers will be maintained and enhanced.
7. Subdivision to have little effect on the outstanding landscapes, natural features, and areas of significant indigenous vegetation and habitats of indigenous species of the District.