

I hereby give notice of the following Ordinary meeting:

<b>Meeting</b>	Kaipara District Council
<b>Date</b>	Thursday 26 April 2018
<b>Time</b>	09.00am
<b>Venue</b>	Matakohe Hall, Matakohe

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## Open Agenda

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### Membership

Chair: Mayor Jason Smith  
Members: Deputy Mayor Peter Wethey  
Councillor Anna Curnow  
Councillor Victoria del la Varis-Woodcock  
Councillor Julie Geange  
Councillor Libby Jones  
Councillor Karen Joyce-Paki  
Councillor Jonathan Larsen  
Councillor Andrew Wade

Jason Marris  
General Manager Governance, Strategy and Democracy

1601.22  
Agenda 26 April 2018 PUB

LH

### 3 Minutes

#### 3.1 Confirmation of Council minutes 28 March 2018

Administration Manager 1601.22

### Recommended

*That the unconfirmed minutes of the meeting of Kaipara District Council held 28 March 2018 be confirmed as a true and correct record.*



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**Memorandum****To: Policy Manager, Kathie Fletcher****From: District Planner, Paul Waanders****Date: 13 April 2020****Subject: Inclusion of Designation 66 State highway 12 Matakohe**

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## 1. Council Decision:

On 28 March 2018 Council accepted the Designation for the Matakohe Bridges on State Highway 12 as Designation 66 Matakohe and delegated the authority to amend the Operative Kaipara District Plan (text and Planning Maps) to the Planning and Policy Managers.

(See attached extracts from the Council meeting).

## 2. This matter was only brought to our attention when we were involved with checking the maps for the E-Plan and realised that D66 was not provided for, notwithstanding that the bridges have been built and the Designation is operative but not included in the District Plan.

## 3. Sec 175 of the Resource Management Act determines:

*Designation to be provided for in district plan*

*(2) The territorial authority must, as soon as practicable and without using Schedule 1, —*

*(a) include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and*

*(b) state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.*

4. At the time when the Council made its resolution section 175 was not delegated in terms of the Schedule of delegations and Council had to delegate actions as they came up. In this case the action was delegated to *inter alia* the Policy Manager.5. The Designation was approved with many pages of conditions which mainly controlled the construction phase of the bridge building. Condition 3 of the General Conditions states that *"within 12 months following completion of the construction of the Project, the Requiring Authority shall give notice in accordance with section 182 of the RMA to Council, for the removal of those parts of the designation that are not required for the long term operation, maintenance and mitigation of the Project."*

As of recent times the District Plan is required to include the conditions in the District Plan. However, with the reduction of the conditions anticipated as a result of Condition 3 mentioned above, the conditions have not yet been included in the District Plan and this will be undertaken with the review of all the Designations.

It is important that the Designation be included in the maps of the District Plan as well as in the Table of Designations, Appendix 21.1 Schedule of Designation to assist in resource consent decisions.

## 6. Discussions are being had with the Requiring Authority, NZTA, but due to restructuring they have not had an opportunity to review the Conditions notwithstanding that a set of proposed conditions has been sent to NZTA.

## 7. Designation D66 has been included in the E-Plan and should be included in the Operative District Plan in order to prevent differences between the E-Plan and the paper based Operative District Plan.

8. A further designation D53 dealing with the old alignment of SH12 and the intersection with the new SH12 has been finalised as well and will be included in the District Plan as soon as the maps have been finalised. It is expected that the old alignment of SH12 in this area will be uplifted and transferred to the Kaipara District Council as soon as negotiations have been concluded.

**Recommendation:**

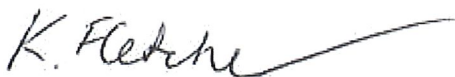
The matter is submitted for your approval in terms of the delegation from the Council's decision to amend the Operative District Plan by the inclusion of the new Map 19 Series Two which includes Designation 66 and the inclusion of Designation 66 NZ Transport Agency with the Rural underlying zoning into Appendix 21.1 Schedule of Designations.

A handwritten signature in black ink, appearing to read "PG Waanders".

PG Waanders District Planner

The recommendation to approve the inclusion of Designation D66 on the Operative District Plan and into Appendix 21.1 Schedule of Designations is

Approved.

A handwritten signature in black ink, appearing to read "K. Fletcher".

K Fletcher

Policy Manager, Kaipara District Council

Date: 28 April 2020

File number: 3805.04 **Approved for agenda**   
 Report to: Council  
 Meeting date: 28 March 2018  
 Subject: **Matakohe Bridges, Designation 66 – State Highway 12**  
 Date of report: 12 March 2018  
 From: Natalie Robinson, Policy Analyst  
 Report purpose  Decision  Information  
 Assessment of significance  Significant  Non-significant

### Summary

In April 2017, NZ Transport Agency (**NZTA**) lodged a Notice of Requirement (**NoR**) with Kaipara District Council (**KDC**) for a realignment of State Highway 12 at Matakohe, which would remove the two one-way bridges from the network. The NoR was processed by a project team of external consultants under the supervision of the Consents team and the General Manager Regulatory Planning and Policy.

KDC delegated responsibility on the matter to an Independent Commissioner who notified a recommending report in September 2017, recommending that the requirement be confirmed subject to conditions. NZTA reviewed the decision and, in accordance with s172(1) of the Resource Management Act 1991 (**RMA**), accepted the recommendation in part. The only parts that were not accepted related to small technical changes (i.e. cross-referencing, typographic errors) and KDC therefore decided not to appeal the decision.

Council officers subsequently undertook work to include the designation in the operative Kaipara District Plan (**KDP**), pursuant to s175 of the RMA, including amendment of KDP Maps. However, the authority to undertake this step has not been delegated, and so requires the approval of Council.

The RMA provides that the NoR has an interim effect until the designation is confirmed and included in an operative district plan, which must be done 'as soon as practicable' (s175 RMA). This entails showing the Designation on the Schedule of Designations (Appendix 20.1, in underlined red text, **Attachment 1**), and replacing a Planning Map (Map Series Two, Map 19, **Attachment 2**) to show the new designation.

Once construction is completed on the new road and it is open for public use, NZTA will remove the Designation for the section of the existing road which will be vested in Council as a local road.

### Recommendation

*That Kaipara District Council:*

- 1 *Receives the Policy Analyst's report 'Matakohe Bridges, Designation 66 – State Highway 12' dated 12 March 2018; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*

- 3 *Delegates authority to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12 to the Planning Manager and Policy Manager.*

#### **Reason for the recommendation**

Council officers do not have the delegated authority under s175 of the RMA to include new designations in the District Plan, and so must seek approval from Council. This step will allow the designation process to be completed, and follow the RMA's direction that including a designation in the District Plan must be done 'as soon as practicable'.

#### **Reason for the report**

To enable Council officers to finish the Notice of Requirement process, by including the designation in the operative District Plan, as required by the Resource Management Act 1991.

#### **Background**

The Matakoho Bridges replacement project is intended to improve road safety and efficiency, and was planned as part of the NZTA's focus on 'connecting Northland'. The NOR process has been subject to the framework provided by the Resource Management Act 1991, which has included information gathering and decision-making processes similar to a standard resource consent. This included the recommending report by Independent Commissioners acting under delegated authority, NZTA's subsequent acceptance in part of the recommendation, and KDC's decision not to appeal the acceptance in part.

The project will see two new two-lane bridges and a new 3km road alignment built to the north of the existing bridges, with construction completed in stages and expected to take around two and a half years to complete.

#### **Issues**

##### ***Delegations required***

Section 175 of the RMA provides the direction that following NZTA's acceptance in part of the recommendation, and the decision by KDC not to appeal, that:

- (2) *The territorial authority must, as soon as practicable and without using Schedule 1 –*
- (a) *include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and*
  - (b) *state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.*

The authority under s175 to include the designation in the operative Kaipara District Plan has not been delegated to Council officers. This Report therefore seeks the approval of Council to include Designation 66 and its supporting Map in the KDP.

#### **Factors to consider**

##### ***Community views***

The NoR was processed non-notified, on the basis that NZTA had purchased a number of properties or obtained written approvals from property owners within and immediately outside the corridor. There was

also community consultation, including a period of consultation from May – June 2016, and a public information day in August 2016. NZTA also enlisted representatives of Te Uri O Hau to monitor investigations and provide cultural input throughout the project.

#### ***Policy implications***

This decision will not have any implications on existing Kaipara District Council policies.

#### ***Financial implications***

There is no direct financial implications to Council approving an amended delegation.

#### ***Legal/delegation implications***

Council officers have confirmed with legal counsel that the inclusion of the Designation in the KDP does not require public notification, and were proceeding with the requirements of s175, when they became aware that the authority of s175 has not been delegated. This Report therefore seeks the approval of Council to proceed with confirming the designation in the operative Kaipara District Plan, pursuant to s175(2) of the RMA.

#### **Options**

**Option A:** Delegate authority to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12 to the Planning Manager and Policy Manager.

**Option B:** Do not delegate to Council officers to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12.

#### **Assessment of options**

Option A allows Council to meet the statutory requirement to amend the KDP 'as soon as practicable' to include the designation and to state the name of the requiring authority (s175(2) RMA).

Option B will mean Council is not meeting the statutory requirements of the RMA in terms of efficiently dealing with including the designation 'as soon as practicable'.

#### **Assessment of significance**

Under Council's Significance and Engagement Policy, a decision in accordance with the recommendation is not considered to have a high degree of significance.

#### **Recommended option**

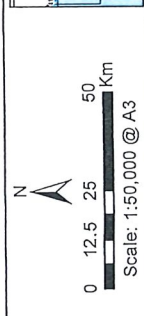
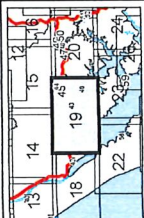
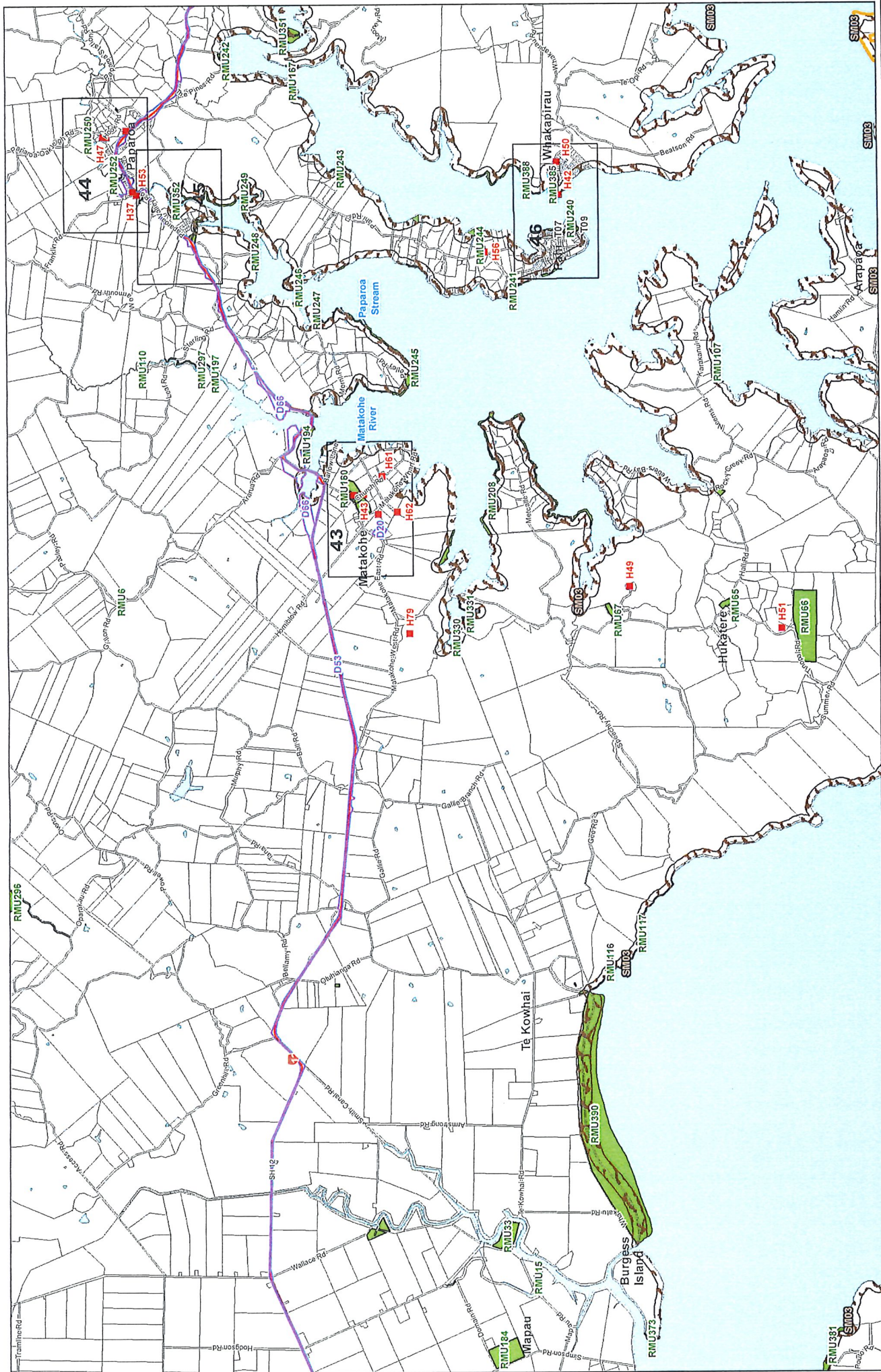
The recommended option is **Option A**. This will allow the efficient conclusion of the NoR process and that KDC meets its obligations under the RMA.

#### **Next step**

Amend the operative KDP to show Designation 66 on the Schedule of Designations (Appendix 20.1) and the Planning Maps (Map Series Two, Map 19).

#### **Attachments**

- Attachment 1 – Amended Designations Schedule
- Attachment 2 – Map Series Two, Map 19



**KAIPARA DISTRICT PLAN - OPERATIVE NOVEMBER 2013**

**Map Series Two  
Sites, Features and Units**

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