

28.0 Subdivision

Preamble

This section of the Plan provides for the implementation of the specific and general objectives and policies for subdivision as detailed in Volume One of this Plan.

Subdivision is defined in Section 218 of the Act.

Subdivision is defined as an 'activity' by the Act. The standards (rules) and related assessment criteria (methods of analysis) of this section of the Plan put forward controls that need to be met to enable applications for subdivision to be considered for approval.

Subdivision Status (Guideline Only)

The status of a subdivision proposal is determined by how it aligns with the controls imposed by the Plan.

The particular subdivision activity status categories envisaged by the Act and applied by this section of the Plan are:

- | | |
|---------------|---|
| Permitted | • Where the Council will issue a "Certificate of Compliance" where an application accords with the controls specified. |
| Controlled | • Where the Council shall grant consent to the application subject to the controls specified. |
| Discretionary | • Where the activity is provided for but the Council's discretion determines whether consent may be granted in the context of the controls specified. |
| Non-Complying | • Where the scope of the application is outside the range of controls specified by the Plan. |
| Prohibited | • Where applications will not be accepted by the Council. |

(Refer to Section 2 of the Act for detailed explanation).

Primary Constraints

Section 106 of the Act imposes fundamental constraints on subdivision where circumstances involve erosion, falling debris, subsidence, slippage or inundation. (Refer directly to Section 106 for explanation).

28.1 Permitted Subdivision Activities

28.1.1 Available in -

- a) All Zones

Permitted activity subdivisions are limited to "utilities" as provided for in this document.

28.1.2 Allotment Standards (Permitted Subdivision Activities)

Whilst there are no allotment specifications for utilities, an application for a "Certificate of Compliance" for a subdivision for a utility shall confirm that the subdivision proposed complies with this Plan's "Standard Requirements for Subdivision and Development".

28.2 Controlled Subdivision Activities

28.2.1 Available in the -

- a) Urban Residential Zones (excluding Urban Residential 2 Greenfield Zones)
- b) Township Residential Zone
- c) Industrial Zones
- d) Rural Township Zone
- e) Rural Zones
- f) Lake Grassmere Salt Works Zone
- g) Airport Zone
- h) Port Zone
- i) Rural Residential Zone

If subdivision proposals for these zones meet all of the following standards (Rules 28.2.2, 28.2.3), the Council will reserve control over the matters prescribed in Rule 28.2.5.

28.2.2 Allotment Standards (Controlled Subdivision Activities)

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ³ see note below	Qualification
Urban Residential 1 ³	Front W	290	14 metre diameter circle	14	
	Rear W	290	14 metre diameter circle	NA	Access requirements apply, refer 28.2.3
Urban Residential 2 ^{1 2 3 5}	Front W	400	15 metre diameter circle	15	
	Rear W	400	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ³ see note below	Qualification
Township Residential (excluding Renwick and Marlborough Ridge) And Deferred Township Residential	Front W	600	15 metre diameter circle	15	
	Front WO	1,000	15 metre diameter circle	15	
	Rear W	700	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
	Rear WO	1,000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
Township Residential (Renwick)	Front W	450	15 metre diameter circle	15	
	Front WO	1000	15 metre diameter circle	15	
	Rear W	450	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
	Rear WO	1000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
Industrial 1	Front W	250	10 metre diameter circle	NA	
	Rear W	500	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
Industrial 2	Front W	1,000	15 metre diameter circle	NA	
	Rear W	1,000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
Rural Township	Front W	250	10 metre diameter circle	15	
	Front WO	1,000	15 metre diameter circle	15	
	Rear W	500	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3
	Rear WO	1,000	15 metre diameter circle	NA	Access requirements apply, refer 28.2.3

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² 1 see note below	Environmental Assessment Threshold Building Platform Shape Factor 2 see note below	Environmental Assessment Threshold Frontage Metres 3 see note below	Qualification
Rural 3	Front WO	Greater than or equal to 8 ha	NA	60	
Airport Zone	Rear WO	Greater than or equal to 8 ha	NA	NA	Access requirements apply, refer 28.2.3
Rural 4	Front WO	greater than or equal to 20 ha	NA	60	Access requirements apply, refer 28.2.3
Lake Grassmere Salt Works Zone	Rear WO	greater than or equal to 20 ha	NA	NA	Access requirements apply, refer 28.2.3
Port Zone	Front W	N/A	N/A	N/A	Access requirements apply, refer 28.2.3
	Rear W	N/A	N/A	N/A	Access requirements apply, refer 28.2.3
Rural Residential *4	Front WO	1 ha average 4500 m ² minimum	20 metre diameter circle		Access requirements apply, refer 28.2.3
	Rear WO	1 ha average 4500 m ² minimum	20 metre diameter circle	NA	Access requirements apply, refer 28.2.3

- ¹ Lot areas prescribed are net areas, exclusive of access.
- ² The minimum building platform shape factor may be applied anywhere within the proposed allotment. Any building located within the building platform shape factor must comply with the bulk and location requirements of the respective zones and comply with the requirements of any easements.
- ³ Frontage below 15 metres is permitted for Urban Residential 1, Urban Residential 2, Township Residential (including and excluding Renwick), Deferred Township Residential and Rural Township Zones, where a front lot with side boundaries diverging or opening out from the street has a minimum frontage of 6.0 metres and the site width, at a distance of 12.0 metres from the street, is not less than 17 metres.
- *1 Provided that this shall not apply to those properties listed in Appendix H1. For these properties the Net Minimum Lot Area shall be 3,000 m².
- *2 Provided that this shall not apply to those properties listed in Appendix H2. For those properties the Net Minimum Lot Area shall be 1,200 m².
- *3 Where residential flats or units have been erected in accordance with Volume Two, Urban Residential Zone, Rule 32.1.3.1, then the subdivision of the building(s) is a Controlled Activity.

- *4 The 1 ha average for Rural Residential subdivision shall apply to each particular subdivision rather than to the whole zone in any particular location.
- *5 Provided that this shall not apply to the property described at Lot 35 DP 32 Certificate of Title 28/292 Marlborough Registry (known as 23 Battys Road). For that property the net minimum lot areas will only apply provided a sewerage system can be installed for each lot having regard to servicing ability of trunk mains in the Springlands/Battys Road locality. The number and size of lots shall be fixed at no less a standard than provided for in the schedule above but otherwise shall be determined by what is physically achievable in terms of the capacity of the adjacent sewerage system. Any new allotment contained within (present) Lot 35 DP 32 Certificate of Title 28/292 Marlborough Registry, shall install an independent sewage pumping system serving one allotment only, if sewage pumping is required to access the sewer main.

28.2.3 Standards for Access to Rear Lots (Controlled Subdivision Activities and Limited Discretionary Subdivision Activities)

Important Note: Developers may employ either a 'right of way' over other land or an 'access leg' (provision for access included in the lot title).

Where a right of way is employed the line(s) defining the extent of that right of way on a survey plan shall be treated as a legal boundary for the purpose of building setback and recession plane controls for buildings.

Zone	No. Lots Served	Min Width (m)	Min Formation Width (m)	Qualification
All Residential Zones	1	3	NA	
	2 - 4	3	2.5	Sealed
	5 - 6	6	5	Sealed. Width allows passing
Rural Residential	1 - 2	5	3.5	Unsealed
	3 - 6	6	4	Sealed
Industrial Zones	1 - 4	6	6	Sealed. Width allows passing
Rural Township	1	4	NA	
	2	5	3	Sealed
	3 - 4	6	4	Sealed
Rural 3 Zone	1 - 4	6	4	Unsealed
	5 - 8	6	5	Sealed
	9+	12	5.5	To vest as road
Rural 4 Zone	1	6	N/A	Unsealed
Lake Grassmere	2 - 4	6	4	Unsealed
Salt Works Zone	5 - 12	8	4	Unsealed
	12+	12	5.5	*

* Formation standard and legal status to be determined at the time of resource consent.

Where front lots are provided with legal rights over access legs or rights of way that serve rear lots, then those front lots shall count as rear lots for the purpose of calculating the number of lots served.

The legal width of access shall include any cut or embankment which is part of the physical formation.

For residential zone purposes, the standard of access required for the number of lots served is the same as for the number of units served (refer Urban Residential 1 and 2 Zone Rules 32.1.2.1.7 and 32.3.1)

Passing bays may be required where the length, gradients or width of access leg adversely affects the safety of users.

28.2.4 General Standards (Controlled Subdivision Activities)

28.2.4.1 Cross-Lease or Unit Plan Subdivisions

28.2.4.1.1 All existing cross-lease or unit title development, where stage development has been previously approved under previous plans or legislation but the development is uncompleted, shall be Controlled Activities.

28.2.4.1.2 Variations or amendments to cross-lease or unit title plans shall be Controlled Activities.

28.2.4.1.3 The re-subdivision of existing cross-lease or unit title plans to obtain individual free-hold titles shall be a controlled activity, providing there is no physical change to the use of this site.

28.2.4.1.4 Cross-lease or Unit Plan subdivisions which involve the legal separation of existing structures/units on **complying sites** (Section 10 of the Act applies) or on sites permitted by a land use resource consent shall be Controlled Activities, subject to compliance with Section 224(f) of the Act.

28.2.4.2 State Highways

Subdivisions that front state highways in rural zones, and meet all of the controlled subdivision activity criteria, are Limited Discretionary Subdivisions for the purpose of applications for resource consent. Refer to Rule 28.3.4. 2.

Note:

Under the Transit New Zealand Act 1989, in Part IV, certain roads (State Highways) have been declared Limited Access Roads. These roads are subject to separate procedures under that Act. These procedures may prevent subdivision where land fronts a Limited Access Road. The New Zealand Transport Agency should be consulted, prior to an application being lodged with the Council.

Additionally, developers should note that the Council also has the legal opportunity to declare Limited Access Roads. (There are no Council declared Limited Access Roads in Marlborough at the date this Plan became operative).

28.2.4.3 Northwest Periphery

Where a subdivision is located in the shaded areas shown in Appendix I to this Plan that are notated with either '1', '2' or '3' and does not comply with the Standard

Requirements for Subdivision and Development Rule 29.2.19.8, in terms of sequential development, the subdivision shall be assessed as a Discretionary Activity.

28.2.4.4. High Voltage Transmission Lines

Subdivision of land that meets all of the controlled activity standards, and which creates new allotments within an area measured 20 m either side of the centre point of an electrical transmission line designed to operate at or above 110kV, shall be a Restricted Discretionary Activity for the purposes of applications for resource consents. Refer to Rule 28.3.4.3 High Voltage Transmission Lines.

Note:

The New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001) regulates the minimum safety distance in which activities can be undertaken near high voltage electrical transmissions lines. Transpower New Zealand Ltd should be consulted prior to an application for subdivision being lodged with the Council, where the subdivision takes place near 110 kilo volt or higher transmission lines.

28.2.4.5. Riverlands Industrial 2

Subdivision of land legally described as Lot 1& 2 DP 323372 and portions of Lot 1 DP 4447, Lots 1, 3 and 4 DP 8762 and Lot 2 DP 379514, or their successors, at Riverlands requires a comprehensive geotechnical assessment of the proposed area to be subdivided and developed. The assessment is to be carried out by a geotechnical expert accredited by the Council. The geotechnical report must be submitted with an application for a subdivision resource consent of the site(s).

28.2.5 Matters Over Which the Council Will Exercise Control

The Council reserves control over and may impose conditions with respect to:

- a) The use of the site.
- b) The shape and position of any lot.
- c) Potable water supply, water storage and water treatment.
- d) Effluent disposal systems and maintenance requirements.
- e) Stormwater control requirements.
- f) Service easements.
- g) Roding, access, parking and manoeuvring standards including any necessary easements.
- h) Financial and land contributions in accordance with the requirements of this Plan.
- i) Provision of esplanade reserves and esplanade strips around the coastline and margins of lakes and rivers.
- j) Protection of existing vegetation and revegetation.
- k) The securing of any necessary covenants or other instruments to protect any significant environmental features or other special feature(s) on any lot.
- l) Fencing responsibilities.

- m) Conditions relating to stage developments or the timing of any works by any conditions.
- n) Controls to mitigate the adverse effects of subdivision construction.
- o) Flood hazard.
- p) Council access to rivers and drainage channels.
- q) Geotechnical report.

28.2A Limited Discretionary Activities

28.2A.1 Subdivision in the Urban Residential 2 Greenfield Zones is a Limited Discretionary Activity provided the following are met:

Allotment standards

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ³ see note below	Qualification
Urban Residential 2 Greenfield Zone	Front W	(i) Minimum 400m ² (ii) Maximum 4,000m ²	15m diameter circle	15	
	Rear W	(i) Minimum 400m ² (ii) Maximum 4,000m ²	15m diameter circle	NA	Access requirements apply, refer 28.2.3

Notes:

- 1 Lot areas prescribed are net areas, exclusive of access.
- 2 The minimum building platform shape factor may be applied anywhere within the proposed allotment. Any building located within the building platform shape factor must comply with the bulk and location requirements of the respective zones and comply with the requirements of any easements.
- 3 Frontage below 15 metres is permitted where a front lot with side boundaries diverging or opening from the street has a minimum frontage of 6.0 metres and the site width, at a distance of 12.0 metres from the street, is not less than 17 metres.

Council's discretion is restricted to the following matters:

- a) The use of the site and urban design.
- b) The shape and position of any lot.
- c) Potable water supply, water storage and water treatment.
- d) Effluent disposal systems and maintenance requirements.

- e) Storm water quantity and quality
- f) Service easements.
- g) Roading, access, parking and manoeuvring standards including any necessary easements.
- h) Financial, development and land contributions in accordance with the requirements of this Plan.
- i) Provision of open spaces, community facilities, and reserves, including esplanade reserves and esplanade strips around the coastline and margins of lakes and rivers.
- j) Protection of existing vegetation and revegetation.
- k) The securing of any necessary covenants or other instruments to protect any significant environmental features or other special feature(s) on any lot.
- l) Fencing responsibilities
- m) Conditions relating to staged developments or the timing of any works by any conditions.
- n) Controls to mitigate the adverse effects of subdivision construction.
- o) Hazard avoidance, remediation or mitigation.
- p) Council access to rivers and drainage channels.
- q) Contamination mitigation and remediation.
- r) The location of dwellings on a site.
- s) The proximity of existing lawfully established rural and non-residential activities and appropriate measures to avoid, remedy or mitigate reverse sensitivity effects on these activities including consideration of the following measures:
 - insulation of dwellings for noise purposes
 - setbacks of dwellings from boundaries including Zone boundaries
 - no complaints covenants
 - imposition of consent notices in respect of the above matters
 - location of larger lots (between 1,000m² and 4,000m²) adjoining non-residential activities to provide a buffer

NB Refer to Rules 28.3.4.3, 32.1.9.3 and 32.3.1A in respect of setbacks from the Blenheim Substation site (Section 1 SO 4246 Lot 1 DP 8572 and Part Section 1 SO 6959)

- t) Foundation Design:

All applications for subdivision consent for land shall be accompanied by a report from an expert acceptable to Council, detailing the investigations and showing the performance standards set out below have been met:

Performance Standards

- (i) For allotments within 200 metres of a waterway measured from the top of the closest bank cone penetrometer test (CPT) will be required for the purpose of evaluating the potential for lateral spread.

The testing frequency will be in accordance with the following table:

Equal to or greater than 1 hectare	Equal to or greater than 0.25 hectare and less than 1 hectare	Less than 0.25 hectare
0.25 per lot (minimum of 5)	5	1 per lot

At each CPT location the following shall be undertaken:

- a continuous profile of the subsoil to firm basement and
- measurement of depth to water table, and
- in-situ testing of all susceptible strata.

All susceptible strata shall be sampled and the construction of grading curves and atterberg limit tests determined.

The Performance Standards set out below in (ii) shall be met for vertical loading

- (ii) For allotments located more than 200 metres from a waterway measured from the top of the closest bank

Each allotment shall have at least four scala penetrometer tests for each allotment. Each sample point is to have a field value recorded, obtained in accordance with NZS4402:1988, and is to be geo-referenced to survey marks. The field values of the penetrometer test shall be interpreted in terms of kilo Pascals (kPa) and the basis for such interpretation defined.

Not less than one inspection pit shall be constructed for every 3 proposed allotments to confirm subsoil properties. The inspection pit shall be geo-referenced and shall include the logged soil profile.

Unless the recorded field soil strength from the scala penetrometer tests for an allotment is at least 300 kPa at a depth of at least 0.3 metres, below the soffit of the proposed foundations, then a consent notice will be imposed on the allotment requiring specific foundation design for any dwelling house at the time of building consent

provided that

Where the field results are less than 300 kPa and scala penetrometer driving refusal occurs at 2 metres or more in depth, then the performance requirements shall be -

- An Ultimate Limit State Settlement to be not greater than 100 millimetres, and
- A Service Limit State settlement not greater than 50 millimetres and

Where a Standard Penetrometer Test (SPT) count result is less than 12 (corrected in accordance with best practice), and depth to sediments achieving an SPT > 12 is greater than 2 metres, then the performance requirements are -

- An Ultimate Limit State Settlement to be not greater than 100 millimetres, and

- A Service Limit State settlement to be not greater than 50 millimetres.

28.3 Discretionary Subdivision Activities

28.3.1 Available in the -

- Rural 4 Zone
- Urban Residential 1 and 2 Zones and the urban Residential 2 Greenfield Zones
- Township Residential Zone
- Central Business Zone
- Neighbourhood Business Zone
- Lake Grassmere Salt Works Zone

Generally, subdivision in these zones is a Discretionary Activity if the proposal meets all of the standards specified. There are two exceptions to these general requirements, both involve a subdivision component with Limited Discretionary status. They involve Rule 28.3.3, "Standards for Access to Rear Lots", and Rule 28.3.4, "Limits to the Council's Discretion", which includes matters that relate to "State Highway", in Rule 28.3.4.2.

28.3.2 Allotment Standards (Discretionary Subdivision Activities)

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ⁴ see note below	Qualification
Rural 4	Front WO	less than 20 ha	NA		
Lake Grassmere Salt Works Zone	Rear WO	less than 20 ha	NA	NA	Access requirements apply, refer 28.3.3
Rural 4 above 1000 m altitude	All	100 ha	NA	NA	
Urban Residential 1	Front W	250 m ²	13 metre diameter circle	13	
	Rear W	250 m ²	13 metre diameter circle	NA	Access requirements apply, refer 28.3.3
Urban Residential 2 ¹ ² ³	Front W	350 m ²	14 metre diameter circle	14	

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ⁴ see note below	Qualification
	Rear W	350 m ²	14 metre diameter circle	NA	Access requirements apply, refer 28.3.3
Township Residential (excluding Renwick and Marlborough Ridge) And Deferred Township Residential	Front W	550 m ²	15 metre diameter circle	15	
	Front WO	950 m ²	15 metre diameter circle	15	
	Rear W	650 m ²	15 metre diameter circle	NA	Access requirements apply, refer 28.3.3
	Rear WO	950 m ²	15 metre diameter circle	NA	Access requirements apply, refer 28.3.3
Central and Neighbourhood Business Zones	Front W	NA	NA	NA	
	Rear W	NA	NA	NA	Access requirements apply, refer 28.3.3
Urban Residential 2 Greenfield Zone ⁴	Front W	Minimum 250 m ²	14 metre diameter circle	15	
	Rear W	Minimum 250 m ²	14 metre diameter circle	NA	Access requirements apply, refer 28.3.3.

¹ Provided that this shall not apply to those properties listed in Appendix H1. For these properties the Net Minimum Lot Area shall be 3,000 m².

² Provided that this shall not apply to those properties listed in Appendix H2. For these properties the Net Minimum Lot Area shall be 1,200 m².

³ Provided that this shall not apply to the property described at Lot 35 DP 32 Certificate of Title 28/292 Marlborough Registry (known as 23 Battys Road). For that property the net minimum lot areas will only apply provided a sewerage system can be installed for each lot having regard to servicing ability of trunk mains in the Springlands/Battys Road locality. The number and size of lots shall be fixed at no less a standard than provided for in the schedule above but otherwise shall be determined by what is physically achievable in terms of the capacity of the adjacent sewerage system. Any new allotment contained within (present) Lot 35 DP 32 Certificate of Title 28/292 Marlborough Registry, shall install an independent sewage pumping system serving one allotment only, if sewage pumping is required to access the sewer main.

⁴ If allotments (except for allotments less than than the minimum 400m²) do not comply with the Environmental Assessment Threshold Lot Area standards specified in Rule 28.2A .1 they are non-complying activities under Rule 28.4.1.

Notes:

- ¹ Lot areas prescribed are net areas, exclusive of access.
- ² The minimum building platform shape factors may be applied anywhere within the proposed allotment. Any building located within the building platform shape factor must comply with the bulk and location requirements of the respective zones and comply with the requirements of any easements.
- ³ Where more than 50% of a lot is above 1000 m altitude within the Rural 4 Zone, the lots shall be treated as being wholly above 1000 m.
- ⁴ Frontage below 15 metres is permitted for Urban Residential 1, Urban Residential 2, Township Residential (including and excluding Renwick), and Deferred Township Residential Zones, where a front lot with side boundaries diverging or opening out from the street has a minimum frontage of 6 metres and the site width, at a distance of 12 metres from the street, is not less than 17 metres

28.3.3 Standards for Access to Rear Lots (Limited Discretionary Subdivision Activities)

Important Note: Developers may employ either 'right of way', 'access leg' (provision for access included in the lot title) or "access lot".

Where a right of way is employed the line(s) defining the extent of that right of way on a survey plan shall be treated as a legal boundary for the purpose of building setback and recession plane controls for buildings (e.g. Urban Residential Zone Rule 32.1.3).

Zone	No. Lots Served	Min Width (m)	Min Formation Width (m)	Qualification
All Residential Zones	1	3	NA	
	2 - 4	3	2.5	Sealed
	5 - 6	5	4.5	Sealed. Width allows passing
Rural Residential	6 - 10	6	4	Sealed with passing bays at not more than 80 metre intervals
Industrial Zones	1 - 4	6	6	Sealed. Width allows passing

Zone	No. Lots Served	Min Width (m)	Min Formation Width (m)	Qualification
Rural Township	1	4	NA	
	2	5	3	Sealed
	3 - 4	6	4	Sealed
Rural 4 Zone	1	6	N/A	Unsealed
Lake Grassmere Salt Works Zone	2-4	6	4	Unsealed
	5-12	8	4	Unsealed
	12+	12	5.5	*

*Formation standard and legal status to be determined at the time of resource consent.

Where front lots are provided with legal rights over accessways or rights of way that serve rear lots, then those front lots shall count as rear lots for the purpose of calculating the number of lots served.

The legal width of access shall include any cut or embankment which is part of the physical formation.

For residential zone purposes, the standard of access required for the number of lots served is the same as for the number of units served (refer Urban Residential 1 and 2 Zone Rules 32.1.2.1.7 and 32.3.1)

Where the number of rear lots proposed exceeds the lot number maxima prescribed by the above table, access shall be provided by the vesting of legal road.

28.3.4 Limits to the Council's Discretion

28.3.4.1 Access to Rear Lots

Where a subdivision proposal meets all the Controlled Activity standards and the access standards comply with Rule 28.3.3, an application can be processed as a Limited Discretionary Subdivision Activity. In such cases the **Council's discretion will be limited to consideration of matters that related directly to the access.** These will include, but not be limited to:

- a) Standard of formation and maintenance requirements.
- b) The ability to adequately drain the access and its impact on drainage patterns on adjoining land.
- c) The quality of the intersection of the access with a public road.
- d) The proximity of existing buildings adjacent to the access.
- e) Whether other access options are available.
- f) The impact of widening the access on adjoining properties, vegetation and services.

- g) The impact of the potential number of vehicle movements on adjoining amenities.
- h) The number of vehicles that may use the access for parking.
- i) Provision for passing of vehicles.

Note: legal access widths apply to rights of way access legs and access lots.

28.3.4.2 State Highways

A subdivision proposal which meets all of the criteria for a Controlled Activity Subdivision and has frontage to a state highway in Rural Zones shall be considered as a Limited Discretionary Subdivision Activity and shall be subject to the standards (with the exception of Discretionary Allotment Standards), assessment criteria and conditions for discretionary subdivision activities, with the limitation being that Transit New Zealand is the sole potentially affected party in the context of the Act.

28.3.4.3 Blenheim Substation

A subdivision proposal which is located on the northern side of Old Renwick Road or on Thomsons Ford Road within a distance measured 150 metres of the Blenheim Substation site (Sec 1 SO 4246 Lot 1 DP 8572 & Pt Sec 1 SO 6959) shall be considered a Limited Discretionary Activity, with the limitation being that the Council will restrict the exercise of its discretion to

- (i) Those matters in 28.2A.1 and;
- (ii) The extent to which the subdivision may adversely affect the efficient operation, maintenance, upgrading and development of the Blenheim Substation;
- (iii) The extent to which the proposed subdivision design and layout enables appropriate separation distance between future sensitive activities and transmission lines, including safe separation distances in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP: 34 2001);
- (iv) The results of any detailed investigations to determine appropriate separation distances between potential future sensitive activities and the Blenheim Substation; and
- (v) Any other measures proposed to avoid or mitigate potential adverse effects, including reverse sensitivity effects, on the Blenheim Substation;

Transpower New Zealand Limited is the sole potentially affected party in the context of the Act in terms of (ii)-(v) above.

28.3.4.4 High Voltage Transmission Lines

A subdivision proposal, which otherwise meets all of the criteria for a Controlled Activity Subdivision and is within an area measured 20 m either side of the centre point of an electrical transmission line designed to operate at or above 110kV, shall be considered as a Restricted Discretionary Activity. The Council will restrict the exercise of its discretion to those matters in 28.2.5 and to the consideration of the effects of the subdivision on the high voltage transmission lines.

28.3.5 Assessment Criteria (Discretionary and Non-Complying Subdivision Activities)

(pursuant to Sections 67(1)(k) and 75(1)(k) of the RMA 1991)

- 28.3.5.1 The requirements of Sections 104, 105, 106, Part X and the Fourth Schedule of the Act and the New Zealand Coastal Policy Statement.
- 28.3.5.2 The Marlborough Regional Policy Statement.
- 28.3.5.3 The objectives and policies of the Wairau/Awatere Resource Management Plan. Refer to Volume One of this document.
- 28.3.5.4 Any applicable assessment criteria contained within the relevant zone rules of the Wairau/Awatere Resource Management Plan.
- 28.3.5.5 The Standard Requirements for Subdivision and Development and the assessment of effects on the environment required by that section of this Plan, and where appropriate, that assessment of effects shall include the likely effects of the proposal:
- 28.3.5.5.1 On the locality and the wider community and in particular:
- a) Whether the proposal will maintain or enhance the amenity values of the surrounding area, including those values identified in Appendix A of Volume One of the Plan;
 - b) Whether the proposal creates any demand for services or infrastructure at a cost to the wider community;
 - c) Whether the proposal contributes to the character of the surrounding area and helps maintain the cultural values of the community;
 - d) Whether the proposal would have an actual or potential effect on roading, traffic movement or safety;
 - e) Whether the proposal adversely affects water supply, increases fire risk, or reduces access to the coast and to rivers and lakes.
- 28.3.5.5.2 On the amenities of the surrounding area and, in particular, whether the end result of the proposed subdivision will:
- a) Adversely impact on the natural quality of any tree, or bush, or group of trees which makes a significant contribution to the visual qualities of surrounding area;
 - b) Visually intrude on any significant ridgeline or skyline or significant landscape;
 - c) Detract from any view or vista which contributes to the aesthetic coherence of a locality.
- 28.3.5.5.3 On any significant environmental features and in particular whether the end result of the proposed subdivision will:
- a) Adversely affect any habitat of indigenous species;
 - b) Compromise the integrity of any terrestrial or marine ecosystem.
- 28.3.5.5.4 On natural and physical resources such that any proposed subdivision:
- a) Compliments any building or other feature made by people in the locality which contributes to the character of the locality;
 - b) Maintains the quality and quantity of any water resource;

- c) Maintains or enhances the values supported by water bodies, including those identified in Appendix A of Volume One of the Plan;
- d) Does not increase any risk from natural hazards;
- e) Does not result in an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;
- f) Ensure that subdivision boundaries do not detrimentally affect the way land can be used for any permitted activity;
- g) Does not result in an adverse effect on any archaeological site registered by the NZ Historic Places Trust.

28.3.5.5.5 Whether having regard to specific engineering design the site(s) is (are) capable of receiving the discharge of on-site sewage and stormwater without adverse effects on the environment.

28.3.5.5.6 Whether the proposed subdivision is likely to have any adverse effects on the physical and natural environment including increased flood flows downstream or community such that some form of financial contribution is necessary and should be imposed as a condition of consent.

28.3.5.5.7 Where a subdivision is likely to be carried out in stages the developer must specify this to the Council at the time of the application and any related effects assessed.

28.3.5.5.8 The degree to which proposed new roads make adequate provision for vehicle movements, car parking and property access and the provision of alternative access for car parking and vehicle access in the Central Business or Neighbourhood Business Zone by way of vested service lanes at the rear of properties, having regard to alternative means of access and performance standards for activities within the zone.

28.3.5.5.9 Whether the location of boundaries and the shape of proposed lots have regard to significant topographic features.

28.3.5.5.10 Any cumulative effects that may arise as a result of the proposed subdivision.

28.3.5.5.11 Whether the proposed use of land subdivided within 20 metres of a high voltage transmission line (110kV or above), can be safely accommodated.

Note:

The New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34: 2001) regulates the minimum safety distance in which activities can be undertaken near high voltage electrical transmissions lines. Transpower New Zealand Ltd should be consulted prior to an application for subdivision being lodged with the Council, where the subdivision takes place near 110 kilo volt or higher transmission lines.

28.3.5.6 A comprehensive geotechnical report, carried out by a geotechnical expert accredited by the Council, where a subdivision resource consent application applies to any part of the land legally described as Lot 1& 2 DP 323372 and portions of Lot 1 DP 4447, Lots 1, 3 and 4 DP 8762 and Lot 2 DP 379514 or their successors, at Riverlands.

28.3.6 Resource Consent Conditions (Discretionary and Non-Complying Subdivision Activities)

28.3.6.1 Any resource consent for subdivision may include conditions relating to any of the following:

- a) The size, shape and position of any lot.
- b) The use of the site.
- c) Geotechnical report.
- d) Permanent potable water supply, water storage and water treatment.
- e) Effluent disposal systems and maintenance requirements.
- f) Controls to mitigate the effect of increased flows or adverse drainage.
- g) Stormwater control requirements.
- h) Service easements.
- i) Roading, access, passing bays, parking and manoeuvring standards including any necessary easements.
- j) Financial and land contributions in accordance with the requirements of this Plan.
- k) Provision of esplanade reserves and esplanade strips along the coastline and margins of lakes and rivers.
- l) Protection of existing vegetation and revegetation.
- m) The securing of any necessary covenants or other instruments to protect any significant environmental features or other special feature(s) on any lot.
- n) Fencing responsibilities to relate to public/reserve land only.
- o) Conditions relating to staged developments or the timing of any works by any conditions.
- p) Controls to mitigate the effects of subdivision construction.
- q) Setback of buildings and noise insulation of buildings.

28.3.7 Discretionary Activity - Special Subdivisions

Variation of the minimum area and shape will be considered under the following circumstances:

- a) To facilitate the protection of significant environmental features.
- b) For special purpose lots.
- c) For boundary adjustments.
- d) To allow Limited Discretion - allotment and access minima.
- e) For Integrated Residential Developments.

28.3.7.1 Special Purpose Lots

Notwithstanding anything in this part of the Plan, a lot appropriate for a special purpose as specified below, may be approved by the Council

- a) To be owned in common for access.
- b) As an access denial strip.

- c) For access from one public place to another public place.
- d) For waahi tapu land and other sites significant to iwi.
- e) For heritage sites.
- f) For reserves or land protected in perpetuity.
- g) For recreational facilities.
- h) For surplus land arising from new roading, road realignments and road widenings and for road to vest.

28.3.7.2 Boundary Adjustments

The Council may consent to the re-arrangement of existing lots where one or more lots do not comply with the minimum area requirements as set out in Rules 28.2.2 and 28.3.2, provided that the following standards are met:

28.3.7.2.1 The proposed subdivision shall not create any additional allotments or any additional new titles (excluding any reserves).

28.3.7.2.2 Any new allotment that is smaller than those the subject of the application may be created but subject to the following matters being addressed:

- a) Any significant environmental features on the site are protected through consent notice or similar means as a consequence of the subdivision;
- b) Access and servicing, as required by the Plan, is available to each lot, and, each lot provides sufficient area for a dwelling in accordance with Rule 29.1.5.2 "Suitable Building Platforms" and also meeting the standards for permitted activities in relation to building setback and/or recession plane controls.

28.3.7.2.3 Allotments comprised in the application must be contiguous in all zones except in the Rural 3 or 4 Zones where they may be separated by a road, railway, drain, water race, river or stream.

28.3.7.3 Integrated Residential Developments - Urban Residential 1 and 2 Zones

Notwithstanding the requirements of Rules 28.3.2 and 28.3.3 and subject to a combined Resource Consent Application for subdivision and land use, lesser standards will be considered.

28.3.7.3.1 Building concept drawings shall be lodged concurrently with the subdivision plan clearly prescribing the intended bulk and location of proposed structures (on dimensioned plans and elevation drawings).

28.3.7.3.2 The application will be required to confirm, in addressing Rule 28.3.5 that:

- a) The employment of reduced standards does not adversely affect local amenity values.
- b) The employment of reduced standards does not adversely affect the local land transport servicing infrastructure, including parking, manoeuvring and access to public roads.
- c) The assessment matters detailed in Rule 32.4.2 of the Urban Residential Zone controls are fully addressed.

- d) A condition requiring a consent notice on the title will be imposed with respect to the building plans that form part of the application.

28.3.7.4 Special Provision to Create a Single Rural Residential Allotment

- 28.3.7.4.1 The Council may consent to a subdivision for the creation of a rural residential lot to enable a dwelling house site to be subdivided from a parent allotment in circumstances which will ensure that any balance land will be amalgamated with adjoining property.
- 28.3.7.4.2 The minimum requirements for the new allotment to be created shall be the same as for the Rural Residential Zone.
- 28.3.7.4.3 Any subdivision undertaken in terms of this rule will render the subdivision potential of the balance area a Non-Complying Activity.

28.4 Non-Complying Subdivision Activities

28.4.1 Subdivision is a Non-Complying Activity where, the subdivision does not comply with one or more of the Permitted, Controlled or Discretionary Activity requirements for the:

- a) Rural 3 and 4 Zones;
- b) Rural Residential Zone;
- c) Urban Residential 1 and 2 Zones and Urban Residential 2 Greenfield Zone;
- d) Township Residential Zone;
- e) Central Business Zone;
- f) Neighbourhood Business Zone;
- g) Industrial 1 and 2 Zones;
- h) Rural Township Zone;
- i) Deferred Township Residential Zone;
- j) Airport Zone.

28.4.2 Subdivision is a Non-Complying Activity (with the exception of Utilities) in the:

- a) Conservation Zone;
- b) District Recreation Zone;
- c) Local Recreation Zone;
- d) Coastal Marine Zone;
- e) Ski-field Zone;
- f) On land within the Airport Noise Exposure Overlay.
- g) Township Residential Zone (Marlborough Ridge)

28.5 Procedural

- The Resource Management Act 1991 prescribes the legal process for change to or cancellation of a consent condition and/or objection to the Council's decision, as well as appeals to the Environment Court.
- A resource consent lapses on the expiry of two years after the date of commencement of that consent, unless the consent is given effect to, or after the expiry of such shorter or longer period as is expressly provided for in the consent. Section 125 of the Resource Management Act 1991 details matters of consent time extension.

