

Memorandum

To: **Planning and Policy Manager: Katherine Overwater**

CC: **General Manager Planning and Development: Michael Day**

From: **District Planner: Paul Waanders**

Date: **17 December 2025**

Subject **Clause 20A Correction Operative District Plan: Correction of Rule 13.10.5 Maximum Height in the Operative District Plan in relation to the Cove Road North Precinct**

Background Context

Private Plan Change 83 (**PPC83**) Cove Road North Precinct was approved by Kaipara District Council on 26 June 2024. The Council's decision was appealed to the Environment Court by Mangawhai Matters Limited (**Appeal**). The Appeal was the subject of a determination by the Environment Court dated 1 October 2024 (**Decision**), following the filing of consent documents that were agreed between the parties and which amended the PPC83. The amendments ordered by the Environment Court in the Decision were incorporated into the Operative District Plan on 26 November 2024.

PPC83 introduced into the Operative District Plan bespoke provisions applicable only to the area subject to The Cove Road North Precinct Plan. Within those provisions there were exceptions and further additional requirements applying with the Cove Road North Precinct Northern Sub-Precinct (Attachment A shows the map of Zoning and the Sub Precinct).

Relevant Operative District Plan provisions

Rule 13.10.5 Maximum Height in the published Operative District Plan currently states as follows:

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|---------|----------------|---|-----------------------------------|
| 13.10.5 | Maximum Height | <p>1. Any building <u>except where it is located within the Cove Road North Precinct and/or Northern Sub-precinct</u> is a Permitted Activity if:</p> <ul style="list-style-type: none"> a. The building does not exceed 10m in height, where it is not within an Overlay area; or b. The building does not exceed 8m in height, where it is within an Overlay area. <p>Note 1: For sites within an Outstanding Natural Landscape, Rule 13.10.3c shall also apply.</p> | Restricted Discretionary Activity |
|---------|----------------|---|-----------------------------------|

That wording implies that the whole of the Cove Road North Precinct is not required to comply with the maximum height limits in rule 13.10.5(a) and (b).

However, the amendment to rule 13.10.5 that was approved by the Environment Court in the Decision (Attachment B) did not include the words “and/or” between “North Precinct” and “Northern Sub Precinct”. It is clear from the amendment that was made by the Decision, and which is set out below, that the exemption from the maximum building heights in rule 13.10.5(a) and (b) should only apply to the Cove Road North **Sub Precinct**.

| | | | |
|---------|-----------------------|--|-----------------------------------|
| 13.10.5 | Maximum Height | <p>Any building <u>except where it is located within the Cove Road North Precinct, Northern Sub Precinct</u> is a Permitted Activity if:</p> <ul style="list-style-type: none"> a) The building does not exceed 10m in height, where it is not within an Overlay area; or b) The building does not exceed 8m in height, where it is within an Overlay area. <p>Note 1: For sites within an Outstanding Natural Landscape, Rule 13.10.3c shall also apply.</p> | Restricted Discretionary Activity |
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Ability to correct minor errors in the Operative District Plan

Clause 20A of Schedule 1 of the Resource Management Act 1991 (**RMA**) enables the Council to amend the Operative District Plan to correct any minor errors without using the notification and consultation processes set out in Schedule 1 of the RMA.

Case law indicates that the types of “minor errors” that can be corrected using the power in clause 20A are typographical errors or error arising from an accidental slip or omission. The use of the “slip rule” is only applicable when it is used to correct a slip in the “expression” of the statement and not the “content.”

In this case, the deletion of the words “**and/or**” from rule 13.10.5 and to add a comma between “**North Precinct**” and “**Northern Sub Precinct**” is necessary to correct a minor error in the Operative District Plan. The relevant error is that the amendment made to rule 13.10.5 in the Decision has not been accurately carried over into the text of the Operative District Plan.

It is therefore considered that the corrections proposed can be made using the power in Clause 20A of Schedule 1 of the RMA.

Delegation

The authority to make minor amendments and to correct minor errors on the Operative District Plan pursuant to Clause 20A of Schedule 1 of the RMA has been delegated to the Planning and Policy Manager.

Recommendation

Correct a minor error in the Operative District Plan by amending rule 13.10.5 as set out below (in ~~strikeout~~ and underline) pursuant to Clause 20A of Schedule 1 of the RMA

| | | | | |
|----------------|-----------------------|--|-----------------------------------|---|
| 13.10.5 | Maximum Height | Any building except where it is located within the Cove Road North Precinct, and/or Northern Sub Precinct is a Permitted Activity if: a) The building does not exceed 10m in height, where it is not within an Overlay area; or b) The building does not exceed 8m in height, where it is within an Overlay area. Note 1: For sites within an Outstanding Natural Landscape, Rule 13.10.3c shall also apply. | Restricted Discretionary Activity | Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent: i. The scale and bulk of the building in relation to the site; ii. The functional requirements of the building; iii. The extent to which the effects of the height infringement can be mitigated by setbacks, planting design or the topography of the site; iv. Effects on the locality, particularly residential character and amenity values and those values associated with Overlay Areas (as identified in the Objectives and Policies for overlays, Chapter 4); v. If located within an Overlay, the extent to which the values identified in the Objectives and Policies for Overlays (Chapter 4) are present on the site, and the extent to which the proposal is compatible with those values; vi. Effects on availability of sunlight to other properties; and vii. The extent to which the proposal will affect the values of any Outstanding Natural Landscape identified in Map Series 2 and if applicable the extent to which the subdivision, use or development meets the additional assessment criteria contained in Appendix 18B. |
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Note 1: A description of the landscape features is provided in Appendix 18A. The values associated with the Outstanding Natural Landscapes are described in the Kaipara District Landscape Technical Report (2010).



PG Waanders

District Planner

17 December 2025

Recommendation is approved.



Katherine Overwater

Planning and Policy Manager

17 December 2025