

Memo

13 December 17

To: Phill Reid, Auckland-wide Planning Manager
From: Gurv Singh, Principal Planner, Auckland-wide Planning

Subject: **Plan Modification: Clause 20A Amendment to the planning maps (GIS Viewer) regarding the quarry at McNicol Road, Clevedon in the Auckland Unitary Plan (AUP) Operative in part (15 November 2016).**

Delegated authority to T4 manager through Schedule 2A of the Auckland Council Combined Chief Executives Delegation Register (Updated May 2017).

This plan modification requires decision-making pursuant to clause 20A of the First Schedule to the Resource Management Act 1991, as corrections are required to the Auckland Unitary Plan (Operative in Part).

Rule or Section of Unitary Plan	AUP GIS viewer – Special Purpose Quarry Zone and Quarry Buffer Area overlay (infrastructure)
Subject Site (if applicable)	546 McNicol Road, Clevedon
Legal Description (if applicable)	LOT 1 DP 169491
Nature of change	<p>Correct the spatial application of the Special Purpose Quarry Zone at 546 McNicol Road, Clevedon to follow the boundary of the Outstanding Natural Features (ONF) overlay on the subject site. The change to the spatial application of the zone will require an amendment to the Quarry Buffer Area Overlay to be reduced to follow the boundary of the Outstanding Natural Features overlay and Special Purpose Quarry zone in the AUP GIS Viewer.</p> <p>Discussion The nature of change and reasons are set out in Attachment 1.</p>
Effect of change	<p>The extension of the zone and reduced extent of the overlay is considered minor. The spatial application of the Special Purpose Quarry Zone and reduced buffer area overlay was agreed and determined by the Independent Hearings Panel (IHP) on the subject property (and thereafter adopted by Auckland Council). Fulton Hogan owns the subject site and all surrounding land.</p> <p>The effects of the correction are deemed to be minor and appropriately dealt with under clause 20A of the First Schedule of the RMA.</p>
Changes required to be made	Extend the spatial application of the Special Purpose Quarry Zone at 546 McNicol Road, Clevedon up to the boundary of the ONF overlay on the subject site and reduce the extent of the Quarry Buffer Area overlay to the boundary interface of the ONF Overlay and newly

	<p>extended Special Purpose Quarry Zone in the AUP GIS Viewer.</p> <p>The change to the zone and overlay will only apply to the southern part of the ONF overlay and Special Purpose Quarry Zone interface on the subject site.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Prepared by:
Gurv Singh

Approved by:
Phill Reid

Signature:



Signature:



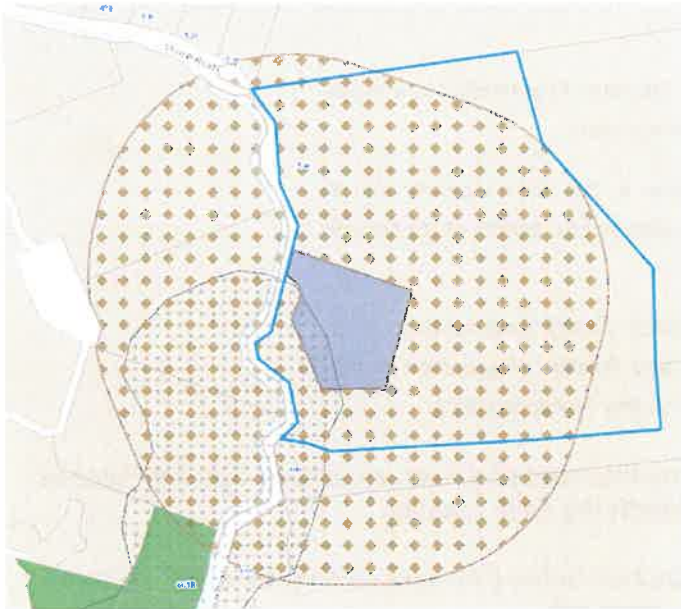
Attachment 1

What is the issue?

There is an error relating to the zoning of the Special Purpose Quarry Zone at 546 McNicol Road, Clevedon (subject site). In particular it relates to a sliver of Rural – Rural Production Zoning in between a Special Purpose Quarry Zone and the Outstanding Natural Features Overlay (ONF) overlay.

Background

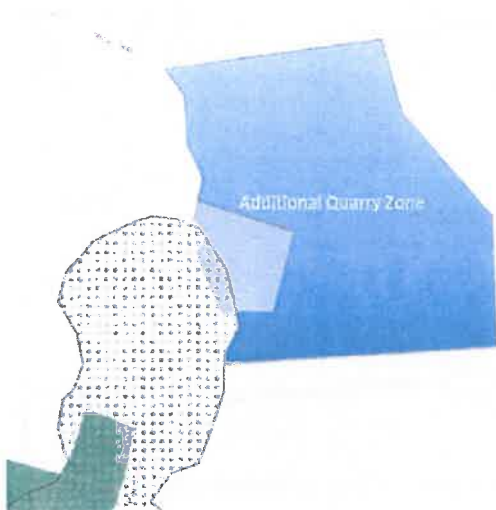
The notified PAUP showed the following:



The subject property is outlined in blue. The Special Purpose Quarry Zone is shown in dark grey. The Quarry Buffer Area Overlay is shown in brown diamonds and the ONF overlay is shown in a small square box shaped overlay.

Submission to the notified PAUP

Warren Fowler Ltd lodged a submission seeking an expansion of the Special Purpose Quarry zone – submission 3367-6 (refer diagram below). As can be seen the proposed expansion abutted the ONF feature (except for a very small section near McNicol Road).



There were no submissions seeking that the originally notified area of Special Purpose Quarry zone should be made *smaller*. There were no further submissions in *opposition* to that submission to increase the size of the Special Purpose Quarry zone.

Evidence to the IHP hearings process on the notified PAUP

Fulton Hogan – as successor to Warren Fowler Ltd – provided evidence in support of the Quarry Zone expansion, except that Fulton Hogan offered to reduce the existing notified Special Purpose Quarry zone so that it no longer covered any land beneath the ONF overlay (i.e. to remove any overlap).

The Council's closing remarks¹ supported that position, recording at para 2.2(b) the following (a copy of this paragraph is outlined below).

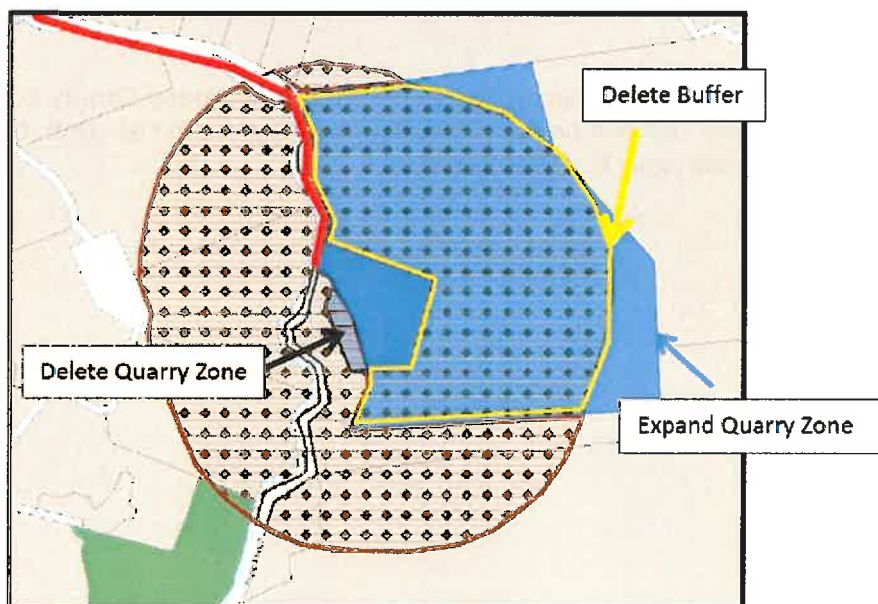
2.2 For clarity, the positions put forward for approval are (see **Attachment A** to these submissions which has diagrams showing what is proposed):

- (a) The expansion of the Brookby Quarry zone to the north together with a corresponding Quarry Buffer Area and the deletion of a portion of the Quarry Buffer Area to the southwest of the quarry;
- (b) The expansion of the Fowler (McNicol Road) Quarry zone, deletion of a portion of the quarry relating to an ONF and deletion of a portion of the Quarry Buffer Area, and the inclusion of the Quarry Transport Route;

It is clear in Council's closing remarks that the notified and proposed expanded Special Purpose Quarry Zone should only be removed from **beneath** the ONF overlay.

Attachment A referred to in that extract, and attached to the Council's closing remarks¹, showed the area of Special Purpose Quarry Zone to be removed.

As you can see, this clearly comprises that part of the Special Purpose Quarry Zone beneath the ONF only.



¹ Auckland Council. 2016. Closing Remarks on Behalf of Auckland Council Topic 080 Rezoning and Precincts (General) Special Purpose: Quarry Zone – 17 March 2016.

In Council's closing remarks to the Panel, the Council accepted the deletion of the quarry zone under the ONF overlay, expansion of the quarry zone, and deletion of the quarry buffer area overlay over the expanded quarry zone.

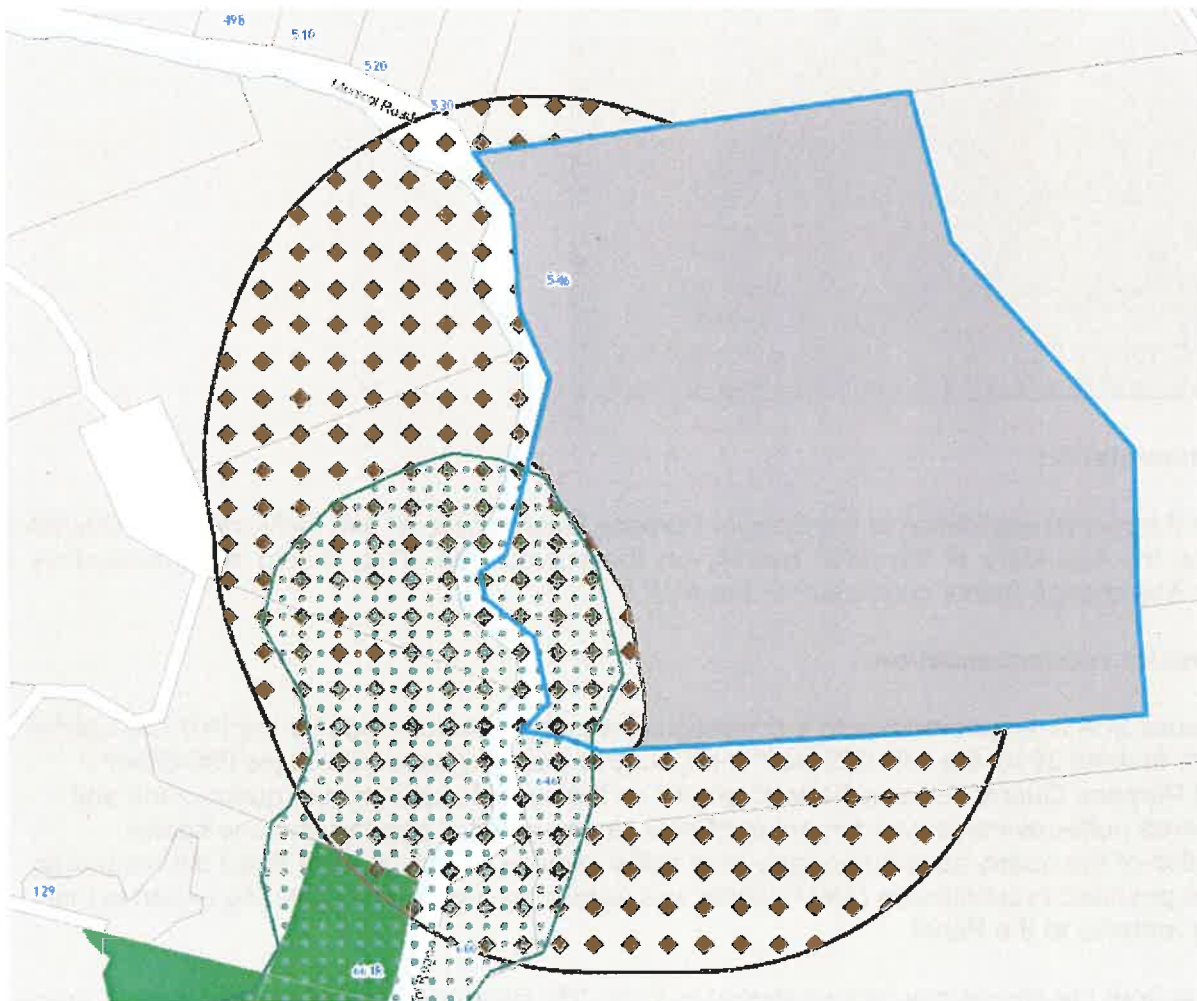
IHP Recommendations to Auckland Council / PAUP Decisions Version / now AUP

The IHP accepted Council's evidence and position (primary and closing remarks) on the spatial application of the quarry zone and quarry buffer area overlay at the subject site "where Council and all other affected parties were in agreement on a precinct or rezoning matter...the Panel generally saw no need to inquire further"².

Council accepted IHP recommendations on the spatial application of the quarry zone and quarry buffer area overlay in the GIS Viewer. This in turn became the PAUP decisions version (now AUP).

There was no indication in the IHP recommendations or the Council's decision that some other outcome was desired, other than that requested by the parties.

The maps attached to IHP recommendations to Council, then PAUP decision version of the maps, and now AUP is shown below:



² Auckland Council Independent Hearings Panel. 2016. IHP Report to AC- RUB rezoning and precincts 2016-07-22.

Errors in mapping

Unfortunately, all of these maps (IHP recommendations, PAUP decision version and AUP) contained two errors: first there was an area of the originally notified Special Purpose Quarry Zone outside of the ONF overlay that was deleted (*Error 1*); and second, there was a proposed expanded Special Purpose Quarry Zone that had been sought and agreed to by the Council, but not carried through into the final maps (*Error 2*).

A copy of the current zoning Map is below, marked up to show the approximate areas of the two errors. In respect of the first error, there was clearly no jurisdiction to reduce the originally notified Special Purpose Quarry Zone beyond what was notified (other than to remove it from beneath the Overlay, which was a concession offered by the submitter). This area should be immediately reinstated. In respect of the second error, the submission clearly sought that this tuck around and abut the edge of the ONF, as clearly sought in the original submission. This was agreed to by the Council; there were no submissions seeking that not occur, and no reasoning given for why it should not occur.



Recommendation

Correct the spatial application of the Special Purpose Quarry Zone at 546 McNicol Road, Clevedon to follow the boundary of the ONF overlay on the subject site. This should be amended as a Clause 20A change (minor correction) to the AUP.

Reasons for recommendation

The Clause 20A change amounts to a correction of a mapping error made by the IHP GIS staff at the time. In June 2016, the IHP GIS staff and Council's planning expert on Topic 080 Other - Special Purpose Quarry Zone exchanged emails on the spatial application of quarry zone and quarry area buffer overlays over a number of sites. In the email, it appears that the spatial application of the quarry zone and quarry area buffer overlay at 546 McNicol Road did not match the map provided in submission (3367) which was agreed by the Council planning expert in their Closing remarks to the Panel.

It is clear from the chronology (stated above) in Topic 080 Rezoning and Precincts, Other - Special Purpose Quarry Zone and through to final Council decision, that the quarry zone and quarry buffer area overlay at the subject site was not applied correctly in the GIS Viewer.

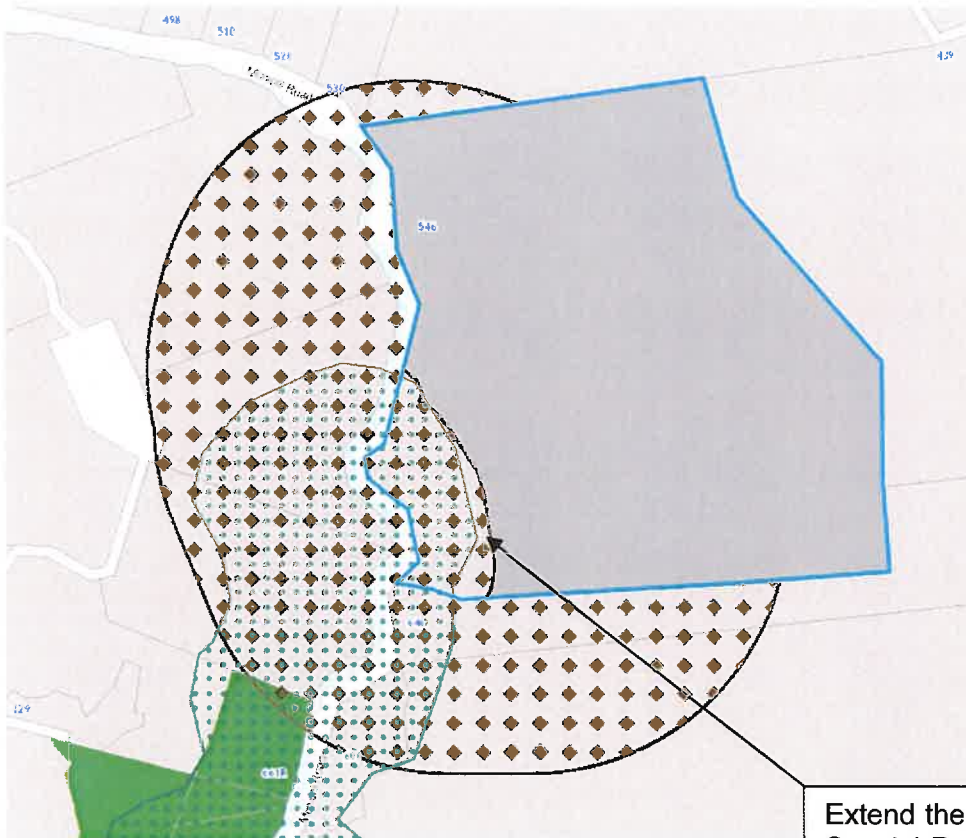
The change to the quarry zone and quarry buffer area overlay at the subject site should be corrected to reflect Council's closing remarks and IHP recommendations to Council (in accepting the closing remarks/position) to be the recommended position to Council, which was accepted by Council in the PAUP decisions version (now AUP).

Consequential changes required?

Yes there is a consequential change required. By recommending to extend the spatial application of the Special Purpose Quarry Zone at 546 McNicol Road, the Quarry Buffer Area Overlay will need to be reduced slightly to the boundary interface of the ONF overlay, Rural – Rural Production Zone and newly extended Special Purpose – Quarry Zone. This change will only need to occur to the southern part of the ONF overlay and Special Purpose Quarry Zone interface on the subject site.

Text or map changes?

There are no text changes and only a map correction required in respect of the quarry at McNicol Road, Clevedon. The required mapping change is shown below.



Extend the spatial application of the Special Purpose Quarry Zone (grey coloured) at 546 McNicol Road up to the ONF overlay boundary (green square item overlay) at the subject site.

In doing so, the Quarry Buffer Area Overlay (brown diamond shapes) will need to be reduced to the boundary interface of the ONF overlay, Rural – Rural Production Zone and newly extended Special Purpose – Quarry Zone.

This change will only need to occur to the southern part of the ONF overlay and Special Purpose Quarry Zone interface on the subject site.

