

Auckland Unitary Plan

# Practice and Guidance Note

## Rural Boundary Adjustment

**The definition of “boundary adjustment” in the Auckland Unitary Plan (Operative in Part) (AUP(OP)) provides for the alteration of boundaries between two or more contiguous sites.**

Pursuant to the E39 Subdivision – Rural provisions, Boundary adjustments in rural areas will either be a controlled activity where relevant area thresholds and standards are met (Activity (A4)), or a discretionary activity (Activity (A10)).

The definition of “boundary adjustment” does not allow for the relocation of a site and, therefore, any application that seeks to relocate a site will be a non-complying activity, as a form of subdivision not otherwise provided for (Activity (A27)).

The following guidance is designed to assist by outlining council’s interpretation and recommended administration of the rural “boundary adjustment” provisions of the AUP(OP), with reference to several possible scenarios.

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# 1 Introduction

A boundary adjustment is a method of subdivision that has historically been available in a number of planning documents applying to the Auckland region. Boundary adjustments provide an opportunity for landowners to adjust boundaries in a reasonably expeditious and efficient way, in order to adjust sites to address changes in rural operation or to allow for exchanges of land between contiguous sites.

The policy approach in the [AUP\(OP\)](#) to rural boundary adjustments is set out in [E39.3 Policies](#), with policies (3) and (6) providing:

- (3) *Manage rural subdivision and boundary adjustments to facilitate more efficient use of land for rural production activities by:*
  - (a) *restricting further subdivision in the Rural – Rural Production Zone, Rural – Mixed Rural Zone and Rural – Rural Coastal Zone for a range of rural production activities; and*
  - (b) *providing for the transfer of titles to certain Rural – Countryside Living Zones*
- ...
- (6) *Provide for minor boundary adjustment which enable a more efficient and effective use of land where there is compliance with Auckland-wide and zone rules.*

These policies are given effect to by the rural subdivision rules and standards, with boundary adjustments that comply with the 10% area threshold standard provided for as a controlled activity (Activity (A4)) and any other boundary adjustment, that does not comply with the same threshold standard, being a discretionary activity (Activity (A10)).

## 2 Boundary Adjustment Definition

[Chapter J1](#) of the AUP(OP) defines a “boundary adjustment” as follows:

*A subdivision of existing sites that:*

- *maintains the same number of sites following subdivision as existed prior to it;*
- *alters the boundaries between two or more contiguous sites, and*
- *may result in any one or more of the sites becoming larger or smaller.*

There are three parts to the above definition. The first and third parts accord with the common understanding of boundary adjustment subdivision, where there may be a change in site size but no change to the total number of sites involved in the application.

The second part of the definition requires that the boundary or boundaries involved are “between” sites (i.e. the boundary must be shared or common), and it necessarily follows that those sites must be contiguous.

The definition does not provide for the “relocation of sites” which formed part of some legacy plan definitions. Boundary relocations were deleted as a method of subdivision from the AUP(OP). The boundary adjustment definition in the AUP(OP) eliminates the possibility for the relocation of “the boundaries of sites that may or may not be contiguous” so as to better align the definition to the restrictive components of the objective and policy framework of the AUP(OP) and not allow the creation of additional rural lifestyle living opportunities through boundary adjustments).

Where a proposal does not satisfy the definition of “boundary adjustment”, Activity rules (A4) and (A10) cannot be relied on. The application would likely require consideration as a non-complying activity under Activity rule (A27) as a ‘subdivision not otherwise provided for’.

### 3 Controlled Activity Boundary Adjustment

Table E39.4.1 contains the following controlled activity rule:

Activity		Activity Status
A4	Boundary adjustments not exceeding 10 per cent of the original site area and meeting Standard E39.6.3.2	C

The controlled activity standard E39.6.3.2 referenced in Activity rule (A4) states:

**E39.6.3.2. Boundary adjustments that do not exceed 10 per cent of the original site size**

- (1) *All sites prior to the boundary adjustment must be contained within the same zone.*
- (2) *All service connections and on-site infrastructure must be located within the boundary of the site they serve, or have legal rights provided by an appropriate legal mechanism.*
- (3) *All sites must remain compliant with the applicable minimum site area and minimum average site area for the relevant zones.*
- (4) *Boundary adjustments must not result in the creation of additional titles.*
- (5) *If any boundary adjustment under this control creates the potential for additional subdivision or dwellings over and above what was possible for each site prior to the boundary adjustment a legal covenant or consent notice under s. 221 of the RMA is to be registered on the titles prohibiting;*
  - (a) *any further subdivision; and/or*
  - (b) *new dwellings.*

*\*Note: (5) remains subject to five appeals.*

To qualify as a controlled activity, a proposed boundary adjustment subdivision must:

- (a) Satisfy the definition of boundary adjustment in the AUP(OP);
- (b) Not exceed 10% of the original site area; and
- (c) Comply with Standard E39.6.3.2.

In relation to Standard E39.6.3.2(3), the applicable minimum site area and minimum average site area for the relevant zone is as stated in Tables E39.6.5.1.1 and E39.6.5.2.1. A rural-residential site established under an AUP(OP) in-situ subdivision rule (or an equivalent legacy plan rule) would not satisfy this requirement.

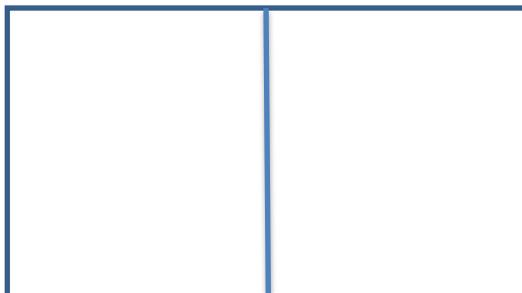
### Scenario 1

**This scenario shows two equal sized lots that share a common boundary.**

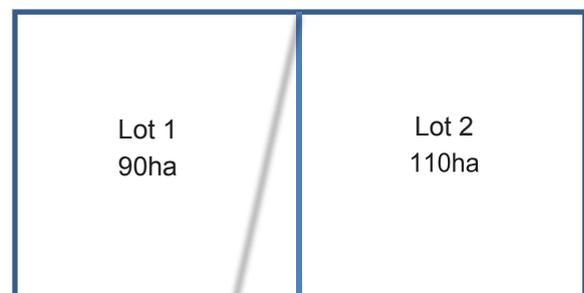
Both existing lots are 100ha and therefore comply with the minimum site size and average site size requirements in the Rural Production Zone (if we assume that is the relevant zoning in this case). The area of land exchanged between Lots 1 and 2 comprises 10ha (i.e. Lot 1 decreases in size by 10ha and Lot 2 increases in size by 10ha).

As the original site area of both lots changes by no more than 10% (i.e. 10ha divided by 100ha = 0.1 (10%)), there is no change to the number of lots involved and both proposed lots comply with the minimum site size and minimum average site size for the zone, this scenario is able to be processed as a controlled activity (assuming of course compliance with Standard E39.6.3.2).

**Existing**



**Proposed**



## Scenario 2

**This scenario shows three contiguous sites where multiple boundaries are to be adjusted simultaneously.**

All three existing sites meet the minimum site size and average site size of the Mixed Rural zone (if we assume that is the relevant zoning in this case). Lot 1 exchanges land with both Lots 2 and 3. Three hectares of land is given to Lot 2 while four hectares of land is gained from Lot 2 and five hectares of land is gained from Lot 3. The percentage area change is land given by Lot 1 is 3% (3ha divided by 100ha) while the percentage change in land gained by Lot 1 is 9% (9ha divided by 100ha). Lot 2 and 3 also comply:

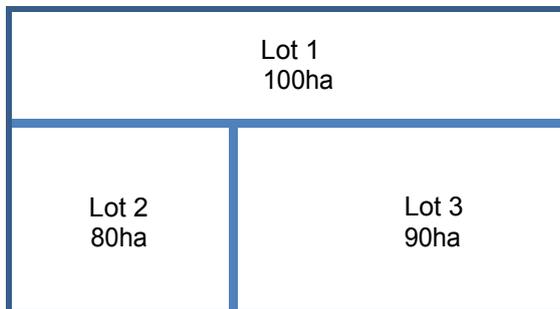
Lot 2 gains 3ha from Lot 1 = 3.75% change

Lot 2 gives 4ha to Lot 1 = 5% change

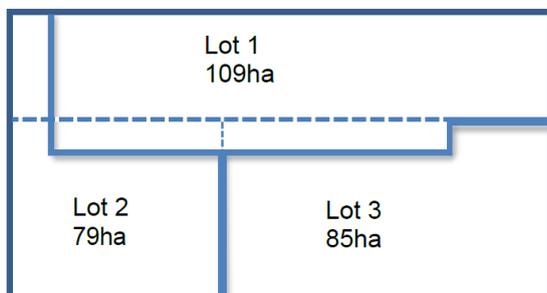
Lot 3 gives 5ha to Lot 1 = 5.55% change

As above, the proposal results in changes to the original sites areas for all lots of less than 10%. There is no change to the number of titles involved and all three proposed lots remain compliant with the minimum site size and minimum average site size for the zone. Assuming compliance with Standard E39.6.3.2, this can be processed as a controlled activity.

### Existing



### Proposed



## 4 Discretionary Activity Boundary Adjustment

Where a proposed boundary adjustment subdivision meets the definition of “boundary adjustment” but is unable to comply with either the controlled activity rule (A4) or standard E39.6.3.2, the AUP(OP) classifies the subdivision activity as a discretionary activity (A10).

Table E39.4.1 contains the following discretionary activity rule:

Activity		Activity Status
A10	Boundary adjustments unable to comply with controlled activity rule and standards in E39.6.3.2 and E39.6.3	D

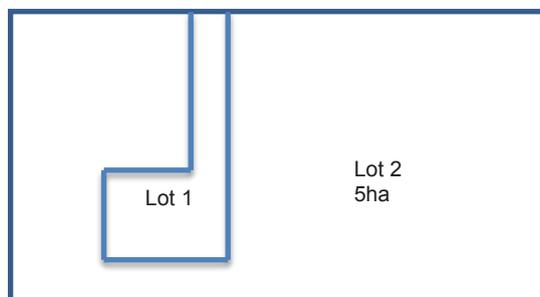
Some discretionary activity boundary adjustment scenarios are explained below:

### Scenario 3

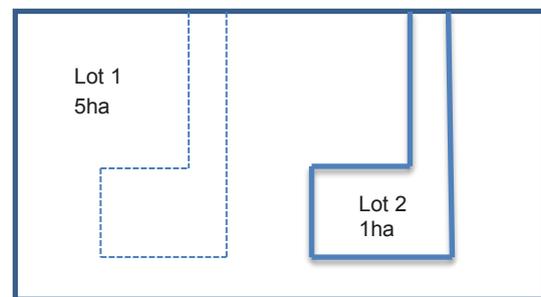
**This scenario involves two sites where Lot 1 is entirely contained within the larger Lot 2, with the common boundaries being all the boundaries of Lot 1 aside from the road boundary.**

These boundaries are all able to be altered under the boundary adjustment definition. Lot 1 becomes larger as it gains four hectares of land from Lot 2. This is a 400% change to the original site area of Lot 1. Lot 2 becomes smaller as it gives four hectares to Lot 1, also a 400% change. This will be a discretionary activity.

#### Existing



#### Proposed



### Scenario 4

**This scenario involves two sites with the common boundaries on two sides only.**

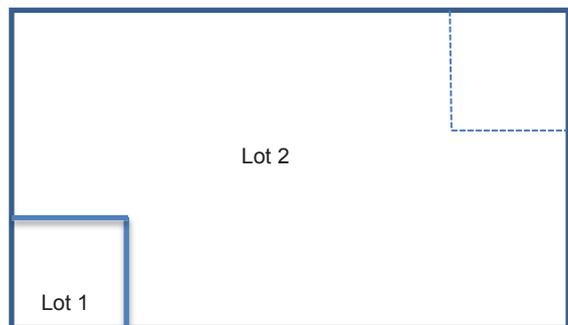
If the boundaries between Lots 1 and 2 were adjusted making Lot 2 the larger site and Lot 1 the smaller site, this would be a boundary adjustment but it would not comply with the 10% area threshold (Lot 1 only retains a small portion of its original area while Lot 2 becomes substantially larger).

Importantly, the proposal must be described as an exchange of land which makes one site significantly larger and the other site smaller, rather than a boundary relocation (which could seek to shift existing Lot 2 to the proposed Lot 1 location, and which would be a non complying activity under E39.4.2 (A27)).

**Existing**



**Proposed**



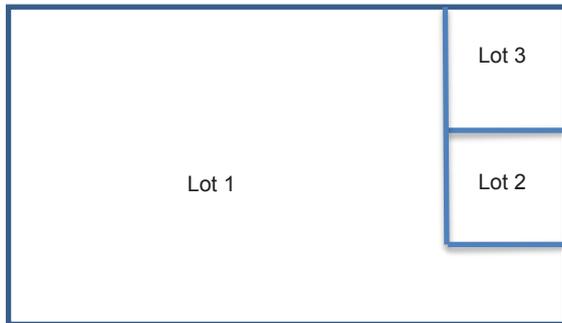
### Scenario 5

Similar to scenario 4 above, Lots 1 and 2 share two common boundaries on two sides, but each also share a common boundary with Lot 3.

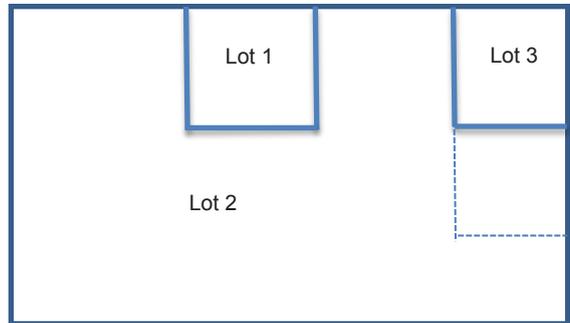
If the boundaries between Lots 1 and 2 were adjusted making Lot 2 the larger site and Lot 1 the smaller site, this would also be a boundary adjustment and again would not comply with the 10% area threshold (Lot 1 only retains a small portion of its original area while Lot 2 becomes substantially larger).

Just like scenario 4, the proposal must be described as an exchange of land to make one site larger and the other site smaller rather than a boundary relocation (which would instead be a non-complying activity under E39.4.2 (A27)).

**Existing**



**Proposed**



## 5 Boundary Relocations / Subdivision Not Otherwise Provided For

As per activity tables (E39.4.1 and E39.4.2), it is only boundary adjustments by definition that can be considered as either controlled or discretionary activities. Where a proposal falls outside of the definition in the AUP(OP) it is to be treated as a subdivision not provided for and processed as a non complying activity pursuant to Activity rule (A27), which provides "Any other subdivision not provided for in Tables E39.4.1 or E39.4.2".

### Scenario 6

**This scenario involves a relatively common rural scenario where there are multiple contiguous sites all in common ownership (all sites shown in the scenario 6 diagram below).**

In reliance on the former legacy "boundary relocation" provisions (the Rodney District Plan included a definition of "boundary relocation", as did the notified proposed AUP), it was possible to seek consent to relocate a site. While the same overall outcome could theoretically be possible through a series of discretionary activity boundary adjustments, this proposal is fundamentally presented as a boundary/site relocation which does not meet the definition of a boundary adjustment. It is therefore classed as a subdivision not otherwise provided for and must be considered as a non-complying activity under E39.4.2 (A27).

