

Memorandum

To: General Manager, Planning & Development (Acting): Lloyd Barton

From: Casual Planner: Paul Waanders

Date: 13 May 2026

Subject: Clause 20A Correction of the District Plan in relation to Chapter 13B Cove Road North Precinct Rule 13.13B.1

Background Context

1. Private Plan Change 83 Cove Road North Precinct became operative on 5 November 2024 after the full process prescribed in the Resource Management Act 1991(RMA) had been followed.
2. The Plan Change, changed Chapter 13 in the Operative District Plan and was submitted using the strikethrough method, resulting in many provisions being deleted and new provisions being introduced including splitting the Rules of precinct Plans into Chapter 13A (Awakino Dargaville) and Chapter 13B (Cove Road North)
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. 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.

Please see the extract from the Court Decision on the next page.

Extract from the Court Decision

<p>13.12.2</p>	<p>The Cove Road North Precinct Subdivision</p>	<p>General Rules:</p> <p>xxii. <u>Subdivision within the Cove Road North Precinct</u></p> <p>a) <u>Subdivision within the Cove Road North Precinct</u></p> <p>b)</p> <p>c) <u>Is not subject to Residential Zone rules 13.11.1 – 13.11.3, 13.12.1, 13.13.1 and 13.13.2.</u></p> <p>d) <u>Is subject to rule 13.12.2.</u></p> <p>e) <u>Must comply with the relevant Performance Standards in Section 13.14.</u></p> <p>Subdivision Design Rules:</p> <p>(2) <u>Any subdivision within the Cove Road North Precinct is a restricted discretionary activity where:</u></p> <p>a) <u>Every allotment has a minimum net site area of 600m² except where the proposed allotment is located within the Northern Sub-precinct Area as shown on Precinct Plan 1; or</u></p> <p>b) <u>Every proposed allotment within the Northern Sub-precinct Area as shown on Precinct Plan 1 has a minimum net site area of 1000m²; and</u></p> <p>c) <u>Rules 13.12.2 (2)a). and 13.12.2(2)b) shall not apply to the subdivision of dwellings that have an approved land use consent under rule 13.10.3a(2) provided that the boundaries of the proposed allotments shall result in compliance with rules 13.10.7(3), 13.10.11(2), 13.10.12(2) and 13.10.13 (2) unless otherwise approved by the land use consent.</u></p> <p>Ecological Enhancement Rules:</p> <p>(3) <u>Any subdivision within the Cove Road North Precinct is a restricted discretionary activity where the site contains an ecological feature including indigenous terrestrial or aquatic habitats shall legally protect any indigenous habitats on site in perpetuity and manage the ecological feature on an on-going basis in accordance with an approved Ecological Enhancement and Management Plan.</u></p> <p>(4) <u>Any subdivision in accordance with rule 13.12.2 (3) shall provide:</u></p> <p>a) <u>A detailed Ecological Assessment prepared by a suitable qualified ecologist identifying and delineating all natural features contained within the site boundaries and assesses the effects of the proposed site development on these features, and provide recommendations how these may be avoided, remedied or mitigated; and</u></p> <p>b) <u>An Ecological Enhancement and Management Plan designed to ensure that all ecological features are appropriately enhanced as part of site development works.</u></p> <p>c) <u>A Wetland Assessment prepared by a suitably qualified ecologist identifying any potential effects associated with the development proposal on wetland features and how these will be avoided, remedied or mitigated, where 'natural wetland' areas as defined under NPSFM (2020) are located within a 100m setback from the proposed site development works.</u></p> <p>Activity Status Rule:</p> <p>(5) <u>Any subdivision that does not comply with the standards of rules 13.12.2 (2) and 13.12.2(3) shall be a discretionary activity.</u></p> <p>Note 1: <u>For the avoidance of doubt, this rule does not address the actual or potential adverse effects of contaminants in soil on human health, which is covered by the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. All subdivision relating to land that is contaminated or potentially contaminated, because of its past, present or likely use of the land for an activity or industry described in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL), is required to be assessed, and may require consent, under the Regulations.</u></p>	<p>Council will restrict its discretion over the following matters when considering and determining an application for Resource Consent under rules 13.12.2(2) and (3):</p> <p>i. <u>The extent to which the proposal is consistent with the Cove Road North Precinct policies.</u></p> <p>ii. <u>The extent to which the proposal is generally in accordance with the Cove Road North Precinct Plan 1.</u></p> <p>Subdivision Design</p> <p>iii. <u>The design, size, shape, gradient and location of any allotment, access or public road.</u></p> <p>iv. <u>Whether the proposal utilises low impact and/or water sensitive stormwater management devices and designs, outfalls that mitigate concentrated flows and detail of any obligations for lot owners to construct and maintain such devices.</u></p> <p>v. <u>The extent to which stormwater quality treatment has been provided to protect the environment from contaminants generated from the activity including whether the proposal includes appropriate stormwater management associated with the design and construction stages as well as the consent holder's maintenance obligations.</u></p> <p>vi. <u>Where staged subdivision is proposed, whether all necessary infrastructure, roading, utilities, public spaces and connections to service the proposed development will be established.</u></p> <p>vii. <u>Where common lots are proposed, the extent to which appropriate mechanisms are provided to ensure that all infrastructure management and maintenance requirements are sustainable.</u></p> <p>viii. <u>Where there are any communally owned or managed services, infrastructure or other such assets or joint responsibilities arising from any proposal; that the nature of arrangements which are proposed ensure the on-going implementation of such arrangements whether through body corporate or similar mechanisms.</u></p> <p>ix. <u>Location of existing buildings, access and manoeuvring, and private open space.</u></p> <p>x. <u>The location of proposed allotment boundaries and building areas so as to avoid potential conflicts between incompatible land use activities, including reverse sensitivity effects.</u></p> <p>xi. <u>The provision, location, design, capacity, connection, upgrading, staging and integration of infrastructure, and how any adverse effects on existing infrastructure are managed.</u></p> <p>xii. <u>The protection of land within the proposed allotments to allow access and linkages to adjacent allotments for future infrastructure.</u></p> <p>xiii. <u>The extent to which the provision of landscaping provides a visual buffer to screen immediate and proximate views between development enabled by the closest allotment and any residential activity within Lot 42 DP 348513.</u></p> <p>xiv. <u>Sufficient firefighting water supply is available, taking into account a risk-based assessment (refer to Note 1).</u></p> <p>Note 1: For the avoidance of doubt, an example of sufficient firefighting water for a single residential dwelling will generally include (subject to site-specific risks) 10,000 litres of water from sources that are:</p> <p>1. <u>Within 90 metres of an identified building platform on each lot; and</u></p> <p>2. <u>Existing or likely to be available at a time of development of the lot; and</u></p> <p>3. <u>Accessible and available all year round; and</u></p> <p>4. <u>May be comprised of water tanks, permanent natural waterbodies, dams, swimming pools, whether located on or off the lot.</u></p> <p>xv. <u>The extent to which the design and layout of the proposed allotments result in new or increased non-compliance with the underlying zone or district-wide rules.</u></p> <p>xvi. <u>The extent to which there is appropriate creation of common areas over parts of the parent allotment that require access by more than one site within the subdivision.</u></p> <p>Ecological Enhancement</p> <p>xvii. <u>Measures to ensure the protection, restoration or enhancement of any natural features, including (but not limited to) the creation, extension or upgrading of services and systems, planting or replanting, the protection of natural wetlands and streams or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects.</u></p> <p>xviii. <u>Where any subdivision involves a natural wetland or stream, whether the details of ecological protection and enhancement have been provided, including a minimum 10m riparian planting to streams and wetlands, weed and pest management controls and indigenous revegetation (where appropriate), are provided and any required mechanisms for ownership and maintenance of the area. For the avoidance of doubt these areas may form parts of private lots and be held in private ownership.</u></p> <p>xix. <u>Whether there is a need to control the keeping of cats and dogs to protect native wildlife.</u></p> <p>Northern Sub-Precinct</p> <p>xx. <u>The extent to which the subdivision design and future development within the proposed allotments have been designed to respond to the sensitivities of rural and natural landscape to the north, and mitigate the potential adverse effect landscape effect of development.</u></p> <p>Neighbourhood Park</p>
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			<p>xxi. Whether the subdivision creates lots adjoining public open space (including recreation reserves and riparian/green corridors) that are designed to encourage passive surveillance of reserve areas having regard to finished contours, retaining, fencing and landscaping.</p> <p>xxii. The extent to which an alternative communal open space is created to adequately service the needs of the development, in a manner that encourages active recreation opportunities.</p> <p>Sediment Control</p> <p>xxiii. The extent to which onsite and/or public network sediment control and detention systems protect the environment including the Mangawhai Estuary from sediments generated from the activity during and after construction stages including consent holder maintenance obligations.</p>
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Adjusted Operative District Plan Incorporation Plan Change 83 Cove Road North (and Cove Road North Precinct)

Although the Court decision referred to the Rule 13.12.2 (above) both Plan Change 82 and Plan Change 83 as Precinct Plans rather than separate Development areas had to be accommodated within the Rules of Chapter 13 Residential.

Having different conditions would make the rule utterly complex and it was decided to split the two Precinct Plans conditions into two separate sets of Rules.

To separate the Standard Rules for Plan Change 82 and that of Plan Change 83 it was decided to renumber those two Precinct Plans with a new number being **Awakino Precinct as 13.13A** and **Cove Road North Precinct as 13.13B**

--see the Notes above Rule 13.12 and 13.13 Discretionary Residential Subdivision

Note 1: Awakino Precinct is dealt with under [13.13A](#)

Note 2: Cove Road North Precinct - Northern Sub-precinct is dealt with under [13.13B](#)

See below the published Operative District Plan provisions

For the whole of Plan Change 83 Cove Road North in terms of Rule 13.13B.1.2a. the standard subdivision rules for Cove Road North is not subject to Residential Zone [Rules 13.11.1 to 13.11.3, 13.12.1, 13.13.1 and 13.13.2](#). (hyperlinked)

The Published version unfortunately numbered the General Subdivision Rules and the Subdivision Design Rules wrongly as 1, 2 and 3

Those provisions should have been numbered 1 and 2

13.13B.1	Cove Road North Precinct Subdivision	<ol style="list-style-type: none"> 1. General Rules: Subdivision within the Cove Road North Precinct: 2. <ol style="list-style-type: none"> a. Is not subject to Residential Zone Rules 13.11.1 to 13.11.3, 13.12.1, 13.13.1 and 13.13.2. b. Is subject to Rule 13.12.1.2. c. Must comply with the relevant Performance Standards in Section 13.14. 3. Subdivision Design Rules: Any subdivision within the Cove Road North Precinct: <ol style="list-style-type: none"> a. Is a restricted discretionary activity where: b. Every allotment has a minimum net site area of 600m² except where the proposed allotment is located within the Northern Sub-precinct Area as shown on Precinct Plan 1; or c. Every proposed allotment within the Northern Sub-precinct Area as shown on Precinct Plan 1 has a minimum net site area of 1000m²; and d. Rules 13.12.1.2.a. and 13.12.1.2.b shall not apply to the subdivision of dwellings that have an approved land use consent under Rule 13.10.3a(2) provided that the boundaries of the proposed allotments shall result in compliance with Rules 13.10.7(3), 13.10.11(2), 13.10.12(2) and 13.10.13(2) unless otherwise approved by the land use consent. 3. Ecological Enhancement Rules: <ol style="list-style-type: none"> a. Any subdivision within the Cove Road North Precinct is a restricted discretionary activity where the site contains an ecological feature including indigenous terrestrial or aquatic habitats shall legally protect any indigenous habitats on site in perpetuity and manage the ecological feature on an on-going basis in accordance with an approved Ecological Enhancement and Management Plan. b. Any subdivision in accordance with Rule 13.12.1(3) shall provide: <ol style="list-style-type: none"> i. A detailed Ecological Assessment prepared by a suitable qualified ecologist identifying and delineating all natural features contained within the site boundaries and assesses the effects of the proposed site development on these features, and provide recommendations how these may be avoided, remedied or mitigated; and 	<ol style="list-style-type: none"> 5. Council will restrict its discretion over the following matters when considering and determining an application for Resource Consent under Rules 13.12.1(2) and (3): <ol style="list-style-type: none"> a. The extent to which the proposal is consistent with the Cove Road North Precinct policies. b. The extent to which the proposal is generally in accordance with the Cove Road North Precinct Plan. 6. Subdivision Design: <ol style="list-style-type: none"> a. The design, size, shape, gradient and location of any allotment, access or public road. b. Whether the proposal utilises low impact and/or water sensitive stormwater management devices and designs, outfalls that mitigate concentrated flows and detail of any obligations for lot owners to construct and maintain such devices. c. The extent to which stormwater quality treatment has been provided to protect the environment from contaminants generated from the activity including whether the proposal includes appropriate stormwater management associated with the design and construction stages as well as the consent holders maintenance obligations. d. Where staged subdivision is proposed, whether all necessary infrastructure, roading, utilities, public spaces and connections to service the proposed development will be established. e. Where common lots are proposed, the extent to which appropriate mechanisms are provided to ensure that all infrastructure management and maintenance requirements are sustainable. f. Where there are any communally owned or managed services, infrastructure or other such assets or joint responsibilities arising from any proposal; that the nature of arrangements which are proposed ensure the on-going implementation of such arrangements whether through body corporate or similar mechanisms. g. Location of existing buildings, access and manoeuvring, and private open space. h. The location of proposed allotment boundaries and building areas so as to avoid potential conflicts between incompatible land use activities, including reverse sensitivity effects. i. The provision, location, design, capacity, connection, upgrading, staging and integration of infrastructure, and how any adverse effects on existing infrastructure are managed. j. The protection of land within the proposed allotments to allow access and linkages to adjacent allotments for future infrastructure. k. The extent to which the provision of landscaping provides a visual buffer to screen immediate and proximate views between development enabled by the closest allotment and any residential activity within Lot 42 DP 348513. l. Sufficient firefighting water supply is available, taking into account a risk-based assessment (refer to Note 1). m. The extent to which there is appropriate creation of common areas over parts of the parent allotment that require access by more than one site within the subdivision. n. The extent to which the design and layout of the proposed allotments result in new or increased non-compliance with the underlying
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		<p>ii. An Ecological Enhancement and Management Plan designed to ensure that all ecological features are appropriately enhanced as part of site development works.</p> <p>iii. A Wetland Assessment prepared by a suitably qualified ecologist identifying any potential effects associated with the development proposal on wetland features and how these will be avoided, remedied or mitigated, where 'natural wetland' areas as defined under NPSFM (2020) are located within a 100m setback from the proposed site development works.</p> <p>4. Activity Status Rule:</p> <p>a. Any subdivision that does not comply with the standards of Rules 13.12.1(2) and 13.12.1(3) shall be a discretionary activity.</p> <p>Note 1: For the avoidance of doubt, this rule does not address the actual or potential adverse effects of contaminants in soil on human health, which is covered by the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. All subdivision relating to land that is contaminated or potentially contaminated, because of its past, present or likely use of the land for an activity or industry described in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL), is required to be assessed, and may require consent, under the Regulations.</p>	<p>zone or district-wide rules.</p> <p>Note 1: For the avoidance of doubt, an example of sufficient firefighting water for a single residential dwelling will generally include (subject to site-specific risks) 10,000 litres of water from sources that are:</p> <ol style="list-style-type: none"> 1. Within 90 metres of an identified building platform on each lot; and 2. Existing or likely to be available at a time of development of the lot; and 3. Accessible and available all year round; and 4. May be comprised of water tanks, permanent natural waterbodies, dams, swimming pools, whether located on or off the lot. <p>7. Ecological Enhancement</p> <ol style="list-style-type: none"> a. Measures to ensure the protection, restoration or enhancement of any natural features, including (but not limited to) the creation, extension or upgrading of services and systems, planting or replanting, the protection of natural wetlands and streams or any other works or services necessary to ensure the avoidance, remediation or mitigation of adverse environmental effects. b. Where any subdivision involves a natural wetland or stream, whether the details of ecological protection and enhancement have been provided, including a minimum 10m riparian planting to streams and wetlands, weed and pest management controls and indigenous revegetation (where appropriate), are provided and any required mechanisms for ownership and maintenance of the area. For the avoidance of doubt these areas may form parts of private lots and be held in private ownership. c. Whether there is a need to control the keeping of cats and dogs to protect native wildlife. <p>8. Northern Sub-precinct</p> <ol style="list-style-type: none"> a. The extent to which the subdivision design and future development within the proposed allotments have been designed to respond to the sensitivities of rural and natural landscape to the north and mitigate the potential adverse effect landscape effect of development. <p>9. Neighbourhood Park</p> <ol style="list-style-type: none"> a. Whether the subdivision creates lots adjoining public open space (including recreation reserves and riparian/green corridors) that are designed to encourage passive surveillance of reserve areas having regard to finished contours, retaining, fencing and landscaping. b. The extent to which an alternative communal open space is created to adequately service the needs of the development, in a manner that encourages active recreation opportunities. <p>10. Sediment Control</p> <ol style="list-style-type: none"> a. The extent to which onsite and/or public network sediment control and detention systems protect the environment including the Mangawhai Estuary from sediments generated from the activity during and after construction stages including consent holder maintenance obligations.
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This is how it should have been numbered

1. **General Rules:**

Subdivision within the Cove Road North Precinct:

- a. Is not subject to Residential Zone [Rules 13.11.1 to 13.11.3, 13.12.1, 13.13.1 and 13.13.2.](#)
- b. Is subject to Rule 13.12.1.2
- c. Must comply with the relevant Performance Standards in Section [13.14.](#)

2. **Subdivision Design Rules:**

Any subdivision within the Cove Road North Precinct:

- a. Is a [restricted discretionary activity](#) where:
- b. Every [allotment](#) has a minimum [net site area](#) of 600m² except where the proposed [allotment](#) is located within the Northern Sub-precinct Area as shown on Precinct Plan 1; or
- c. Every proposed [allotment](#) within the Northern Sub-precinct Area as shown on Precinct Plan 1 has a minimum [net site area](#) of 1000m²; and
- d. [Rules 13.12.1.2.a. and 13.12.1.2.b](#) shall not apply to the [subdivision](#) of [dwellings](#) that have an approved land use consent under [Rule 13.10.3a\(2\)](#) provided that the boundaries of the proposed [allotments](#) shall result in compliance with [Rules 13.10.7\(3\), 13.10.11\(2\), 13.10.12\(2\) and 13.10.13\(2\)](#) unless otherwise approved by the land use consent.

3. **Ecological Enhancement Rules:**

- c. Any [subdivision](#) within the Cove Road North Precinct is a [restricted discretionary activity](#) where the [site](#) contains an ecological feature including indigenous terrestrial or aquatic habitats shall legally protect any indigenous habitats on site in perpetuity and manage the ecological feature on an on-going basis in accordance with an approved Ecological Enhancement and Management Plan.
- d. Any [subdivision](#) in accordance with [Rule 13.12.1\(3\)](#) shall provide:
 - i. A detailed Ecological Assessment prepared by a suitable qualified ecologist identifying and delineating all natural features contained within the [site](#) boundaries and assesses the [effects](#) of the proposed [site development](#) on these features, and provide recommendations how these may be avoided, remedied or mitigated; and
 - ii. An Ecological Enhancement and Management Plan designed to ensure that all ecological features are appropriately enhanced as part of [site development](#) works.
 - iii. A [Wetland](#) Assessment prepared by a suitably qualified ecologist identifying any potential [effects](#) associated with the [development](#) proposal on [wetland](#) features and how these will be avoided, remedied or mitigated, where 'natural [wetland](#)' areas as defined under NPSFM (2020) are located within a 100m [setback](#) from the proposed [site development](#) works.

4. **Activity Status Rule:**

- a. Any [subdivision](#) that does not comply with the standards of [Rules 13.12.1\(2\) and 13.12.1\(3\)](#) shall be a [discretionary activity](#).

The next set of changes also need to be done due to the splitting of the Awakino and Cover Road splitting and unfortunately have inadvertently been mixed. Relevant Rules are highlighted in yellow above

Rule 13.13B.1b should not refer to Rule 13.12.1.2 or the original 13.12.2 (in the Court Decision) but should refer to the Cove Road North provision 13.13B.1.2

Rule 13.13B.2.d Cross reference the provisions of Awakino and should cross reference Cover Road North and require the following corrections

"Rules ~~13.12.1.2.a.~~ **13.13B.1.2.b** and ~~13.12.1.2.b~~ **13.13B.1.2.c** shall not apply to the subdivision of dwellings that have an approved land use consent under Rule **13.10.3a(2)** provided that the boundaries of the proposed allotments shall result in compliance with Rules 13.10.7(3)(4), 13.10.11(2)(1), 13.10.12(2)(3 and 4) and 13.10.13(2)(1) unless otherwise approved by the land use consent.

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 highlighted in yellow be corrected



Paul Waanders
Casual Planner
13/05/2026

Recommendation is approved/not approved /approved with amendments.



Lloyd Barton
Planning and Policy Manager
Date : 4 June 2026