

Before the Far North District Council's
PDP Hearings Panel

Hearing 16 - Subdivision

Lay Evidence of Ian Diarmid Palmer on behalf of himself re
submission S556

S556 Proposal

Change the word '**Allotment**' as used in **SUB-S1** to '**Site**' and/or otherwise clarify that the figures listed in SUB-S1 are intended to be measures of Site size.

S-42A Report Response

❖ Recommends Rejection

❖ Rationale:

“This [use of the term ‘Allotment’] is appropriate because subdivision controls focus on the establishment of new legal land parcels—i.e., allotments in the statutory sense. Conversely, the term “site” is a planning concept primarily used to apply land use and development controls to existing properties, which may comprise one or more allotments that cannot be dealt with separately without prior council consent. Using “site” in the context of SUB-S1 could introduce ambiguity by potentially capturing existing landholdings made up of multiple allotments, thereby extending subdivision minimum size requirements to properties not subject to subdivision. Therefore, the use of “allotment” appropriately limits the minimum size standards to new legally created parcels, ensuring that the rules align clearly with the subdivision framework under the RMA and avoid unintended consequences in plan interpretation and application.” [Emphasis added]

Land Fragmentation Definitions

❖ Land in NZ is fragmented in (at least) five ways:

1. **'Allotment' & 'Lot'** well defined in the PDP ('per section 218 of the RMA') and appears 525 times in Notified PDP
2. **'Title', 'Certificate of Title' & 'Record of Title'** used interchangeably in PDP but not defined and appears 60 times (presumably all mean '*Record of Title*' as defined in the Land Transfer Act 2017)
3. **'Site'** well defined in the PDP and appears **2,245 times**
4. **'Rating Unit'** not defined or used in the text of the PDP but used in e-Plan under '*Non-District Plan Layers*' '*Property*' as the only means of visualizing current fragmentation of land
5. **'Property'** not defined in the PDP but used 146 times (presumably means per the common use '*a contiguous or semi contiguous area of land that is in common ownership*')

❑ e-Plan doesn't allow Lots, Titles, Sites or Properties to be individually identified spatially despite those terms being used in the PDP text, but does identify Rating Units spatially which is not used anywhere in the PDP text

Consequences of Land Fragmentation Definitions:

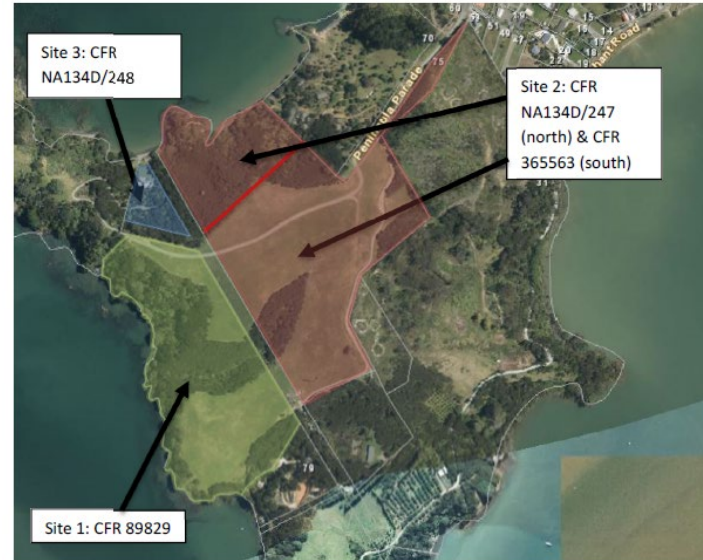
- ❖ A single **Property** can be comprised of **multiple Rating Units** (quite common with rural lifestyle Properties)
- ❖ A single Rating Unit can be comprised of multiple Sites (very common with farm properties)
- ❖ A single Site can be comprised of multiple Titles (uncommon but can arise eg from conditions of subdivision consents)
- ❖ A single Title can be comprised of multiple Allotments (very common, particularly in rural areas including where Titles straddle 'Paper Roads')

Relevance of Land Fragmentation Definitions to Subdivision

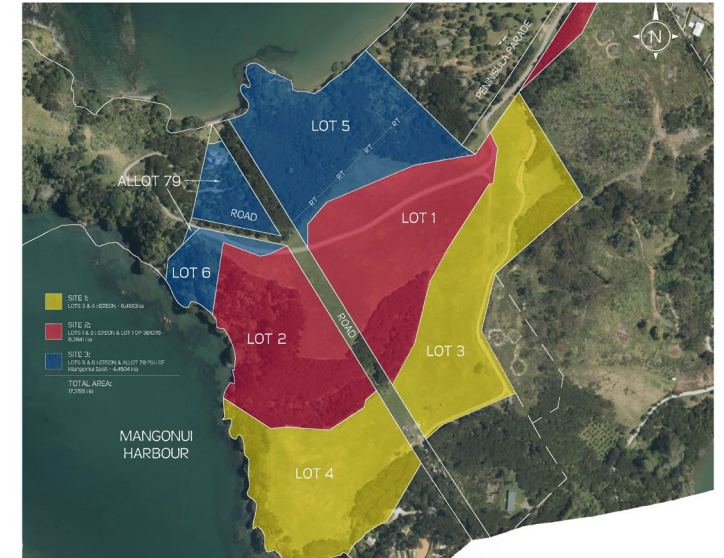
- ❑ By its definition **Site** is the smallest fragmented piece of land that can be ‘dealt’ with; ie acquired by a new owner (an individual Lot or individual Title can not be dealt with separately if it’s not the whole Site)
- ❑ **Subdivision in district planning context (rather strict Land Transfer legal context) is concerned with further fragmentation of the land, so it’s the creation of additional Sites that’s relevant not the creation (or amalgamation) of Lots, Titles, Rating Units or Properties.**
- ❑ **Large sophisticated Local Authorities such as Auckland have moved away from ‘Minimum Allotment Size’ to ‘Minimum Site Size’ (or ‘Minimum Net Site Size’ as a refinement thereto’). Auckland state:**
 - *“The decision to use ‘site’ within the AUP allowed Council to establish a term distinct from that of ‘allotments’ in the RMA through which it could implement various development controls (e.g. site size and shape etc). “Site” is defined in the AUP as only capturing areas of land on a certificate of title or on an approved survey plan, and consist of more than 1 allotment where those allotments cannot be dealt with separately. The definition of site is narrower than that of ‘allotment’ in the RMA and allowed the drafting of detailed subdivision control standards.” - [part of a LGOIMA Response]*

Example: RC No. 2160461-RMASUB

FNDC Planners treat 'Minimum Lot size' as if it was 'Minimum Site Size' in evaluating RC applications



- One Property
- Three Rating Units
- Three Sites
- Four Titles
- Five Allotments



- One Property
- Three Rating Units
- Three Sites
- Three Titles
- Eight Allotments

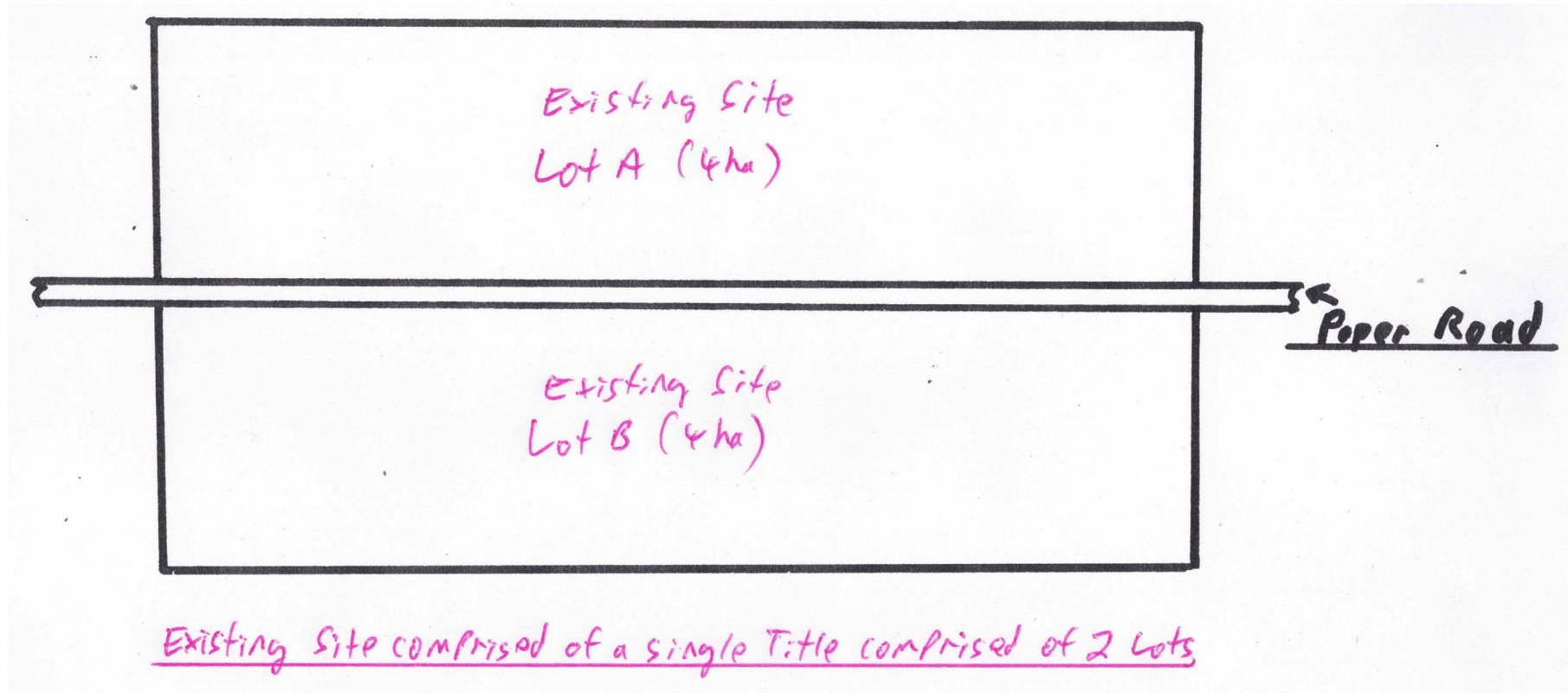
- ❖ *Boundary changes treated as 'non-complying' subdivision as all new Sites less than 20Ha (Minimum Lot Size for restricted discretionary subdivision in General Coastal zone)*
- ❖ *But consented to as no new **Sites** created*
- ❖ *sub-division created additional smaller lots - not considered relevant by FNDC planners*

Unintended Consequences - Hypothetical Example

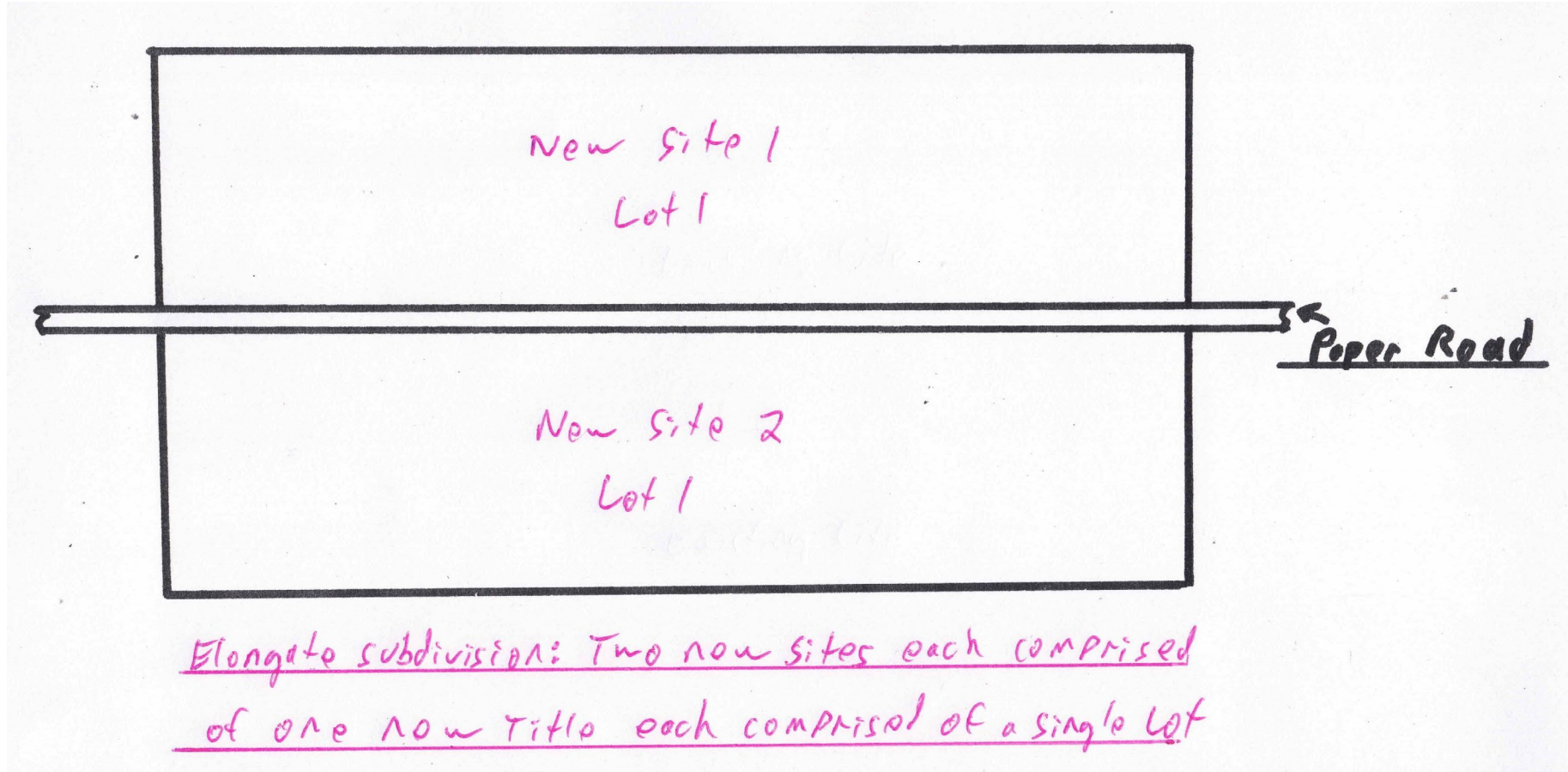
- ❖ An existing Site consists of a single Title with a single Allotment of 8Ha size; dimensioned 400m * 200m
- ❖ Minimum Lot Size standard for Controlled subdivision= 4Ha
 - Subdivide into two new equal sized Sites, either:
 - Elongate shaped new Sites: 400m * 100m
 - or
 - Compact shaped new Sites: 200m * 200m (generally considered preferably over elongate shape)
- ❖ LINZ will issue two new titles in both cases, each new title comprised of one allotment
- ❖ All new allotments =4Ha so subdivision complies with Controlled subdivision standard in either case

- ❖ Same scenario but with a 'paper road' down middle of long axis of the existing Site
ie 8Ha existing Site consists of a single Title comprised of two Allotments one on each side of Paper Road (each existing Allotment: 400m*100m=4Ha)
 - Subdivide existing Site into two new equal sized Sites, either:
 - Elongate shaped new Sites, one on either side of 'Paper Road'
 - or
 - Compact shaped new Sites straddling 'Paper Road'
 - ✓ Elongate case all new Allotments =4Ha so compliance with Controlled standard achieved
 - Compact case, LINZ would issue the two new titles comprised of two lots each; ie four new lots each 2Ha so compliance with Controlled standard not achieved

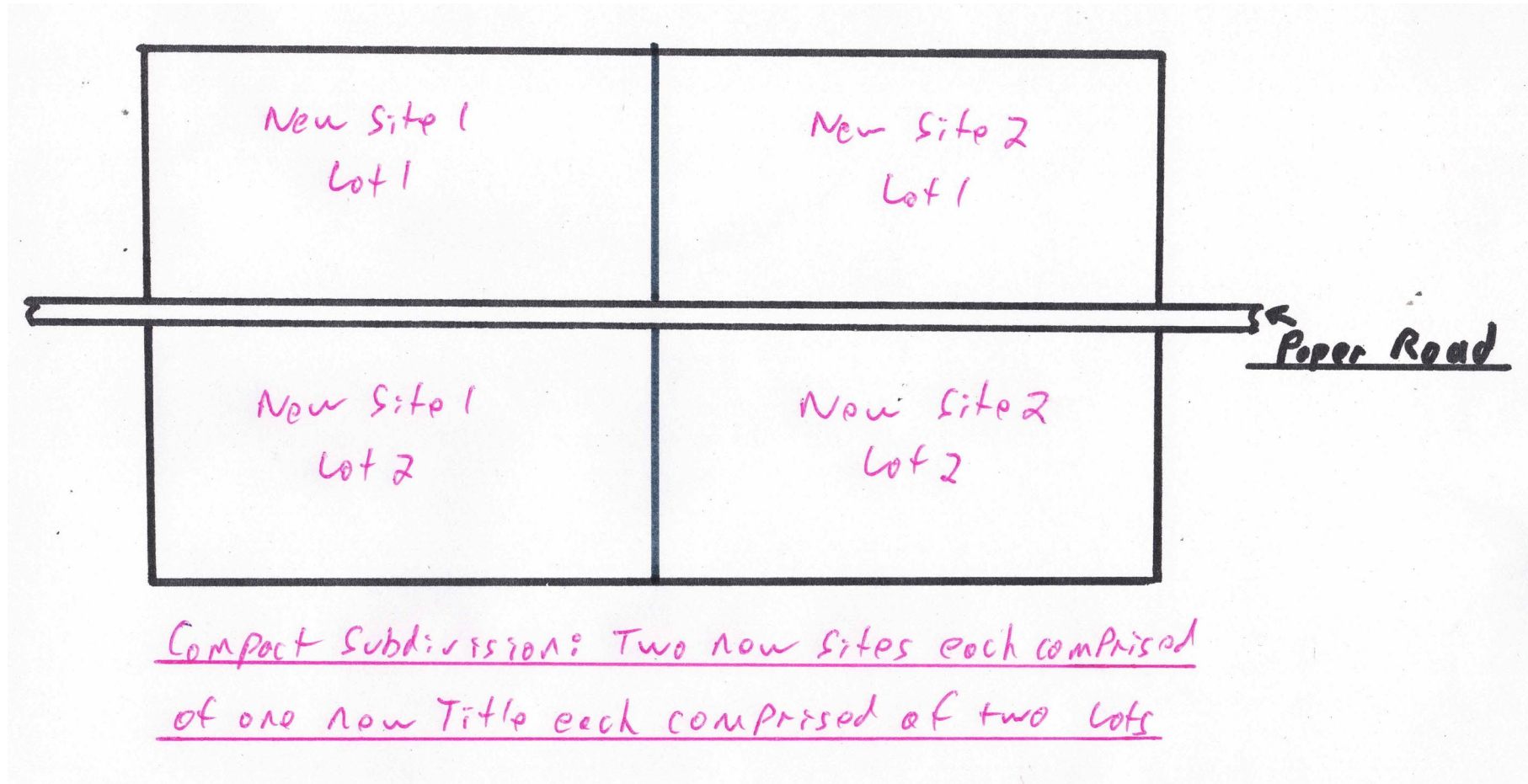
Unintended Consequences - Hypothetical Example



Unintended Consequences - Hypothetical Example



Unintended Consequences - Hypothetical Example



The resulting compact new Sites create no more fragmentation than the elongate new Sites case - so why should one be complying with the standard and the other not? - UNINTENDED CONSEQUENCE!

S.42A Rejection Rationale Unclear & Unsupported by Evidence

❖ **S.42A Rejection Rationale:**

“Using “site” in the context of SUB-S1 could introduce ambiguity by potentially capturing existing landholdings made up of multiple allotments, thereby extending subdivision minimum size requirements to properties not subject to subdivision.”

What do those high-lighted words mean in practice? – no example given to explain

“ use of “allotment” appropriately limits the minimum size standards to new legally created parcels, ensuring that the rules align clearly with the subdivision framework under the RMA and avoid unintended consequences in plan interpretation and application.”

What unintended consequences? – no example given to illustrate concern

In Conclusion

- ❖ Unintended consequences can result from 'Minimum Allotment Size' per example given
- ❖ No conceivable example of an unintended consequence if use 'Minimum Site Size'
- ❖ FNDC planners have been reading 'Minimum Allotment Size' to mean 'Minimum Site Size' in Resource Consent evaluations → FNDC's legal exposure
- ❖ PEC calculations produce perverse results if compare existing number of Allotments to potential number of Allotments in 'up-zoning' analysis ($PEC = \text{Area} \div \text{Minimum Allotment Size}$)
- ❖ Particularly larger more sophisticated Councils tending to migrate away from Minimum Allotment Size as used in their predecessor ODPs
- ❖ Auckland Council use 'Minimum Net Site Size' in current operative Auckland Unitary Plan and report no problems arising (in answer to a LGOIMA request put to them)