

SHARP TALK PRESENTATION

SESSION NOTES: 4th MARCH

A range of people including developers, planners and surveyors attended the March Sharp Talk on the Proposed Western Bay of Plenty District Plan. A shared concern was the economic feasibility of the new rules which severely restrict subdivision in the rural zone based on the justification that subdivision using Tradeable Development Rights (TDR) will be able to take place in 3 areas identified as the Lifestyle zone in accordance with yet to be prepared structure plans.

The Decisions

1. The Western Bay of Plenty District Council notified its decisions on the Proposed District Plan on 2 February 2010. While these decisions may still be subject to appeal the decisions will have weight when determining applications for resource consent.
2. The Rural Chapter of the Plan has had some changes through the submission process. There is no longer Rural 1, 2 and 3 zones but a Rural zone, a Rural Residential zone and a Lifestyle zone.
3. The main points to note are:
 - There are no transitional provisions for existing TDRs
 - The subdivision rules in the Rural zone are complex and restrictive
 - Subdivision in the Rural zone will generally be a discretionary activity if it complies with the activity performance standards (these are discussed below)
 - Subdivision that does not comply with the activity performance standards are non-complying activities
 - Subdivision in the Lifestyle zone is a discretionary activity if it complies with the structure plan
 - There is only 1 structure plan currently developed for Stage 1 in Te Puke.
 - There are no structure plans for the rest of Te Puke, the Minden or Katikati
 - Council has advised the Minden Structure Plan may be notified as a Plan Change in April 2010
 - Subdivision in the lifestyle zone therefore is effectively a non-complying activity

Tradeable Development Rights

There are now three different types of Development Rights as follows:

1. Transferable Rural Lot Entitlements
 - a. The purpose of these lots is to allow existing lots that qualify to obtain a transferable rural lot entitlement for use in the Lifestyle zone.
 - b. To qualify:
 - i. The existing lot must have been in a title which existed prior to 1 August 1992 or created by subdivision consent for which an application was lodged prior to 1 August 1992 and be at least 4 ha in area
Or
 - ii. Have been created by subdivision consent for which an application was lodged on or after 1 August 1992 but before 22 November 1997 and be at least 8ha in area
 - c. If the lot meets these qualifications then the maximum number of transferable entitlements able to be obtained from existing lots shall be:
Less than 30 ha – one entitlement
Lots of 30 ha or more – two entitlements
 - d. In order to exercise this entitlement the qualifying existing lot shall have registered against the title a Memorandum of Encumbrance which specifies that the transferable entitlement had been exercised and no further rights exist.
2. Transferable amalgamation lots
 - a. The purpose of this Rule is to encourage the aggregation of existing rural lots into larger land parcels in return for a transferable amalgamation lot entitlement for use in the Lifestyle zone or to create a lot around an existing additional dwelling under the Additional Dwelling Lots Rule.
 - b. To qualify the lots being amalgamated must:
 - i. Exist at 7 February 2009 or have subdivision consent as at 7 February 2009;
 - ii. Qualify for the erection of a dwelling in accordance with the performance standards in the plan
 - iii. The final amalgamated lot contain no more than 1 dwelling
 - iv. A Memorandum of Encumbrance registered against the title to prevent re-subdivision

3. Protection Lots
 - a. The purpose of this Rule is in exchange for the protection of ecological features of significance additional lots may be created over and above the number provided in the rural subdivision rules.
 - b. There is a maximum of 5 additional lots in Rural zone
 - c. To qualify as a controlled activity for on-site protection lots the following criteria must be met:
 - i. Up to 2 additional lots on sealed road
 - ii. No direct access to State Highway
 - iii. Maximum 1 ha
 - d. Transferable Protection Lot Credit is for use only in Lifestyle zone
 - e. In order to obtain a Protection Lot TDR certification of the ecological feature is required from an approved Ecologist.

Appeals

1. Any person who made a submission on a matter or provision in the Plan may appeal a decision of the Council to the Environment Court.
2. Appeals must be lodged within 30 working days of receiving the decision. We have calculated this to be 15 March 2010.

For further information, please don't hesitate to contact:

Darryl Fletcher	E: darryl.fletcher@sharptudhope.co.nz	P: 07 928 0780
Sacha Hollis	E: sacha.hollis@sharptudhope.co.nz	P: 07 928 0761