

<p style="text-align: center;">Wellington City District Plan – Omnibus Plan Change</p> <p style="text-align: center;">Esplanade Reserves and Esplanade Strips</p>
<p>Scope of Proposed Change</p> <p>To amend the provisions relating to esplanade reserves and esplanade strips to clarify how these are applied.</p>
<p>Background</p> <p>In accordance with the higher order policy direction set out below, the District Plan is required to include provisions requiring esplanade reserves or esplanade strips when land adjacent to the Coastal Marine Area (CMA) or adjacent to streams and rivers undergoes subdivision.</p> <p><i>National Direction</i></p> <p>Esplanade reserves/strips have purposes that relate to matters of national importance identified in Section 6 of the Resource Management Act (RMA) including s6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development; s6(d) the maintenance and enhancement of public access to and along the coastal marine area, and 6(h) the management of significant risks from natural hazards.</p> <p>The New Zealand Coastal Policy Statement 2010 (NZCPS) includes various policies relating to the protection, maintenance and enhancement of the coastal environment are relevant to the provision of esplanade reserves or strips. In particular, Policy 18, directs recognition be given to the need for public open space within and adjacent to the coastal marine area, including (among other matters) the important role of esplanade reserves and strips. Policy 19 directs the maintenance and enhancement of public walking access to, along and adjacent to the coastal marine area.</p> <p>Objective 1 of the National Policy Statement for Urban Development 2020 (NPS-UD) directs the need for well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future. This is considered relevant to this issue as a connected publicly accessible network of esplanade provides a range of benefits, including social and cultural.</p> <p><i>Regional Direction</i></p> <p>The Wellington Regional Policy Statement 2013 (RPS) contains objectives and policies that support and inform the requirement of esplanades in a district plan, in particular Policy 53.</p> <p><i>District Plan</i></p> <p>To achieve this higher order direction, the Subdivision chapter of the Council’s 2024 District Plan includes SUB-O2, that is specific to esplanades and seeks that the network of esplanade reserves and esplanade strips in Wellington is progressively increased.</p> <p>SUB-P9 (Esplanade requirements) is the policy that underlies this objective, and is as follows:</p> <p style="padding-left: 40px;"><i>Require the provision of esplanade reserves and esplanade strips where subdivisions are proposed adjacent to the CMA or rivers to enhance:</i></p> <ol style="list-style-type: none"> 1. <i>Public access to and along the coast and surface waterbodies;</i> 2. <i>Ecological, amenity and recreational values; and</i> 3. <i>Natural hazard resilience.</i> <p>Rules and standards in the Subdivision chapter give effect to this policy.</p>

Issue

There are two issues that need to be resolved through this plan change, being:

1. Under SUB-R1 the Council does not include a matter of control requiring the provision of esplanade reserves or esplanade strips in the Medium Density Residential Zone (MRZ) or High Density Residential Zone (HRZ); and
2. A lack of clarity with how financial compensation, or lack of, informs the assessment of esplanade reserve or strip requirements where lots created are greater than 4 ha and either landowner agreement or financial compensation is required.

Issue 1: SUB-R1 – Requirement for esplanade reserves and strip requirements in Medium and High Density Residential Zones

There is an existing lack of control included within rule SUB-R1 (Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone) to impose a requirement for an esplanade reserve or strip for an application for subdivision assessed under this rule.

SUB-R1 has a Controlled activity status and must be granted. In accordance with section 104A(b) of the RMA a consent authority can only impose conditions over which control is reserved in national environmental standards or other regulations; or over which it has reserved its control in its plan or proposed plan. As neither of these apply to the subdivision for the purpose of the construction and use of residential units in the MRZ or HRZ, esplanade reserves cannot currently be required.

There is land zoned MRZ and HRZ along the Porirua Stream where esplanade reserve or strip would not be required if subdivision were to be applied for under SUB-R1.

Whilst there are other provisions that seek to manage issues such as natural hazard risk of flooding and erosion along the Porirua Stream (including NH-R1.2, NH-R9 and NATC-R5), the creation of esplanade reserve or strip will enhance public access and opportunities for ecological restoration and maintenance.

Issue 2: A lack of clarity with how financial compensation, or lack of, informs the assessment of esplanade reserve or strip requirements where lots created are greater than 4 ha and either landowner agreement or financial compensation is required.

Feedback from the Council's Resource Consents team has highlighted an issue where there is a requirement, regardless of resulting size of land parcel, for an esplanade reserve or strip for any subdivision adjoining the CMA or rivers. While a district plan can contain rules requiring the vesting of esplanade reserve as part of any subdivision that create allotments greater than 4 hectares (ha) adjoining the CMA or a stream in accordance with s230 of the RMA, if there is no agreement from the landowner that compensation is not required, then the Council is required to financially compensate the landowner as set out in s237E(2) of the RMA.

The current esplanade reserve and strip provisions (SUB-P9 and SUB-S7) do not differentiate between subdivision lot size of less than 4 ha or greater than 4 ha, which has the potential to result in a resource consent being granted subject to the vesting of esplanade reserve for lots greater than 4 ha where there is no Council funding available for compensation. Conversely, where a proposed subdivision under SUB-R5.2 does not include vesting of an esplanade reserve or strip in accordance with the esplanade reserve standard (SUB-S7), this results in the activity status elevating from Restricted Discretionary to Discretionary. This could occur as a result of the applicant being advised that the Council do not have funding for compensation where lots under 4 ha are not being created and, on that basis, the proposed subdivision application not including creation of an esplanade reserve or strip.

Assessment of Options

Relevant Options

For the purposes of this evaluation, the following options have been considered:

- **Option 1:** Retain the status quo
- **Option 2:** Add esplanade reserve requirements as a matter of control to SUB-R1 and amend SUB-S7 (Esplanade reserves and esplanade strips) to only apply to lots less than 4 ha; or
- **Option 3:** Add esplanade reserve requirements as a matter of control to SUB-R1 and amend SUB-P9 (Esplanade requirements) to provide greater direction on when waivers or reduced esplanade reserves or esplanade strips may be acceptable.

Cost/Benefit Assessment

The options are assessed below. The assessment is additional to information in the [Section 32 - Part 2 - Subdivision](#), and is limited to the effect of the changes.

Option 1: Retain the status quo

Costs

Environmental

- Reduced ability for coordinated ecological restoration and enhancement to coastal and stream edges, and to freshwater ecology, and dune/stream bank stability.

Economic

- Nil.

Social

- Reduced opportunity for enhanced public access along stream.

Cultural

- Reduced opportunity for iwi to fulfil role of kaitiaki with respect to riparian margins.

Benefits

Environmental

- Nil.

Economic

- Not requiring esplanade reserve or strip may reduce resource consenting costs to landowners/developers.

Social

- Nil.

Cultural

- Nil.

Effectiveness and efficiency

Option 1 is not considered to be an effective or efficient option to address the resource management issue as it results in the Council not being able to require or assess the adequacy of esplanade reserves for subdivision undertaken under rule SUB-R1.

Overall evaluation of Option 1

Option 1 is not recommended.

Option 2:

- Add esplanade reserve requirements as a matter of control to SUB-R1 (Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone); and
- Amend SUB-S7 (Esplanade reserves and esplanade strips) to only apply to allotments less than 4 ha.

Costs*Environmental*

- Reduced ability for Council to obtain esplanade reserve as part of subdivision only creating lots larger than 4ha and the lost opportunity for ecological protection and restoration of these areas, including coast and stream bank stability.

Economic

- Potential loss of development capacity, specifically on sites along parts of the Porirua Stream.

Social

- Reduced ability for Council to obtain esplanade reserve as part of subdivision only creating lots larger than 4ha could result in missed opportunities to improve public access along the coastline

Cultural

- Reduced ability for Council to obtain esplanade reserve as part of subdivision only creating lots larger than 4ha could result in missed opportunities to improve public access along the coastline as use of these areas for activities such as cultural harvesting, and protection of mana whenua values associated with the natural coastal environment of Wellington.

Benefits*Environmental*

- Increased ability for coordinated ecological restoration and enhancement for subdivision assessed under SUB-R1.

Economic

- Improved certainty through the resource consenting process for subdivision adjoining the CMA or rivers could reduce costs of the consenting process.

Social

- Increased opportunity for enhanced public access along streams in urban areas as part of subdivision assessed under SUB-R1.

Cultural

- Increased opportunity for iwi to fulfil role of kaitiaki with respect to riparian margins in urban areas as part of subdivision assessed under SUB-R1.

Effectiveness and efficiency

Adding esplanade reserve requirements as a matter of control to SUB-R1 results in the Council being able to require or assess the adequacy of the esplanade reserve for subdivision undertaken under SUB-R1. This is considered an effective and efficient way to achieve the higher order policy direction, as well as SUB-O2 and the policy direction of the 2024 District Plan related to esplanade reserve provision and the benefits that result from esplanade reserve or strip creation.

However, amending the esplanade reserve standard (SUB-S7) to only apply to lots less than 4 ha would result in misalignment with the policy direction of the District Plan and have the potential to impede achieving the objectives of the chapter relating to esplanades (SUB-O2).

Overall evaluation of Option 2

Option 2 is not considered to be the most effective or efficient option and is not the preferred option.

Option 3:

- **Add matter of control to SUB-R1 (Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone); and**
- **Amend SUB-P9 (Esplanade requirements) to provide improved direction on when waivers or reduced esplanade reserves or esplanade strips may be acceptable; and**
- **Amend SUB-R3.1 to remove SUB-S7 as a permitted activity standard.**

Costs

Environmental

- Nil

Economic

- Potential loss of development capacity, specifically on sites along parts of the Porirua Stream.
- Costs to the Council for compensation where lots are greater than 4 ha in size.

Social

- Nil

Cultural

- Nil

Benefits

Environmental

- Increased ability for coordinated ecological restoration and enhancement for subdivision assessed under SUB-R1, and where an esplanade is provided where resulting lots are greater than 4 ha in size.

Economic

- Improved certainty through the resource consenting process for subdivision adjoining the CMA or rivers where lots are greater than 4 ha in size could reduce costs associated with the resource consent application.
- Improved clarity on landowner compensation for esplanade where lots are greater than 4 ha in size.

Social

- Increased opportunity for enhanced public access along streams in urban areas as part of subdivision assessed under SUB-R1 and where esplanade is provided where resulting lots are greater than 4 ha in size.

Cultural

- Increased opportunity for iwi to fulfil role of kaitiaki with respect to riparian margins in urban areas as part of subdivision assessed under SUB-R1, and where esplanade is provided where resulting lots are greater than 4 ha in size.

<p><i>Effectiveness and efficiency</i></p> <p>Option 3 is considered to be an effective and efficient option to address the resource management issue as it results in the Council being able to require and assess the adequacy of esplanade reserve for subdivision undertaken under rule SUB-R1.</p>
<p><i>Overall evaluation of Option 3</i></p> <p>The policy amendment to SUB-P9 would provide improved clarity for esplanade creation where resulting lots of a proposed subdivision are greater than 4 ha in size. The resource consent process could appropriately take into account whether there is compensation required, and if so whether there is Council funding available. If the Council (as the Territorial Authority, not Consenting Authority) advises that no Council funding is available, the consenting process can appropriately waive the requirement for esplanade to be vested.</p> <p>While this option does not resolve the matter of an application being required to include an esplanade reserve, if applicable, to meet the Restricted Discretionary activity status of SUB-R5.2 (that includes standard SUB-S7), and cascading to Discretionary status under SUB-R5.4, this issue is considered to be only applicable to a low number of rural properties located along the coast, with the number of future subdivision applications anticipated to be relatively low. Also, the improved policy direction with respect to waivers or reduced widths will assist the assessment of policy alignment of subdivision proposals.</p> <p>Overall, Option 3 is considered to be the most effective or efficient method for resolving the issue. The ability for the Council to require esplanades (subject to any compensation required) outweighs the potential cost and uncertainty that may result from a subdivision application being assessed as a restricted discretionary activity compared to a discretionary activity.</p> <p>For these reasons, <u>Option 3 is the preferred option.</u></p>
<p>Risk of acting/not acting</p> <p>There is sufficient information to analyse the appropriateness of acting or not acting as:</p> <ul style="list-style-type: none"> • The issue is well understood, and the recommended option provides greater alignment with the RMA, while remaining consistent with the objectives and policies of the District Plan; and • Overall, the risk of not acting is considered to be greater than the risk of acting.
<p>Consultation</p> <p>No consultation is required to inform a recommended option.</p>
<p>Recommended Option</p> <p>Following the assessment above, <u>Option 3 is recommended.</u></p>
<p>Recommended Changes</p> <ol style="list-style-type: none"> 1. Amend SUB-P9 2. Amend SUB-R1 3. Amend SUB-R3 <p>These changes are shown below.</p>

SUB-P9 Esplanade requirements

1. Require the provision of esplanade reserves and esplanade strips where subdivisions are proposed adjacent to the CMA or rivers to enhance:
 - a. ~~1.~~ Public access to and along the coast and surface waterbodies;
 - b. ~~2.~~ Ecological, amenity and recreational values; and
 - c. ~~3.~~ Natural hazard resilience
2. Only allow for the reduction or waiver of any esplanade reserve or esplanade strip requirements, where it can be demonstrated that:
 - a. The ecological values and natural character, landscape, historic heritage and natural function of the adjacent surface waterbody or area of coast can be maintained for the future; or
 - b. Safe public access, recreational use, and natural hazard management are:
 - Already available, or will be achieved with a reduced esplanade width, and can be maintained for the future; or
 - Not achieved irrespective of any reserve or strip being provided due to functional needs, operational needs, physical characteristics of the land, or other practical constraints; or
 - c. An esplanade strip would better provide for public access, recreation, natural hazard management, and ecological values compared to an esplanade reserve; or
 - d. Any reduction in width is offset by an increase in width in other locations which would result in a net positive public benefit, in terms of public access, recreation, or natural hazard management; or
 - e. Financial compensation from the Council is not available when required to compensate a landowner for the provision of an esplanade reserve or esplanade strip when allotments of 4 hectares or more are created when land is subdivided.

SUB-R1: Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone

		<p>1. Activity status: Controlled</p> <p>Matters of control are:</p> <ol style="list-style-type: none">1. The provision of practical, physical and legal access from each allotment directly to a formed legal road or by registered right of way;2. The provision of a water supply connection to the Council's reticulated water supply system for each allotment sufficient to meet the levels of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021 and the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008;3. The provision of a wastewater disposal connection to Council's reticulated wastewater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021;4. The provision of a stormwater connection to Council's reticulated stormwater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021;5. The provision of fibre optic cable connections to the legal boundary of each allotment;6. The provision of electricity connections to the legal boundary of each allotment;7. <u>The provision of an esplanade reserve and esplanade strip where subdivision creates an allotment adjoining the CMA or adjoins or contains a river whose bed has an average width of 3m or more where the river adjoins or flow through the allotment.</u>
	Medium Density Residential Zone	
	High Density Residential Zone	

SUB-R3	Boundary adjustments
<div></div> <p>All Zones, except for:</p> <p>General Rural Zone</p> <p>Large Lot Residential Zone</p> <p>Future Urban Zone</p>	<p>1. Activity status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> The boundary adjustment is not located in the General Rural Zone, the Large Lot Residential Zone or the Future Urban Zone; and Compliance with the following standards is achieved: <ol style="list-style-type: none"> SUB-S1; SUB-S2; SUB-S3; SUB-S4; <u>and</u> SUB-S5; and SUB-S7; and The boundary adjustment will not increase the degree of non-compliance with land use standards of the applicable Zone.
Consequential Amendments	
No consequential changes are needed, but note that PA-P2 cross-references SUB-P9.	
Monitoring	
A net increase in esplanade reserves and strips is the best indication that the proposed measures are effective.	