

Memorandum

To: Manager Planning and Policy: Katherine Overwater

From: Casual Planner: Paul Waanders

Date: 16 March 2026

**Subject: Clause 20A Correction of the District Plan in relation to Chapter 16 - Estuary Estates
(Mangawhai Central)**

Background Context

1. Private Plan Change 78 Estuary Estates (Mangawhai Central) became operative on 22 July 2022 after the full process prescribed in the Resource Management Act 1991 (RMA) had been followed.
2. The Plan Change, changed the entire Chapter 16 in the Operative District Plan and was submitted using the strikethrough method, resulting in many provisions being deleted and new provisions being introduced.
3. The final document had to be renumbered to remove all the deleted phrases and include the new phrases but also required cross referencing to different provisions to be correlated.
4. Care was taken to match the cross referencing, but some cross references were either missed or were incorrectly cross referenced, whilst provisions were moved around within the documentation.
5. The applicant was requested to peer review staff's attempt to consolidate the Plan Change provisions and to check the cross referencing. The consultant accepted the 'clean' version and the provisions were submitted to Council for final approval.
6. Staff were subsequently made aware that some of the cross referencing were not correct and should be corrected in terms of the provision in Clause 20A Schedule 1 of the RMA¹.

Three sets of urgent corrections (directly affecting the development) have already been made and an audit was undertaken to establish if further corrections should be made. The developer has engaged a different planner and together staff and the applicant's planner assessed the full text for possible errors using the original Court decision.

¹ This provision enables Councils to amend, without using the Schedule 1 process, an operative plan to correct minor errors

7. Further errors were found where the fence height approved by the Court was identified as 1.8m and was erroneously included in the published document as 8m.

The following extracts illustrates the incorrect transfer of the fence height with the green text being the Court decision and the black highlighted (in yellow) the erroneous inclusion of the fence height published in the Operative District Plan

Court Decision PPC78

16.8.2.14 Fencing

i. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control).

ii. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Plan. The fence shall:

- Where the fence forms a side or rear boundary of a residential allotment:
 - have a minimum height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
- Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
 - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
 - include a landscaped hedge between the fence and road reserve.
- Include self-closing gates to the gum diggers track in appropriate locations.
- If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

District Plan Provisions

16.5.1.12 **Fencing**

1. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control).
2. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Plan. The fence shall:
 - Where the fence forms a side or rear boundary of a residential allotment:
 - have a minimum height of 8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
 - Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
 - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
 - include a landscaped hedge between the fence and road reserve.
 - Include self-closing gates to the gum diggers track in appropriate locations.
 - If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

Court Decision PPC78

8. Fencing

i. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control). This shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the site concerned.

ii. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Plan. Where relevant to a residential allotment, this shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the land concerned.

The fence shall:

- Where the fence forms a side or rear boundary of a residential allotment:
 - have a minimum height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
- Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
 - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
 - include a landscaped hedge between the fence and road reserve.
- Include self-closing gates to the gum diggers track in appropriate locations.
- If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

District Plan Provisions

16.7.4.4 Subdivision Design

5. Fencing

- i. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control). This shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the site concerned.
- ii. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Where relevant to a residential allotment, this shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the land concerned.

The fence shall:

- Where the fence forms a side or rear boundary of a residential allotment:
 - have a minimum height of 8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
- Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
 - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
 - include a landscaped hedge between the fence and road
- Include self-closing gates to the gum diggers track in appropriate
- If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

8, In both Rule 16.5.1.12 and Rule 16.7.4.4 the 8m provision needs to be changed to 1,8m in accordance with the Court decision.

Legal Position

Clause 20A enables a Council to amend its operative plan to correct any minor errors without the using the First Schedule of the RMA. Case law has determined what constitutes an 'error' and what a 'minor' error will be. An error can contain a clerical mistake of error from an accidental slip or omission, but the use of the slip rule is only applicable when it is used to correct the slip in the "expression" of the statement and not the "content." In this case, the correlating numbering through cross referencing was inaccurate due to the many deletions and inclusions that were developed through the processing of the Plan Change and the amount of track changes that were made throughout the process.

The final version was checked by the contracted planners and the consultant for the applicant before they were signed off and submitted to Council for formal approval. However, not all the errors were picked up resulting in the clause 20A corrections required.

Delegation

The authority to make minor amendments to correct minor errors on an Operative District Plan has been delegated to inter alia the Manager Planning and Policy

Recommendation

That the erroneous references to **8m** in the clauses be corrected to read **1.8m**.



Paul Waanders

Casual Planner

16 March 2026

Recommendation is approved/not approved /approved with amendments.



Katherine Overwater

Planning and Policy Manager

13 April 2026