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**Memorandum**

**To: Policy Manager: Kathie Fletcher**

**From: District Planner: Paul Waanders**

**Date: 28 January 2020**

**Subject: Clause 20A Correction of the Operative District Plan Maps: Designations and zonings**

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**Background.**

The 2013 Kaipara District Plan (the DP) consists of text (Objectives, Policies and Rules) to regulate where the different provisions in the district apply, normally described in zones or resources. The maps that interpret the District Plan visually get their authority from the text.

The maps consist of layers arranged in two series. Series One are the land-use zones and Series Two are the Resource Areas. Each of the series of maps consists of various layers of maps. In both series the cadaster forms the base layer. This base map changes when subdivisions are approved and registered and will be changed with every revision of the District Plan or when these become urgent due to land use decisions.

For Series One, on top of the base map, the DP shows, the Rural Layer as the first layer. This Rural Layer is the original land-use layer and is implied throughout the district.

The other land-use zones are then layered on top of the Rural Layer and Zone i.e. Residential, Commercial, Industrial, Open Space and the like.

For Series Two, on top of the base map, the DP shows, the layers of various resources i.e. Designations (D...), Heritage Buildings (H...) Notable Trees and the like.

The electronic version of the DP will not have the two series of maps but will show the layers individually. This can be opened one by one, or in a group or altogether. The electronic version of the DP has created digital maps, which have highlighted certain anomalies in the DP. These issues and their required corrections are outlined below.

**Issues.**

Three issues were identified when the DP was moved from a paper based plan to a digital document.

1. The paper based cadaster of the DP has not been updated as subdivisions have been granted and registered. With an electronic searchable district plan the cadastral base map, and eventually the text, has to be updated when LINZ updates the cadaster. Previously this was done with a DP review with the result that the cadaster was already out of date when the DP became operative in 2013.  
The cadastral base maps are regularly updated. This means all the layers on top should follow suit—normally without going through a formal process or if minor corrections are required, by approval in terms of Clause 20A of Schedule 1 of the Resource Management Act (RMA) or by means of a Plan Change if the change is such that it is not considered to be a minor correction.

2. After verifying the cadastral map, a zone verification was undertaken. Consequentially zones were corrected to follow the cadaster of the property boundary except where split-zonings were identified.

A list of the split zone properties was compiled and individually discussed and evaluated. (Attachment A) The non-split properties were corrected without requiring a decision as these were aligned with the original paper-based DP but will now be in an electronic version.

However, three cadastral changes, require correction as per Clause 20A of the First Schedule of the RMA (Attachment B). The three include:

- 1) Correct the location of Shag Lake Access Road;
- 2) Correct the zoning of the stopped road on the corner of Gladstone and Victoria Streets; and
- 3) Correct the alignment of a former paper road into the permanent location of the approved permanent road on the Mangawhai Peninsula.

Further anomalies may be picked up during the User Acceptance Testing process, which will be submitted for decisions accordingly.

3. Designations were verified for the Resource Maps. Designations or Notices of Requirements are created by Requiring Authorities which provide and protect their activities from inappropriate use and development by including these into the District Plan (with or without conditions). A designation takes precedent over the zoning and requirements of a district plan. A district plan normally identifies an underlying zoning for those Designations as part of the need to consider any applications for uses in that zone other than for the purposes of the Requiring Authority.

In the DP these Designations and the underlying zonings are documented in Appendix 21.1 Schedule of Designations (Attachment C).

However, the underlying zonings were not always transferred onto the map layers on top of the cadaster and only retained the first layer of rural zonings. All the Designations therefore have the underlying rural zoning as the first land-use layer on top of the cadastral layer in the District Plan. The next layer on top of the Rural layer as provided for in the text of the District Plan (Appendix 21.1 Schedule of Designation) was not transferred to the map layer and therefore have an unintended zoning of Rural. This is clearly an error due to the fact that the District Plan text and the maps are in conflict. The location of these inconsistencies and corrections are illustrated in Attachment D.

The issue is that any resource consent application other than for the designation purpose is assessed against the Rural zoning provisions rather than the underlying zoning i.e. some of the properties in the Dargaville central business area that are designated for a purpose are assessed against the Rural provisions rather than the Commercial or Industrial provisions of the District Plan where these are to be used for another purpose than the designated purpose.

Similar verifications and corrections for the exact locations of Notable Trees, Resource Management Units and heritage buildings will have to be undertaken. Studies are under way to verify their location on the properties—especially where subdivisions have taken place and the feature is located on the mother property and not the correct location after subdivisions.

## Legal Position

Clause 20A enables a Council to amend its operative plan to correct any minor errors without using the notification and consultation processes set out in Schedule 1 of the RMA. Case law has determined what constitutes an 'error' including a 'minor' error. An error is simply a mistake or inaccuracy which has crept into the plan. A correction can amend a clerical mistake 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, it is clear that the accuracy of the electronic system vs the paper base system has created boundary and mapping inconsistencies. With regard to the Designations it is clear that the underlying zonings were merely left out when the paper based mapping was undertaken. The mapping error was made by not applying the provisions of the DP text and by not rolling over the Designations underlying zoning from the previous District Plan

Each of these anomalies or inconsistencies must and can be corrected. It is considered that the corrections requested are of minor nature and can be dealt with under the provisions of Clause 20A of the Schedule 1 of the RMA.

## Delegation.

The authority to make minor amendments and to correct minor errors on the Operative District Plan has been delegated to inter alia the Policy Manager subject to the condition that this decision has to be reported to the next Council meeting.

## Recommendation.

That the following corrections of mapping errors are approved:

### Split Zonings:

1. Accept the list of properties, which have a split zoning (Attachment A);
2. Correct the access road location along Shag Lake as indicated on the attachment (Attachment A1);
3. Correct the zoning of stopped road on the corner of Gladstone and Victoria Streets (Attachment A2);
4. Correct the alignment of the erstwhile paper road to the location of the permanent road on the Mangawhai Peninsula (Attachment A3)

### Designations:

Correct the underlying zonings of Designations on the Maps according to the provisions in Appendix 21.1 Schedule of Designations (Attachment C)

5. D16	from Rural to	Maori Land	Map 6	Attachment D1
6. D41	from no zoning to	Rural	Map 6	Attachment D1
7. D4	from Rural to	Residential	Map 9,34,36	Attachment D2
8. D34	from Rural to	Residential	Map 9,34	Attachment D2
9. D60	from Rural to	Residential	Map 9,34,36	Attachment D2
10. D5	from Rural to	Residential	Map 9,34,36	Attachment D2


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11. D12	from Rural to	Residential	Map 9,10,35	Attachment D3
12. D44	from Rural to	Residential	Map 9,10,35	Attachment D3
13. D51	from Rural to	Industrial	Map 10,35	Attachment D3
14. D6	from Rural to	Residential	Map 9,34,37	Attachment D4
15. D3	from Rural to	Residential	Map 9,36,37	Attachment D4
16. D27	from Rural to	Residential	Map 9,36,37	Attachment D4
17. D15	from Rural to	Commercial	Map 9,36,37	Attachment D4
18. D17	from Rural to	Commercial	Map 9,36,37	Attachment D4
19. D7	from Rural to	Commercial	Map 9,36,37	Attachment D4
20. D57	from Rural to	Residential	Map 13,40	Attachment D5
21. D14	from Rural to	Residential	Map 18,42	Attachment D6
22. D26	from Rural to	Residential	Map 18,42	Attachment D6
23. D25	from Rural to	Residential	Map 19,44	Attachment D7
24. D49	from Rural to	Industrial	Map 20,47	Attachment D8
25. D21	from Rural to	Commercial	Map 20,48	Attachment D9
26. D29	from Rural to	Residential	Map 20,21,51	Attachment D10
27. D30	from Rural to	Commercial	Map 20,21,51	Attachment D10
28. D37	from no zoning to	Rural	Map 20,21,51	Attachment D10
29. D59	from Rural to	Residential	Map 23,26,59	Attachment D11
30. D19	from Rural to	Residential	Map 21,57	Attachment D12
31. D38	from no zoning to	Rural	Map 18	Attachment D13
32. D39	from no zoning to	Rural	Map 22	Attachment D14
33. D40	from no zoning to	Rural	Map 22	Attachment D14



Paul Waanders      District Planner

Recommendation is approved/~~not approved~~/~~approved as amended~~



Kathie Fletcher

Policy Manager

Date      29 January 2020

**Attachements**

Attachment A: List of split zonings

Attachment B: Map Corrections

Attachment B1: Shag Lake access Road

Attachment B2: Correction of zoning of stopped Road Dargaville

Attachment B3: Correction of Alignment of Road Mangawhai

Attachment C: Schedule of Designations

Attachment D: Schedule of corrections of underlying zonings

Attachment D1: North-West

Attachment D2: Dargaville suburbs

Attachment D3: Dargaville

Attachment D4: Central Business Area Dargaville

Attachment D5: Te Kopuru

Attachment D6: Ruawai

Attachment D7: Paparoa

Attachment D8: Maungaturoto West

Attachment D9: Maungaturoto

Attachment D10: Kaiwaka

Attachment D11: Tinopai

Attachment D12: Mangawhai

Attachment D13: Pouto North

Attachment D14: Pouto South