

Memorandum

To: James Witham – Team Leader - District Plan
From: Kenton Baxter – Policy Planner
Date: 5 June 2024
Subject: **CORRECTIONS TO FAR NORTH PROPOSED DISTRICT PLAN PURSUANT TO CLAUSE 16 (2), FIRST SCHEDULE, RESOURCE MANAGEMENT ACT 1991**

1. PURPOSE

To amend the Far North Proposed District Plan (PDP), correcting minor errors through clause 16 (2) of the Resource Management Act 1991 (the Act).

2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This is a procedural matter under the Act. Clause 16 (2) of Schedule 1 enables Council to make amendments to the PDP, without using the process set out in Schedule 1, to alter any information, where such an alteration is of minor effect, or to correct any minor errors. In summary, Council is not required to notify changes satisfying Clause 16 (2).

Pursuant to section 34 of the Act, Council has delegated its power under clause 16 (2) to the Manager - Resource Consents, General Manager Planning and Policy, Team Leader - District Plan, Senior Policy Planners and Policy Planners to make amendments to correct any minor errors to the PDP, provided the rights of members of the public are not affected, either prejudicially or beneficially.

To consider correcting any errors, case law establishes that the test in determining whether an amendment is authorised by clause 16 (2) is 'does the amendment affect (prejudicially or beneficially) the rights of some members of the public, or is it neutral?' Only if it is neutral is an amendment permitted by clause 16 (2).

3. HISTORY/BACKGROUND

As the PDP has been developed, further integrated, and moved through the submission phases, errors have been identified. Council has erred on the side of caution and where there may be a perceived or actual material effect because of a change required to address an error, these have not been included in this list of clause 16(2) corrections as they will be addressed in response to submissions (where there is scope to do so) or introduced to the Proposed District Plan through a plan variation.

Council's Policy Planners have considered the relevant provisions outlined in Appendix 1 against clause 16 (2) (alteration of minor effect or corrections of a minor error), and acting under authority delegated by Council, have determined the amendments to the PDP as set out in Appendix 1 meet those tests and can be made accordingly.

4. VIEWS OF THOSE AFFECTED/CONSULTATION

- **Views of those affected** - No party is considered to be affected.
- **Consultation** - Given that the proposed amendments will have no more than a minor effect, no consultation has occurred.
- **Māori implications** - There are no implications on Māori.

5. AMENDMENTS

In accordance with clause 16(2) of the First Schedule of the Resource Management Act 1991 Kenton Baxter, Policy Planner, has exercised Council's delegations to determine minor changes required to the PDP, as set out in Appendix 1 (attached).



Kenton Baxter
Policy Planner

APPENDIX 1:

The following minor corrections have been made to the Far North Proposed District Plan in accordance with Clause 16(2), Schedule 1, of the Resource Management Act 1991. Deletions are shown as ~~strikethrough~~ and additions as underline.

Clause 16(2) amendments made to the Proposed Far North District Plan (May 2024)				
Section	Provision	Description of Amendment	Reason for Amendment	Correction
PLAN WIDE	Several rules and standards across all plan chapters	For consistency throughout, insert semi colons between each standard followed by “and” after the second to last standard (where all of the standards must be met to comply) or “or” after the second to last standard when only one of the standards must be met to comply / one of the items on the list is relevant.	<p>Neutral correction of minor errors for consistency throughout. The amendments reinforce the natural interpretation of the provisions rather than changing the meaning. Specifically:</p> <ul style="list-style-type: none"> • “and” is proposed to be added to provisions which already imply a conjunctive list (for example, by requiring compliance with standards (plural). • “or” is proposed to be added to a list where the provision applies to “any of the following” (i.e. it is already implied that the list is disjunctive). • “or” has also been added to some provisions where it would be non-sensical to read the list as conjunctive (e.g. it could not have been intended for parking exceptions to apply to activities that are associated with both residential units and fuel refill and pumps at service stations (together but not separately)) 	<p>Examples of correction to rules and standards throughout plan chapters:</p> <p>RD-2 The activity complies with standards: QR-S1 Building design and appearance; QR-S2 Height; QR-S3 Height in relation to boundary; QR-S4 Setbacks; and QR-S5 Fencing and landscaping.</p> <p>Example of correction to Standard S3 in zone chapters (setbacks): ... This standard does not apply to: i. Fences or walls no more than 2m in height above ground level; or ii. uncovered decks no more than 0.5m above ground level.</p>

Clause 16(2) amendments made to the Proposed Far North District Plan (May 2024)

Section	Provision	Description of Amendment	Reason for Amendment	Correction
Definitions	Definitions	Formatting for consistency, using: <ul style="list-style-type: none"> • semi colons to separate out lists rather than full stops, colons or blanks. • Either ‘and’ or ‘or’ between last two clauses depending on context (using ‘and’ where the list is inclusive, or ‘or’ where the list is disjunctive (i.e. “means any of the following”). • Replacing bullets with lower alpha formatting. 	Amend formatting for consistency. Neutral correction that does not alter the meaning of the definitions.	Formatting of several definitions for consistency, using: <ul style="list-style-type: none"> • semi colons to separate out lists rather than full stops, colons or blanks • Either ‘and’ or ‘or’ between last two clauses depending on context (using ‘and’ where the list is inclusive, or ‘or’ where the list is disjunctive (i.e. “means any of the following”). • Replacing bullets with lower alpha formatting.
Part 3 - Zone chapters	Rule 1 (New buildings or structures, and extensions or alterations to existing buildings or structures) of zone chapters	Amend wording of precursor to PER1 or 2 for consistency throughout so it aligns with wording in the rule heading and reads “The new building or structure, or extension or alteration to an existing building or structure complies with standards...”	Neutral correction for consistency throughout. The corrections provide clarity and do not alter the meaning of the provisions.	Correction to Rule 1 (precursor wording PER-1 and PER-2) throughout zone chapters: <p>The <u>new</u> building or structure, or extension or alteration to an existing building or structure complies with standards:</p> <p>OR</p> <p>Example HOSZ-R1 PER-1 The activity, including all buildings or structures, or extensions or alterations to existing buildings or structures, comply with standards</p> <p><u>The new building or structure, or extension or alteration to an existing building or structure complies with standards:</u></p>
Part 3 - Zone chapters	Standard 1 (Maximum height) and 2 (Height in relation to boundary) of zone chapters.	Amend wording of Standard to remove reference to building envelope, for clarity and ease of interpretation.	Neutral correction for clarity and consistency throughout.	Amendment to Height (Standard 1) and Height in relation to boundary standard (e.g. GRZ-S2) throughout zone chapters to remove reference to ‘above the building envelope’, as follows:

Clause 16(2) amendments made to the Proposed Far North District Plan (May 2024)

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				<p>This standard does not apply to:</p> <ul style="list-style-type: none"> i. Solar and water heating components not exceeding 0.5m in height above the building envelope on any elevation; ii. Chimney structures not exceeding 1.2m in width and 1m in height above the building envelope on any elevation; iii. Satellite dishes and aerials not exceeding 1m in height above the building envelope and/or diameter on any elevation; iv. Architectural features (e.g. finials, spires) not exceeding 1m in height above the building envelope on any elevation; <u>or</u> v. A building or structure exceeding this standard for a maximum distance of 10m along any one boundary other than a road boundary, provided that the maximum height of any building or structure where it exceeds the standard is 2.7m.
Motorua Island Zone	MIZ-S2	Correct typographical / grammatical error	Correct typo. Does not alter the effect of the standard.	Each residential unit must have and <u>an</u> exclusive area of at least 3,000m ² available for disposing of and treating stormwater and effluent.
Orongo Bay Zone	OBZ-R8	Amend title of rule from 'Tradesmen's workshop / repair centres' to "trades workshop / repair centres"	Amend wording to more accurately reflect the type of activity	Trades men's workshop/repair centres
Quail Ridge zone	QR-S4	Delete the drafting error which includes setbacks from waterbodies (which essentially duplicate the setbacks in the natural character chapter).	Correct unnecessary duplication of the rules for setbacks from waterbodies which are contained within the Natural character chapter. The change has a neutral effect and does not alter the rule framework.	<p>QR-S4</p> <p>The building or structure, or extensions to an existing building or structure, and any impermeable surfaces must be setback at least 7.5m from all site boundaries, except:</p> <p>1. where a boundary adjoins a waterbody greater than 3m average width and that setback must be at least 26m from the waterbody.</p> <p>where a boundary adjoins a river smaller than 3m average width and that setback from the waterbody must be at least 10m.</p> <p>2. Compliance with the Natural Character chapter.</p> <p>Note: The width is measured in relation to the bed of the waterbody.</p>

Clause 16(2) amendments made to the Proposed Far North District Plan (May 2024)

Section	Provision	Description of Amendment	Reason for Amendment	Correction
Planning maps	Planning maps	Correcting GIS data so it accurately aligns with property boundaries	Affects discrete areas (less than 10% of total area of each property) and reflects the intended zoning / avoids confusion where zoning overhangs or misaligns with property boundaries, which is clearly an error.	Correcting GIS data so the zone boundaries accurately align with property boundaries.