

In the Matter of:

The Resource Management Act 1991

And

In the Matter of:

An application under Section 88 of the
Resource Management Act 1991 made by
Marotere Limited & St Lambert Limited

File Reference:

RM240229

Decision on Resource Consent Application

Activity

The proposal involves the establishment of two Buildings (Shed 1 and Shed 2) and associated parking areas across two sites. These buildings enable six commercial tenancies ranging in size from 124-414m² to be used as Commercial, retail and office activities, in addition, a Gym is also proposed within Shed 2. The site will have a total GFA of approximately 1529m².

Location

Address: 5 and 7 Eagle Ray Road, Mangawhai

Legal Description: Lo Lots 11 and 12 DP 579625

Assessment under the Operative Kaipara District Plan

Reasons for Consent

1. Kaipara District Plan (Operative 2013) Rule Assessment

The following apply to the subject property:

Zoning: Estuary Estates – Sub Zone 7 - Service

Overlays: Mangawhai Harbour

Rules: 16.4.1-2 Activity Table Business and Service Sub-Zone provides a list of activities and associated activity status. The proposal seeks to establish flexibility in the use of these Buildings such as offices, retail, and commercial uses, and a Gym/Fitness

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 23	1 of 40

Centre which are not specifically provided for within the Service Sub-Zone and are therefore a Discretionary Activity as per Section 87B(1)(b) of the Act.

16.5.1.3(a) and (d) Building Yards require a setback of 7.5m from a Road Frontage.

Shed 1 and Shed 2 are set back at least 3.75m from the front boundary associated with Eagle Ray Road to the north. Shed 2 is set back 2.54m from the front boundary associated with Eagle Ray Road to the west. The building intended to be 'Stage 2' is also 2.984m from that western front boundary. In addition, a 5.0m wide landscaping strip is not provided for in this front setback. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.4(a) and (b) Height in Relation to Boundary as Shed 1 infringes the height in relation to boundary setback associated with Eagle Ray Road to the north by a maximum of 2.04m, reducing to 0.41m across a distance of 10.3m. Within Stage 2 infringes the HRTB setback associated with Eagle Ray Road to the west by a maximum of 1.47m over a distance of 12.48m. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.5(a) and (b) Height as Shed 1 is proposed to be 9.0m in height when measuring from ground level, with a roof plant positioned above. The total height of the building plus roof plant will be 10.27m. This is an infringement of the 8.0m maximum height limit for Sub-Zone 7. Within Stage 2, the building is proposed to be 8.51m in height. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.7 Impermeable Surfaces as the proposed impermeable surfaces for the development infringe the maximum of 80% of site area in Sub-Zone 7, as a total of 1980.82m² is proposed, which is 81.4% of the site area, creating a 1.4% breach. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.9 Earthworks as the proposed activity will require an area of 2443m² on slopes less than 1 in 6 within Sub-Zone 7. This is an infringement of the required area of 700m². Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.2 Vehicle Access and Driveways (refer to Rule 14.10.25) as the proposed vehicle crossing will be formed with a bespoke geometry. Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.3 Parking (refer to Rule 14.10.27) as the number of on-site parking spaces provided does not meet the minimum requirements outlined in Appendix 25C of the operative District Plan, as the operative District Plan requires 36-50 carparks, and 23 are provided on-site. Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.4 Loading (refer to Rule 14.10.28) as the number of on-site loading spaces provided does not meet the minimum requirements outlined in Appendix 25C as 3

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	2 of 40

loading spaces are required for the development, yet one is proposed. Therefore, consent is required as a Restricted Discretionary Activity.

Activity Status: Discretionary Activity

Determination/s

Determination 1:

Pursuant to Section 104, 104A, or 104C, or 104B,104D and 108 of the Resource Management Act 1991 (“the Act”), the Kaipara District Council **grants** RM240229 under the Operative District Plan; subject to the following conditions:

General

1. The activity shall be carried out in accordance with the plans and all information submitted with the application formally received by the Kaipara District Council (“Council”) on 17 February 2025:
 - Application form, and assessment of environmental effects prepared by Campbell Brown, dated February 2025.

Plan title and reference	Author	Rev	Dated
Plan – Site, Drawing A1.100	STRATA	S5	02/04/2025
Site Plan –Coverages, Drawing A1.101	STRATA	S4	02/04/2025
Plan – Ground Floor, Drawing A1.102	STRATA	S5	02/04/2025
Plan – First Floor, Drawing A1.103	STRATA	S5	02/04/2025
Lot 11 – Ground Floor, Drawing A1.104	STRATA	S5	02/04/2025
Lot 11 – First Floor, Drawing A1.105	STRATA	S3	02/04/2025
Lot 12 – Ground Floor, Drawing A1.106	STRATA	S5	02/04/2025
Plan – Outdoor Lighting, Drawing A1.107	STRATA	S5	02/04/2025
Elevation – 1, Drawing A1.200	STRATA	S5	02/04/2025
Elevation – 2, Drawing A1.201	STRATA	S5	02/04/2025
Elevation – 3, Drawing A1.202	STRATA	S5	02/04/2025
Section A-A/B-B, Drawing A1.300	STRATA	S5	02/04/2025
Plan – Cut & Fill, Drawing A1.301	STRATA	S5	02/04/2025
Cut & Fill Section, Drawing A1.302	STRATA	S5	02/04/2025
Callout – signage, Drawing A1.400	STRATA	S5	02/04/2025
Cover – Stage 2, Drawing A2.000	STRATA	S5	02/04/2025
Plan – Site – Stage 2, Drawing A2.100	STRATA	S5	02/04/2025
Site Plan, Coverages – Stage 2, Drawing A2.101	STRATA	S5	02/04/2025
Plan – Ground Floor – Stage 2, Drawing A2.102	STRATA	S5	02/04/2025

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	3 of 40

Plan – First Floor – Stage 2, Drawing A2.103	STRATA	S5	02/04/2025
Elevation 4 – Stage 2, Drawing A2.200	STRATA	S5	02/04/2025
Elevation 5 – Stage 2, Drawing A2.201	STRATA	S5	02/04/2025
Section C-C/D-D, Drawing A2.300	STRATA	S5	02/04/2025
Hynds Stormwater – Up-Flo 1-6 Modules Standard Drawing, Drawing Number T7511 GA	Hynds	2	2 March 2021
Vehicle Tracking – Medium Rigid Truck (500mm Clearance), Project No 240562 VTB - (13)	Traffic Planning Consultants Ltd		24.03.2025
Vehicle Tracking – Vehicle Tracking - 10.3m Rubbish Truck (500mm Clearance), Project No 240562 VTB - (14)	Traffic Planning Consultants Ltd		24.03.2025
Civil Design – Commercial Building 5 & 7 Eagle Ray Road Mangawhai, Structural Drawing List, Job No A24339.C	Richards Consulting Engineers	Rev A	05.02.2025
Landscape Planting Plans for RC – Landscape Concept	Landscape and Ecology		N/A
Report title and reference	Author	Rev	Dated
Civil Design Report, Project A24339.C & A24362.C	Richards Consulting Engineers	1.0	7 February 2025
Eagle Ray Road – Landscape Maintenance Plan	Landscape and Ecology		10 February 2025
Eagle Ray Outdoor Lighting Plan	Targetti		16/01/2025
Transport Assessment, Job Number 240562	Traffic Planning Consultants Ltd		February 2025
Other additional information	Author	Rev	Dated
S92 Response	Campbell Brown		7 April 2025
The Up-Flo Filter (Stormwater Treatment) Technical Guide SW11	Hynds Stormwater		N/A
Technical Support Sheet – Operation & Maintenance Manual, UP-Flo Filter	Hynds Stormwater		March 2021

Advice Note: Where there is any apparent conflict between the application and the consent conditions, the consent conditions shall prevail.

Charges

- The Consent Holder shall pay any subsequent further charges imposed under Section 36 of the Act relating to the receiving, processing, granting and monitoring of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under Section 36(5) of the Act that are subject to challenge, the Consent Holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant final invoice.

Section 125 – Consent Lapse Date

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	4 of 40

3. Under Section 125 of the Act, this consent lapses five years after the date it is granted unless an application under Section 125 of the Act is made to the Council before the consent lapses (five years) to extend the period after which the consent lapses and the Council grants an extension.

Accidental Discovery Protocol

4. In the event of an 'accidental discovery' of sub-surface archaeological material (shell, midden, hangi, storage pits, etc), work must cease in the immediate vicinity of the remains and immediate steps must be taken to secure the site (tape it off). The Consent Holder must notify Council, Heritage New Zealand Pouhere Taonga and representative tangata whenua of the relevant iwi so that appropriate actions can be taken.

Section 128 Review

5. Under Section 128 of the Act the conditions of this consent may be reviewed by the Council at the Consent Holder's cost:
- (a) On state intervals for review - which may be one-off, annual, or less regular over time following commencement of consent in order to:
- i. Deal with any adverse effect on the environment which may arise or potentially arise from the exercise of this consent and which it is appropriate to deal with at a later stage, in particular adverse effects on parking on the wider road network.

STAGE ONE

Pre-Commencement Conditions

6. Prior to the commencement of any physical work authorised under this consent, a Construction Management Plan ("CMP") in accordance with Section 3.3 of Council's Engineering Standards 2011 shall be provided to Council's Development Engineer, or their delegated representative for certification, and shall include:
- (i) Details of the site manager including full contact details;
- (ii) Construction methodology including proposed plant and machinery to be utilised;
- (iii) Proposed procedures for controlling sediment runoff and dust generation;
- (iv) Programme of works;
- (v) Proposed hours of work on the site;
- (vi) Details of the number and timing of truck movements on the access route to the site;

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	5 of 40

- (vii) Details of any proposed materials storage areas;
- (viii) Traffic management plans;
- (ix) Proposed communication strategy to advise members of the public of the construction works;
- (x) For all road construction works, the Consent Holder shall give Council's Asset Manager at least 10 working days' notice of commencement of any works on any Council Road.

7. Prior to the commencement of any physical work authorised under this consent, in relation to proposed vehicle crossing, the Consent Holder shall enter into a bond guaranteeing that in the event of damage to existing Council assets or abandonment of the work by the Consent Holder, that all existing Council assets will be returned to a condition at least equal to that which existed prior to the commencement of work.

The bond shall be for the sum of \$5,000 or any other specific amount and shall remain in full force and effect until such time as all work has been completed and any necessary remedial work completed to the satisfaction of Council.

The bond shall be prepared by Council or Council's solicitor at the Consent Holder's expense. The bond will be released when all works associated with the bond are completed to Council's satisfaction and inspections fees are paid (or alternatively the Consent Holder may request that inspection fees can be deducted from the bond refund).

8. Prior to the commencement of any physical work within the Council's road reserve, the Consent Holder shall submit a Corridor Access Request ("CAR") application, including a Traffic Management Plan/s, to the Northern Transportation Alliance Corridor Access Manager and obtain approval.
9. A minimum of seven days prior to the commencement of any work authorised under this consent, the Consent Holder shall notify Council, in writing, of their intention to begin works. Such notification shall be sent to the Council's Development Engineer or their delegated representative and include the following details:

- (i) Name and telephone number of the project manager/Independent Qualified Person (IQP).
- (ii) Site address to which the consent relates.
- (iii) Activities to which the consent relates.
- (iv) Expected duration of works

A copy of the approved engineering plans and a copy of the resource consent conditions, Inspection and Test Plan, approved corridor access request and the engineering plan approval letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of and have access to the resource consent and accompanying documentation.

Engineering Design

10. The Consent Holder must submit a detailed set of engineering plans, specifications and calculations, prepared in accordance with the Council's Engineering Standards 2011 and to the Council's Development Engineer and to Northland Transport Alliance, or their delegated representatives for approval.

The engineering plans, calculations and specifications shall be prepared by a suitably experienced person/s who:

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	6 of 40

- (i) Have the appropriate experience in the relevant areas; and
- (ii) Hold appropriate qualifications and membership of professional bodies; and
- (iii) Have professional indemnity insurance to the value of at least \$1,000,000.

The engineering plans, calculations and specifications shall include, but may not be limited to the following:

- (i) Design details for construction of a vehicle crossing to engineering drawing S06 in accordance with Section 5.2.18 of the Kaipara District Council's Engineering Standards 2011.
- (ii) Design details of the reticulated stormwater and wastewater to serve the site in accordance with Council's Engineering Standards 2011.

Engineering Implementation

11. All works on the engineering plans approved under condition 10 of this consent are to be completed to the approval of the Council's Development Engineer, or their delegated representative.

Compliance with this condition shall be determined by the following:

- a. Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by condition 9 of this consent;
- b. Provision and approval of supporting documentation provided by the Consent Holder in support of the constructed works, including Producer Statements, completion certificates, works acceptance certificate, statement of compliance of as built works and as built plans, construction management plans, operation and maintenance plans and all other test certificates and statements and supporting information required to confirm compliance of the works as required by Section 3 of the Council's Engineering Standards 2011.

Earthworks Conditions

12. The earthworks activity shall be undertaken as per the Construction Management Plan approved under Condition 6 of this consent.
13. Erosion and sediment controls shall be installed prior to the commencement of any earthworks (excluding earthworks required for the construction of erosion and sediment controls). A suitably qualified and experienced person shall supervise the installation of all erosion and sediment controls. The erosion and sediment controls installed shall remain in place for the entire duration of earthworks activities.
14. Erosion and sediment control measures shall be constructed and maintained in accordance with the principles and practices contained within the Auckland Council document entitled "GD05: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region" (GD05). Where there are inconsistencies between any part of GD05 and the conditions of this consent, then the conditions of this consents shall prevail.
15. The Consent Holder shall implement suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site, and to control or mitigate any potential dust nuisance. All such measures shall be maintained throughout the entire duration of the

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	7 of 40

construction period. The council reserves the right at all times to stop the works in and during periods of high winds.

16. The Consent Holder shall institute appropriate measures to control or mitigate any potential dust nuisance. All such measures initiated shall be maintained throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.

17. All earthworks shall be undertaken in a manner which ensures that the land within the site, and adjoining properties, remains stable at all times, ensuring that the earthworks do not lead to any uncontrolled instability or collapse affecting the site or any neighboring properties.

All earthworks shall comply with Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.

Implementation of Approved landscape design

18. Prior to the commencement of the activity and within an appropriate planting season, the consent holder shall implement the landscape design which has been approved by the council under condition (1) and thereafter retain and maintain this landscape (planting, pavement, and bike stands) in perpetuity to the satisfaction of the council in accordance with the maintenance plan which has been approved under condition 19.

The submitted information shall be consistent with the consented landscape concept plans prepared by Landscape and Ecology shown in Condition 1 and, at a minimum, shall include landscape design drawings, specifications and maintenance requirements.

Maintenance of approved landscape area

19. All Landscaping as required by Condition 18 of this consent, shall be in general accordance with the Maintenance Plan titled 'Eagle Ray Road – Landscape Maintenance Plan' prepared by Landscape and Ecology, dated 10 February 2025.

Stormwater and Wastewater Conditions

20. The stormwater components and connections shall be constructed in accordance with the approved stormwater design and report by Civil Design Report (Project No.: A24339.C & A24362.C, Rev.: 1.0, dated: 7/02/2025) prepared by Richards Consulting Engineer submitted in support of the RC application and subsequent S92 responses.
21. Consent Holder shall submit Stormwater device Operation and Maintenance schedules and manuals to Council to the satisfaction of the Council's Development Engineer, or their delegated representative.
22. The stormwater system, components and connections shall be over seen by a suitably qualified person acceptable to Council. Further detailed design during the building consent may be required which is subject to review by a council adhering to section 6 Kaipara District Council Engineering Standards

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	8 of 40

2011 and subject to inspection by council or a council representative at the time of installation and completion.

23. The Stormwater Treatment Device shall be constructed/installed in accordance with the Hynds Stormwater -Up-Flo 1-6 Module drawing no T7511 GA Rev.02 Dated 2 March 2021 submitted in support of RM 240229.
24. The consent holder shall submit a detailed design for Stormwater and Wastewater design within the agreed easement areas to council for approval and approved, and any damage during the works for the council assets within the easement shall reinstate in accordance with the council engineering standards and requirements.

As-Built Plans

25. The Consent Holder shall submit certified and dated 'As-Built' plan/s of completed works and services in accordance with Council's Engineering Standards 2011 to the satisfaction of the Council's Development Engineer, or their delegated representative.

The Consent Holder/Consent Holder's Contractor shall supply the required As-Built details in hard copy and electronic (AUTOCAD) format. For pdf files different assets should be marked using following colours:

- Stormwater Assets - **Green**
- Waste Waster - **Red**

Co-ordinates in New Zealand Transverse Mercator NZTM2000.

Signage:

26. All signage including traffic movement signage shall be erected wholly within the site, and to the specifications as per the approved plan submitted with the application (detailed in condition 1).

Post Work Requirements

27. Once the staged development is completed, CCTV video footage of the assets to be vested as a public asset (Wastewater and Stormwater) from inside the pipes shall be provided to Council to ensure the assets are acceptable to vest in council.

STAGE TWO:

28. A minimum of seven days prior to the commencement of any work authorised under this consent for Stage Two, the Consent Holder shall notify Council, in writing, of their intention to begin works. Such notification shall be sent to the Council's Development Engineer or their delegated representative and include the following details:

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	9 of 40

- (v) Name and telephone number of the project manager/Independent Qualified Person (IQP).
- (vi) Site address to which the consent relates.
- (vii) Activities to which the consent relates.
- (viii) Expected duration of works

A copy of the approved engineering plans and a copy of the resource consent conditions, Inspection and Test Plan, approved corridor access request and the engineering plan approval letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of and have access to the resource consent and accompanying documentation.

Earthworks Conditions

29. Erosion and sediment controls shall be installed prior to the commencement of any earthworks (excluding earthworks required for the construction of erosion and sediment controls). A suitably qualified and experienced person shall supervise the installation of all erosion and sediment controls. The erosion and sediment controls installed shall remain in place for the entire duration of earthworks activities.
30. Erosion and sediment control measures shall be constructed and maintained in accordance with the principles and practices contained within the Auckland Council document entitled "GD05: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region" (GD05). Where there are inconsistencies between any part of GD05 and the conditions of this consent, then the conditions of this consents shall prevail.
31. The Consent Holder shall implement suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site, and to control or mitigate any potential dust nuisance. All such measures shall be maintained throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.
32. The Consent Holder shall institute appropriate measures to control or mitigate any potential dust nuisance. All such measures initiated shall be maintained throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.
33. All earthworks shall be undertaken in a manner which ensures that the land within the site, and adjoining properties, remains stable at all times, ensuring that the earthworks do not lead to any uncontrolled instability or collapse affecting the site or any neighboring properties.
34. All earthworks shall comply with Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.

1. Advice Notes

- i. The consent holder shall be required to pay to Kaipara District Council a Development Contributions under the Local Government Act 2002.

A copy of Council's policy on Development and Financial Contributions included within the Long Term Plan 2021-2031 and Development Contributions Policy (2020) can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website www.kaipara.govt.nz.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	10 of 40

- ii. Under the Council Engineering Standards 2011, the Consent Holder will be required to ensure the person responsible for carrying out construction work holds public liability insurance to the value of at least \$1,000,000.00.
- iii. The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.
- iv. All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to Heritage New Zealand Pouhere Taonga (HNZPT) for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effects cannot be practised.
- v. If you disagree with any of the above conditions, or additional charges relating to the processing of this application, you have a right of objection pursuant to sections 357A or 357B of the Act. Any objection must be made in writing to Council within 15 working days of notification of decision.

Assessment under the Proposed Kaipara District Plan

Status of Proposed Kaipara District Plan

On 28 April 2025, Council notified the Proposed Kaipara District Plan ("PDP"). The submission period is currently open and closes on 30 May 2025.

Some rules in the PDP have immediate legal effect upon notification in accordance with section 86B(3) of the RMA. Rules in the PDP with immediate legal effect are identified with an orange gavel next to the rule. Rules with legal effect must be complied with.

Pursuant to section 86B(1), all other rules in the PDP have legal effect only once decisions on submissions relating to rules are made and publicly notified. If a rule is not subject to any submissions in opposition, it can be treated as operative under section 86F of the RMA. Rules that do not have legal effect (or are not operative under section 86F) do not trigger the need for a resource consent under the PDP.

As the submission period is still open, and the further submission period has not commenced, it is not possible for Council to determine if any rules in the PDP can be treated as operative under section 86F. Therefore, currently only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.

Reasons for consent under the PDP:

- i. The proposal has been assessed against the rules in the PDP that have immediate legal effect upon notification. The proposal **does not** engage any of the rules with immediate legal effect. Therefore, no consideration has been given to any of those rules in this section 104 assessment.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	11 of 40

Reasons for the Decision

- 1.1 A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.
- 1.2 In terms of section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
- 1.3 In terms of section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement 2016 as discussed in this report.
- 1.4 In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
- 1.5 The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting resource consent under the Operative Kaipara District Plan achieves the purpose of the Act as set out in the section 5.

Reporting Planner



13 May 2025

Kelsey Newman

Signed



5 May 2025

JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

Signed under delegated authority pursuant to Section 34A of the Resource Management Act 1991.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	12 of 40

RM240229

Section 104 of the Resource Management Act 1991 - Assessment Report

Details of Application	
Applicant	Marotere Limited & St Lambert Limited
Property to which the consent relates	Lot 11 DP 579625 , RT 1120003 Lot 12 DP 579625 , RT 1120004

Assessment under the Operative Kaipara District Plan

1. Description of Proposal

- 1.1 Land Use consent is sought for a new commercial development with onsite parking and vehicle access on Lot 11 DP 579625 and Lot 12 DP 579625, herein referred to as 'the site'.
- 1.2 As shown below, the proposed development is Staged, set to create two main structures that can accommodate multiple tenancies through flexible commercial spaces. The proposal is broken down into Shed 1 and Shed 2:

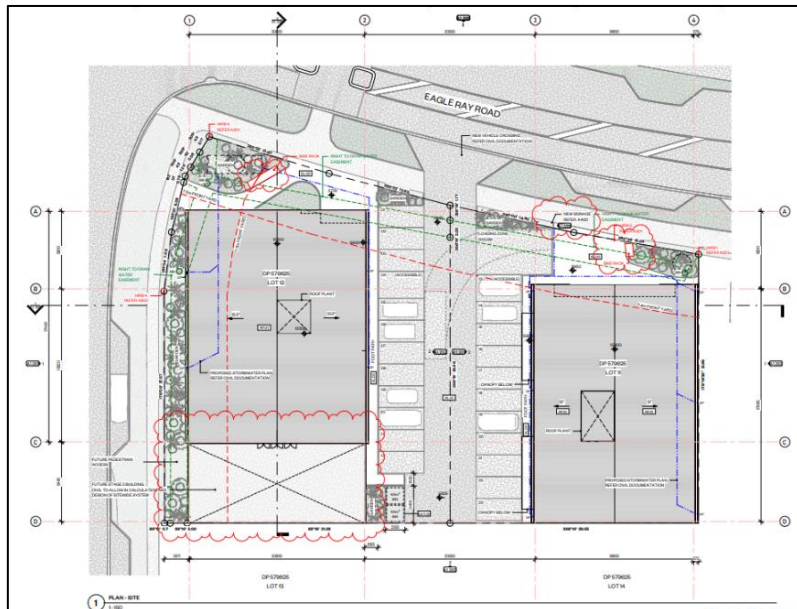


Figure 1: Proposed Development.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 23	13 of 40

STAGE ONE:

1.3 Shed 1:

- 1.3.1 Shed 1 does not have a specific use, however flexibility is sought to utilise this building for a mixture of retail, office, and service oriented businesses. This is located on Figure 1 on the right hand side.
- 1.3.2 Shed 1 is intended to have five premises across two levels.

1.4 Shed 2:

- 1.4.1 Shed 2 is proposed to be utilised as a Gym/Fitness Premises, yet flexibility is sought through this consent to be utilised as other commercial uses should not be feasible.
- 1.4.2 Shed two and the Gym is proposed to contain two changing rooms, an office, reception area and a 414m2 gym floor. A 241m2 area is additionally proposed for outdoor exercise area.

STAGE TWO

- 1.5 Stage 2 involves the replacement of the outdoor exercise area in Shed 2 with a new building –a total of 239m² open floor area on both the ground level and upper level. This is proposed to be staged, as the applicant is uncertain when this would be implemented, albeit it is proposed that this is implemented within five years of the occupation of Stage 1, and a condition is consent would be accepted accordingly. There will be no other changes to Stage 2.



Figure 2: Stage Two.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	14 of 40

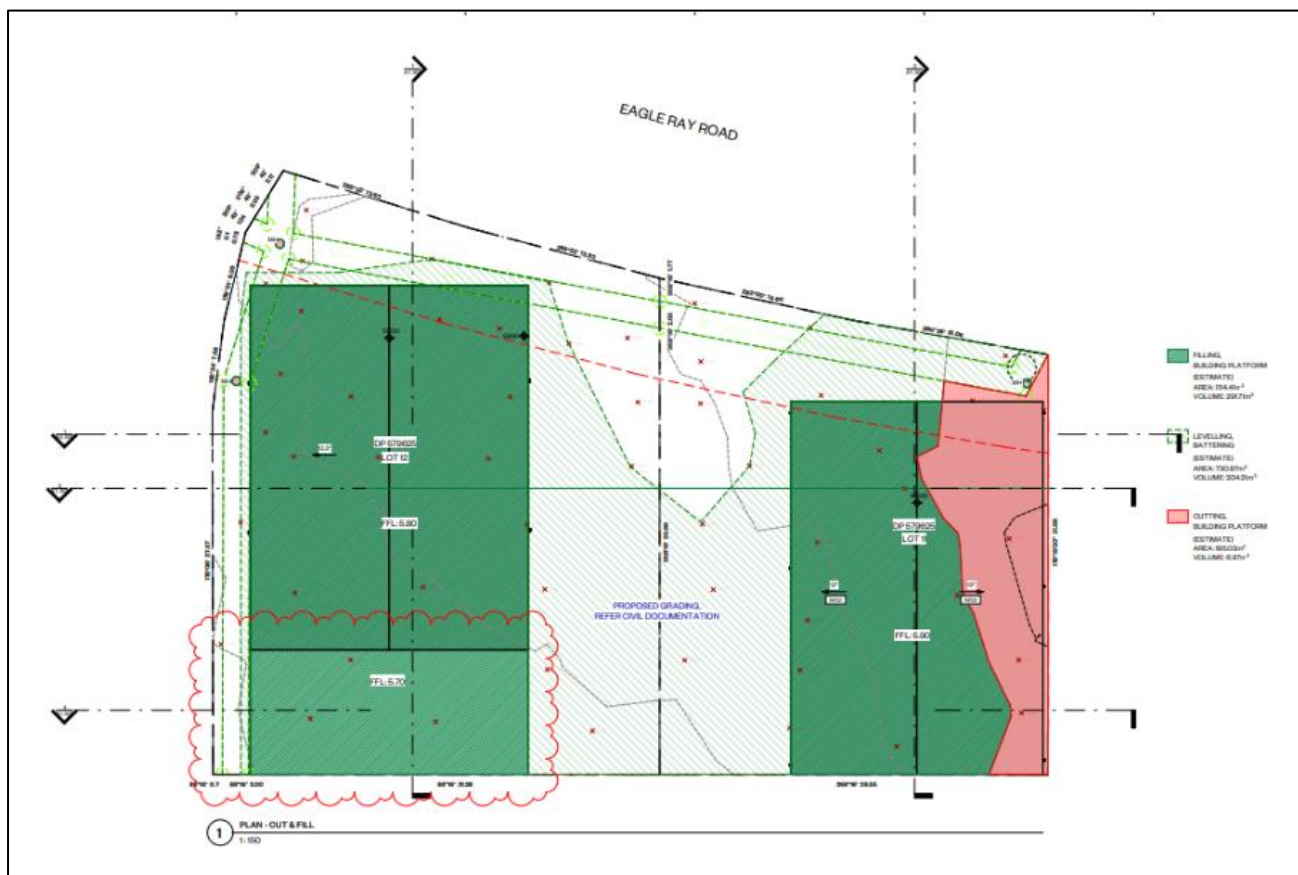


Figure 4: Earthworks Plan.

Access and Parking:

- 1.7 A Transport assessment prepared by Traffic Planning Consultants Ltd (TPC), dated February 2025 has been lodged in support of this proposal.
- 1.8 The site contains no physical existing vehicle crossing, therefore it is proposed to provide one vehicle crossing to Eagle Ray Road on the northern boundary. It will serve a total of 23 vehicle car parks, and one loading zone space. Eagle Ray Road is deemed the 'Ring Road' for Mangawhai Central as shown on the Estuary Estates Structure Plan, as it serves as a link between Molesworth Drive and the rest of Estuary Estates area.
- 1.9 A footpath of permeable paving will be constructed between the buildings and the car parks on both sides, as shown by Figure 2. Pedestrian access to the site will also be provided from both road frontages.

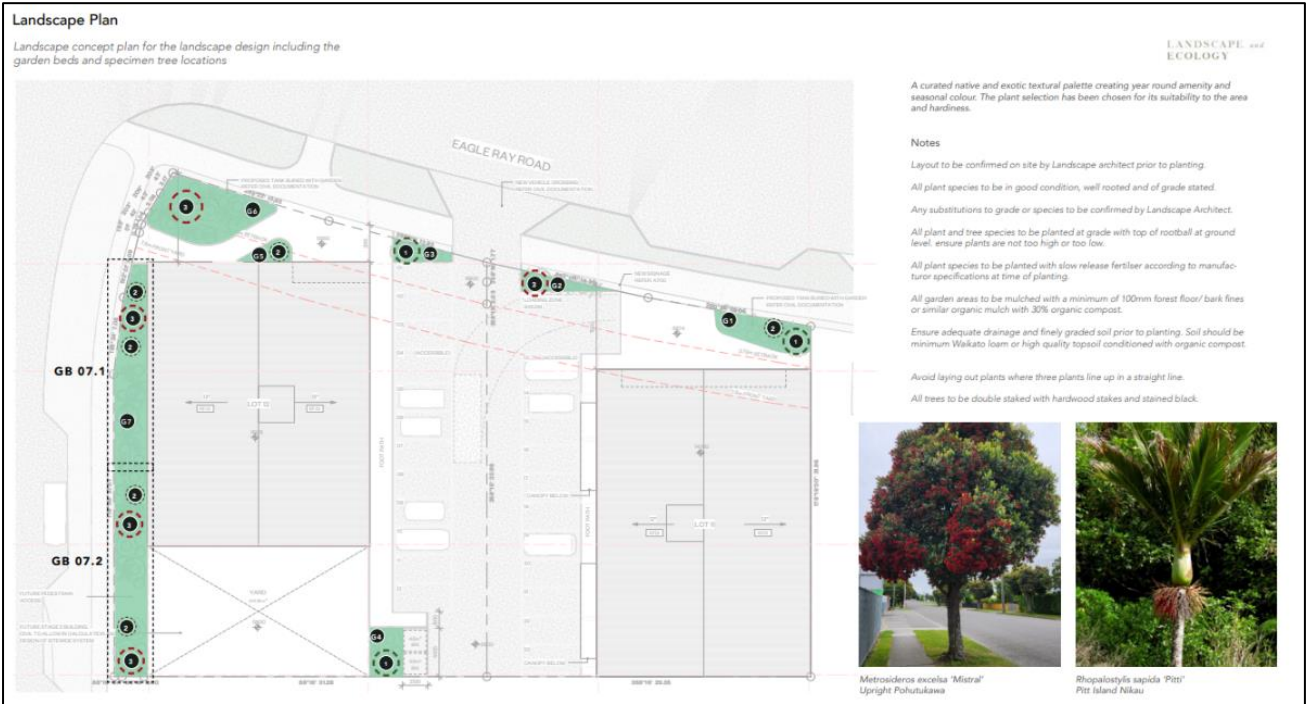
Servicing:

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	16 of 40

- 1.10 In accordance with Consent Notice 12539177.5, a Civil Design Report provides details of the proposed stormwater management for the development. An underground stormwater retention tank is proposed to be installed within the planted garden area for reuse of roof run-off at hose taps. The rest of the impervious areas will connect to the existing public reticulation, and driveway areas will be directed via a stormwater treatment device.
- 1.11 Power supply is available at the boundary of the site and telecommunications can be via cable or wireless as both are available.

Landscaping and Design:

- 1.12 The proposal includes a comprehensive design and landscape package consisting of both hard and soft treatments. The overall intent of the Landscaping and Design focuses on ensuring the development has minimal impact on the wider environment and surrounding neighbours whilst also providing an attractive commercial destination for the community.
- 1.13 Landscape Designs and Maintenance Plans have been provided at time of lodgment prepared by Landscape and Ecology.
- 1.14 As shown within the plan below, Specimen trees have been located throughout the site.



Signage:

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	17 of 40

- 1.15 A space next to the loading zone is intended to accommodate signage. The design will be a freestanding display board. The gym facility is proposed to have a sign on the northern façade that states “Mangawhai Central Fitness” or similar (it will ultimately advertise the tenancy within).

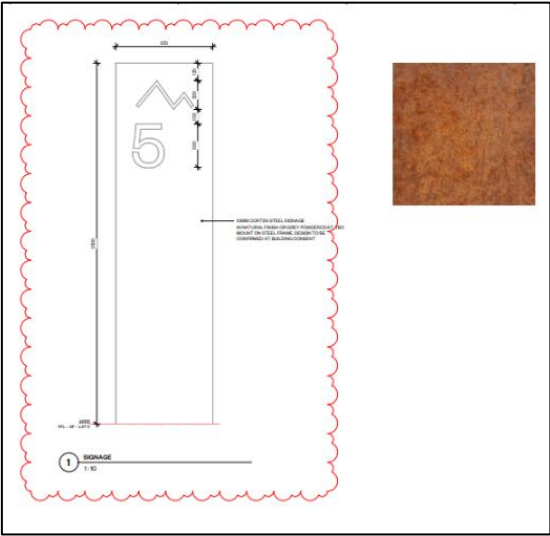


Figure 6: Signage Proposed.

Lighting:

- 1.16 Details of lighting have been provided as the site partially adjoins future Residential Lots, approved in RM240180. A Luminaire layout plan has been provided by Targetti confirming the lighting design has been provided to light up the communal areas of the development while ensuring that lighting levels at the property boundaries do not exceed 10 lux. A image is shown below:



Figure 7: Lighting Details.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	18 of 40

2. Draft Conditions

- 2.1 Draft conditions were shared with the applicant/agent on 5 May 2025. The conditions have been agreed by the applicant/agent on 13 May 2025.
- 2.2

3. Site and Consent History

- 3.1 The site (Lot 12 and 11) was created as part of the parent site subdivision RM190283C, which was initially approved to create: roads to vest, two residential super lots, and 15 Service Zone allotments and associated services. The subdivision also included preliminary and detailed site investigations and a (Now implemented) remediation action plan, and is subject to the following consent notices:

- **5752463.2 Consent Notice**

- This consent notice related to Lot 6 where the application site is Lot 12 and 11, and is not relevant to this application.

- **12539177.5 Consent Notice**

- This consent notice sets out numerous requirements for ongoing compliance with the conditions of RM190283C with respect to engineering and geotechnical reports, reticulated stormwater and wastewater connections, private stormwater management, vehicle crossings, compliance with fire safety regulations, urban design guidelines, other properties created through the underlying subdivision have landscaping requirements too –these are non-applicable in this instance.

- **Subject to a right (in gross) to drain sewage over part marked AG on DP 579625 in favour of Kaipara District Council created by Easement Instrument 12539177.7**

- This instrument burdens the subject site with easements in gross which are located adjacent to the road reserve, and which are not affected by the proposal.

- **Land Covenant (in gross) in favour of Mangawhai Central Limited created by Covenant Instrument 12539177.17**

- This covenant is a private instrument unrelated to the resource consent application.

- **Land Covenant (in gross) in favour of Northpower Limited created by Covenant Instrument 12539177.18**

- This covenant is a private instrument unrelated to the resource consent application.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	19 of 40

4. Site Description and Surrounding Environment

- 4.1 The AEE prepared by Campell Brown, includes a description of the site and surrounding environment which has been adopted for the purposes of this report. Having been to the site on the 24 February 2025, I concur with the description.
- 4.2 In addition, the site is currently vacant of development. The surrounding environment consists of Molesworth Drive and the Mangawhai Estuary to the northeast, with a mix of lifestyle and residential development beyond the estuary. Residential development to the south (accessed off Sunlea Lane, Hills View Lane and Molesworth Drive). The dwellings to the south in the wider area are those in closest proximity to the area of proposed development. More recently established development to the immediate north / northeast of the subject site comprises of a mix of uses including the New World supermarket, a number of retail shops, and the Bunnings store. Directly to the east of the site is a recently consented 'Northbase' which involves retail, restaurant/cafes, and light industrial, in addition, a real estate office.

5. Kaipara District Plan (Operative 2013) Rule Assessment

- 5.1 The following apply to the subject property

Zoning: Estuary Estates, Subzone 7 – Servicing

Overlays: Mangawhai Harbour

Rules: 16.4.1-2 Activity Table Business and Service Sub-Zone provides a list of activities and associated activity status. The proposal seeks to establish flexibility in the use of these Buildings such as offices, retail, and commercial uses, and a Gym/Fitness Centre which are not specifically provided for within the Service Sub-Zone and are therefore a Discretionary Activity as per Section 87B(1)(b) of the Act.

16.5.1.3(a) and (d) Building Yards require a setback of 7.5m from a Road Frontage. Shed 1 and Shed 2 are set back at least 3.75m from the front boundary associated with Eagle Ray Road to the north. Shed 2 is set back 2.54m from the front boundary associated with Eagle Ray Road to the west. The building intended to be 'Stage 2' is also 2.984m from that western front boundary. In addition, a 5.0m wide landscaping strip is not provided for in this front setback. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.4(a) and (b) Height in Relation to Boundary as Shed 1 infringes the height in relation to boundary setback associated with Eagle Ray Road to the north by a maximum of 2.04m, reducing to 0.41m across a distance of 10.3m. Within Stage 2 infringes the HRTB setback associated with Eagle Ray Road to the west by a maximum of 1.47m over a distance of 12.48m. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.5(a) and (b) Height as Shed 1 is proposed to be 9.0m in height when measuring from ground level, with a roof plant positioned above. The total height of the building

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	20 of 40

plus roof plant will be 10.27m. This is an infringement of the 8.0m maximum height limit for Sub-Zone 7. Within Stage 2, the building is proposed to be 8.51m in height. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.7 Impermeable Surfaces as the proposed impermeable surfaces for the development infringe the maximum of 80% of site area in Sub-Zone 7, as a total of 1980.82m² is proposed, which is 81.4% of the site area, creating a 1.4% breach. Therefore, consent is required as a Restricted Discretionary Activity.

16.5.1.9 Earthworks as the proposed activity will require an area of 2443m² on slopes less than 1 in 6 within Sub-Zone 7. This is an infringement of the required area of 700m². Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.2 Vehicle Access and Driveways (refer to Rule 14.10.25) as the proposed vehicle crossing will be formed with a bespoke geometry. Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.3 Parking (refer to Rule 14.10.27) as the number of on-site parking spaces provided does not meet the minimum requirements outlined in Appendix 25C of the operative District Plan, as the operative District Plan requires 36-50 carparks, and 23 are provided on-site. Therefore, consent is required as a Restricted Discretionary Activity.

16.6.2.4 Loading (refer to Rule 14.10.28) as the number of on-site loading spaces provided does not meet the minimum requirements outlined in Appendix 25C as 3 loading spaces are required for the development, yet one is proposed. Therefore, consent is required as a Restricted Discretionary Activity.

Activity Status: Discretionary Activity

6. Notification Assessment

- 6.1 A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.

7. Statutory Acknowledgements

- 7.1 Relevant to this application, any statutory acknowledgement within the meaning of the Act specified in Schedule 11 would be contained within the Te Uri o Hau Claims Settlement Act 2002. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) authorised to participate in the Resource Management Act 1991 proceedings.
- 7.2 The application was formally received to Te Uri o Hau upon receipt by Council on 17 February 2025. On the 25 February 2025, an email was received confirming they have no concerns with the proposal. Therefore, it is considered they are not adversely affected by the proposed development.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	21 of 40

8. Section 104(1)(a) – Actual & Potential Effects on the Environment

Trade Competition

- 8.1 With regard to Section 104(3)(a)(i), there are no known issues in the consent application or as a result of the submission process that raise questions of trade competition or the effects of trade competition.

Written Approvals

- 8.2 With regard to Section 104(3)(a)(ii), the Council must not have regard to the effects on those persons who have given written approval to the application. No persons/parties have provided written approval.

Permitted Baseline

- 8.3 In accordance with Section 104(2), the Council may disregard an adverse effect of an activity on the environment if the Plan or a National Environmental Standard permits an activity on the site with that effect (commonly referred to as the 'permitted baseline' test). The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the Plan or NES irrelevant. The baseline has been defined by case law as comprising non-fanciful (credible) activities that would be permitted as of right by the plan in question.
- 8.4 Having regard to the above, the activities able to establish on the site as a permitted activity and are considered relevant to the consideration of this application:
- Boat sale and contractor yard
 - Construction of a building complying within the relevant development controls
 - Garden centre including an associated café not exceeding 100m2 GFA
 - Factory shop not exceeding 50m2 GFA per site and ancillary to a manufacturing activity
 - Local service activity
 - Shop not exceeding 50m2 GFA that are ancillary to a local service activity
 - Transport depot and services.
- 8.5 Given the site is currently vacant, the amenity, traffic and servicing effects associated with the abovementioned activities establish the permitted baseline with regards to the subject site at present.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	22 of 40

Receiving Environment

- 8.6 The 'environment' upon which effects are to be assessed comprises the exiting and reasonably foreseeable future environment. In identifying the environment, it is necessary to consider the environment as it is at the time of application, and the likelihood of change to that environment in the future, based upon the activities that could be carried out as a right or with respect to resource consents that have been granted (where it is likely that they will be given effect to).
- 8.7 The receiving environment comprises a recently rezoned comprehensive mixed-use area, enabled by the District Plan through the Estuary Estate zone, including approximately 130 hectares of land located on the upper Mangawhai Harbour. The site sits half way between Mangawhai Village and Mangawhai Heads. With this, the zoning including subzones enable a mix of commercial, service and residential activities. The consents that have been recently approved that have relevance in the receiving environment include:
- RM190282 – Supermarket, business areas and associated development;
 - RM200156 – Mobil Service Station;
 - RM200102 – Bunnings warehouse hardware store and associated parking and access;
 - RM220050 – Notice of requirement for new substation; and
 - RM220171 – Bayleys office activity, cafe and associated parking, access, landscaping and signage.
 - RM220354A – Northbase Commercial, restaurant/cafe and Light Industrial activities, and associated parking, access, landscaping and signage.
 - RM240180 – Stage 1 of the Residential Development consisting of 258 Residential Lots and 8 Commercial Lots.
- 8.8 The anticipated environment is important to consider in this instance, given that a fundamental change in character from a greenfield site to a mixed urban environment is anticipated by the current District Plan zoning, as depicted in the Estuary Estates Structure Plan. The receiving area is currently undergoing construction (and operation of recently constructed premises) in accordance with the zoning of the site, and in accordance with a number of recently approved consents listed above.

Assessment of Effects

POSITIVE EFFECTS

- 8.9 The proposal provides for the construction of a new commercial/retail units on Subzone 7 – Servicing site which will provide for the economic and social wellbeing of the owners and future occupiers of the site.
- 8.10 In completing the proposed development, the applicant proposes to significantly improve the existing situation by providing a more efficient use of the site and forming an improved parking area with parking stalls and clear signage as well as high quality urban design with appropriate landscaping to soften future bulk.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	23 of 40

- 8.11 Staging the development allows economic prosperity as buildings in Stage One can commence work while Stage Two is being built. This allows greater economic outcomes for the future occupiers on the site, and also for the community.
- 8.12 It is considered that when taking into account both the potential adverse and positive effects, the effects on the environment of allowing the activity will be acceptable in this instance.

ADVERSE EFFECTS

Access, Traffic and Loading

- 8.13 The proposed traffic data (traffic intensity) for the proposal. The below tables show the Total Traffic generated from the overall development.
- 8.14 The intention for the proposed vehicle areas is a low-speed environment that safely serves the premises without creating adverse effects on road users, pedestrians, or road network efficiency.
- 8.15 Further Information is discussed below, the existing traffic network can safely and efficiently accommodate the anticipated traffic generation. As such, it is considered that any additional adverse effects on character and amenity of the wider environment attributed to the traffic generated by the proposal will be less than minor, particularly when considering the temporary nature of the congestion periods.

Parking Generation:

- 8.16 The breakdown below shows the Appendix 25C parking provision standards that are outlined for various land uses. Notwithstanding this, the gross floor area of the proposed buildings relative to the number of car parks proposed results in a shortfall of car parking and loading space on site. For Lot 11, as the tenancies are unknown, they are assessed as retail and commercial activities to allow flexibility to be occupied as either office or retail space.

Table 1: Parking Requirements.

Land Use	Parking Rate	Size (m ²)	Parking Req
Office	1 / 40 m ²	941 m ²	24
Retail	1 / 25 m ²	941 m ²	38
Gym	3 / 100 m ²	414 m ²	12
Total		1,355 m²	36-50

- 8.17 The development has 23 carparking spaces. Which creates a breach of Parking Requirements under the Operative District Plan.
- 8.18 The parking for the site will be allocated according to the lease agreements of the various premises. Businesses needing many parking spaces are less likely to operate here due to limited parking. Different premises have different peak hours, so the car parks will be shared to use the land efficiently and sustainably. If additional parking is needed, business owners can lease parking from nearby sites or use the 19 on-street parking bays available in the area.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	24 of 40

Loading Area:

- 8.19 The activities are expected to be serviced predominantly by courier vans making deliveries and refuse collection vehicles. Refuse collection and deliveries to the site will occur within the vehicle access, with vehicles utilising the on-site loading bay provided at the front of the site. The site has been configured to allow for an 8-metre rigid truck, or a 10.3-metre refuse truck to enter the site, reverse into the loading bay, and then exit the site in forward direction.

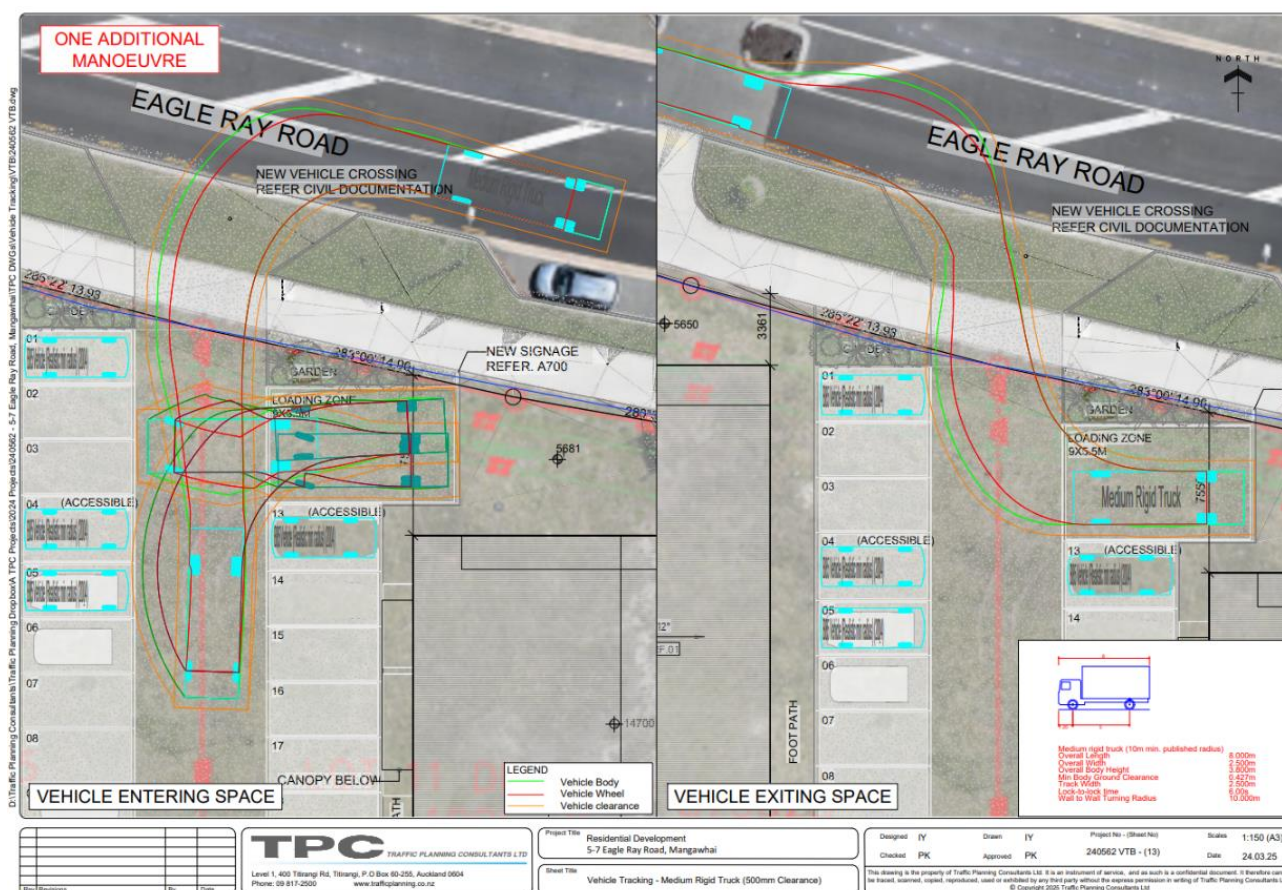


Figure 8: Loading Zone turning radius.

- 8.20 The traffic impact assessment concludes that the traffic planning effects of the proposal can be accommodated on the road network without compromise to its function, capacity or safety subject to the improvements identified in this assessment and therefore the traffic effects associated with this proposal are deemed to be less than minor.
- 8.21 Councils Roding team and Development Engineer Prasad Sappa have reviewed the information and have confirmed they have concerns regarding the proposed development in terms of traffic, parking and loading. It is considered that the actual needs for loading spaces on this site are limited. The single loading bay provision is an appropriate response to the scale and likely premises on site. As such, the effects of the one loading bay are considered to be less than minor.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	25 of 40

- 8.22 To conclude, based on the information provided and the comments from Council's Roading Team and Development Engineers, I agree with these specialists and therefore the effects on Traffic, Parking and Loading are less than minor and acceptable.

Earthworks Effects

- 8.23 The proposed earthworks for the site involve levelling of the site for building works and it is considered that the works will not create a significant modification to the landform as the Figure below shows the current site.



Figure 9: Image of the Site viewing from North base Drive looking East.

- 8.24 The proposed earthworks will be carried out to remove the existing buildings and facilitate the formation of a new building platform. At completion, stabilisation will occur through a combination of the proposed building, paving and landscaping. This will ensure that any effects resulting from exposed earth will be temporary in nature until a stage when the site is fully stabilised and established.
- 8.25 The temporary disturbance is to be expected for a Service area as per the underlying subzone with such topography to allow for the provision of a suitable building platform and access in compliance with the relevant District Plan rules. Furthermore, the site is not in an unduly prominent position. The building will not sit high on a ridgeline. While it will be prominently visible from the adjoining road reserve it will be consistent with the character of surrounding industrial/commercial buildings on Eagle Ray Road as well as the Business Subzone which is partly adjoining the property on the corner of Eagle Ray Road and North base Drive and consistent with what is anticipated for the Wider Estuary Estates Subzone.
- 8.26 The proposed buildings and associated car parks will be located in the area where the earthworks are to be carried out, which means that there will be minimal exposed areas of earth following the completion of the work. As such there will be no long-term evidence of the earthworks having been undertaken.

Stormwater Effects

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	26 of 40

8.27 As discussed above, the proposal involves an impermeable surfaces calculation which equates to approximately 81.4% which exceeds the threshold of 80% by 1.4%.

8.28 The applicant submitted the Civil Design Report Rev.: 1.0, dated: 7/02/2025 prepared by Richards Consulting Engineer, Engineers information is based on the findings and expertise of this report. The information is summarised:

- There is a public stormwater line, located within an easement, which is located at the front of the sites and returns along the Western boundary of 7 Eagle Ray Road.
- The stormwater roof runoff from the building located at 5 Eagle Ray Road will be directed towards the front of the site and connected into the existing lateral connections.
- The stormwater roof runoff from the building located at 7 Eagle Ray Road will be directed to an underground retention tank for grey water reuse.
- The stormwater runoff from the driveway will be directed to a stormwater treatment device which has been designed to treat the first 5mm of stormwater runoff from the driveway area. Additionally, the proposed pavements are to consist of permeable paving to meet the coverage limits of the site.
- These areas will be underlain with drainage aggregate with subsoil drainage which is connected to the stormwater network.

8.29 The Development Engineer, Prasad Sappa, confirmed the proposed attenuation is acceptable. Therefore, as I agree with the conclusions drawn my Councils Engineer, and deem the effects associated with impermeable surfaces to be less than minor and acceptable.

Landscape, Character and Amenity Values

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	27 of 40

8.30 As discussed above, the proposal breaches involve setbacks from the road reserve, height relation to boundary, and maximum height which contribute to the overall character and amenity of the site and the surrounds.

8.30.1 The require a setback of 7.5m from a Road Frontage. Shed 1 and Shed 2 are set back at least 3.75m from the front boundary associated with Eagle Ray Road to the north. Shed 2 is set back 2.54m from the front boundary associated with Eagle Ray Road to the west. The building intended to be 'Stage 2' is also 2.984m from that western front boundary. In addition, a 5.0m wide landscaping strip is not provided for in this front setback.

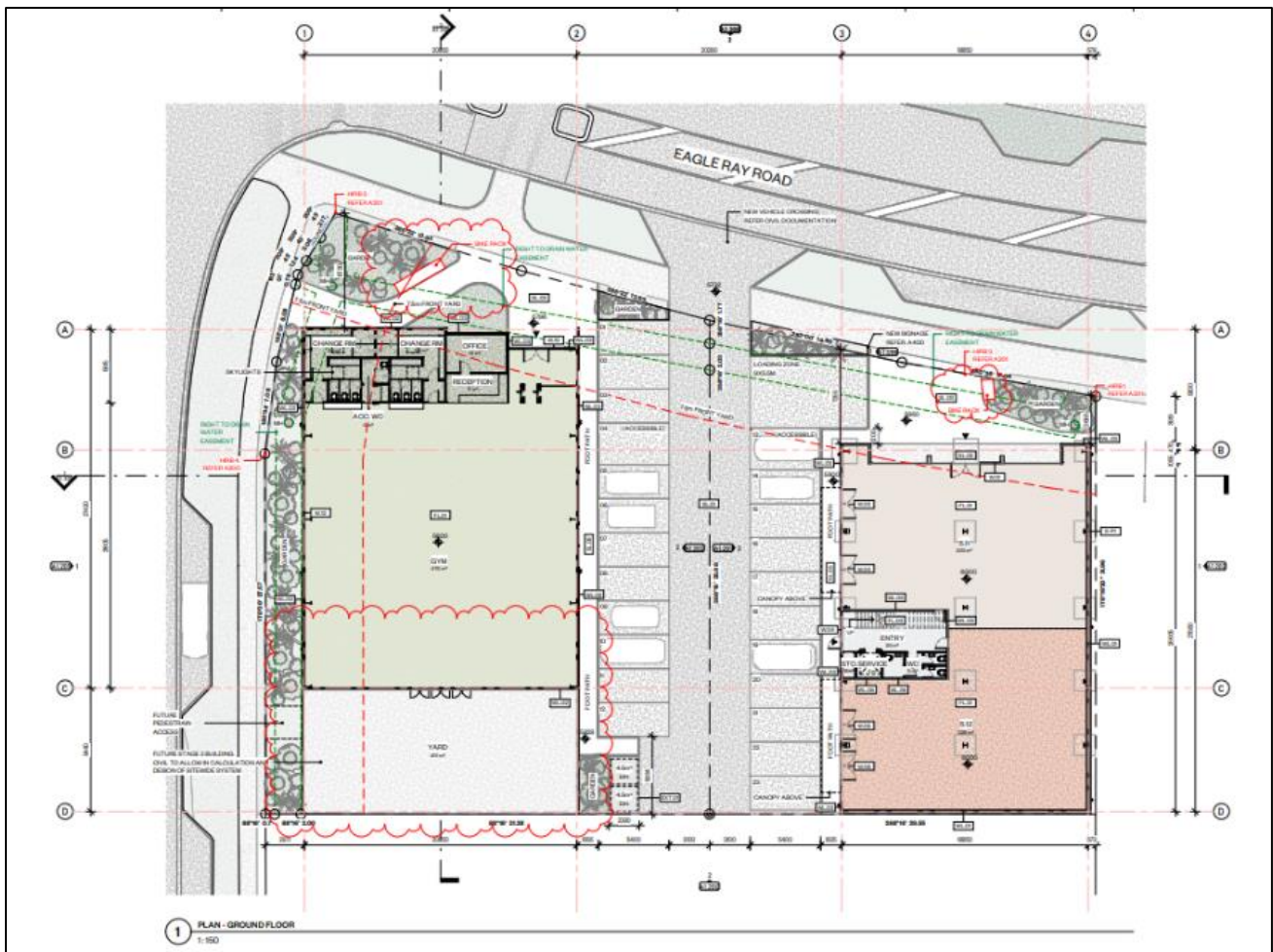


Figure 10: Site Plan showing the Setbacks.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	28 of 40

8.30.2 As shown below, Height in Relation to Boundary (HRTB) is in breach as Shed 1 infringes the height in relation to boundary setback associated with Eagle Ray Road to the north by a maximum of 2.04m, reducing to 0.41m across a distance of 10.3m. Within Stage 2 infringes the HRTB setback associated with Eagle Ray Road to the west by a maximum of 1.47m over a distance of 12.48m.



Figure 11: Elevations showing the Maximum Height and Height in Relation to Boundary breaches.



Figure 12: Elevations showing the Maximum Height and Height in relation to boundary breaches.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	29 of 40

8.30.3 As shown above, Maximum Height is in breach as Shed 1 is proposed to be 9.0m in height when measuring from ground level, with a roof plant positioned above. The total height of the building plus roof plant will be 10.27m. This is an infringement of the 8.0m maximum height limit for Sub-Zone 7. Within Stage 2, the building is proposed to be 8.51m in height.

- 8.31 The nature and scale of the proposed activities is not considered to generate adverse visual effects on surrounding areas. A mix of activities are provided for in a range of different building typologies and sizes. To further mitigate the visual effects of the parking areas where these are visible in the wider environment, landscaping is proposed through the frontage and parking areas to soften the appearance of building and hard surfaces on the site.
- 8.32 Eagle Ray Road is a primary street frontage that includes pedestrian connections which adjoins the sites boundary. North base Drive is the secondary Street Frontage, and provides access between Eagle Ray Road and the Servicing areas. The interface between private vs public land is important—active frontage along this boundary is critical in mitigating the adverse effects associated with this activity to enhance the activation and creates an extension of the public realm. The edge treatment will be important to visually soften the carparking and create an attractive street edge, maintain pedestrian connectivity and legibility and maintain a visual connection between the buildings and the public streets adjoining the site. The architectural response will also be key to ensure passive surveillance and visual interest is maintained.
- 8.33 As stated in the S92 Response, *‘It is acknowledged that the proposal infringes the yard setback, as well as the associated planting requirement along the site’s western boundary. However, it is considered that the quality of the site frontage, and the amenity experienced by users of the adjoining footpath (i.e. pedestrians) will remain high. The proposal provides a dense strip of planting along the western boundary and parking and access have been specifically located along the northern boundary, thus ensuring that the landscaping that is provided is a continuous stretch and that it provides a good quality ‘green’ interface between the building and the street. Likewise, the lack of a vehicle crossing ensures that there will be no conflict between pedestrians and vehicles entering / exiting the site along the frontage so pedestrians will have unfettered safe access along this western edge. In my opinion, these component ensure that the amenity experienced along this frontage will remain high. I also note that the proposed building provides large areas of glazing and a good degree of visual interest, this ensuring a high-quality building form with good levels of passive surveillance as well as visual interest along this edge. The above is well demonstrated by the imagery below, looking south along the western boundary of the proposal.’*

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	30 of 40



Figure 13: Visual View from the Corner of Eagle Ray Road and North base Drive.

8.34 The majority of the bulk and location standards in the Service 7 Zone are complied with apart from the minimum building setbacks from the road, height to boundary from the road and maximum height. It is important to note that although the development results in a large front boundary setback infringement, there is a direct conflict between the bulk and location controls for development along the frontage, and the more recently established design guidelines which direct development to achieve the following:

- Locate the building as close to the street frontage as possible, preferably not at the rear of the site behind all of the parking spaces.
- Locate the principal public entrance facing the street and make it visually prominent within the façade. Connect the entrance to the street with an obvious and direct pedestrian linkage.
- Locate the most occupied parts of the activity at the frontage, typically offices and staff recreation / lunchrooms.
- Place as much glazing in the front façade as is possible.
- Focus design quality and budget on the front facade. Incorporate variation, recesses and projections to give depth and visual interest.

8.35 These guidelines provide for an expectation that development fronting the road should provide for a strong address to the street that is well connected and that any development within the front setback should achieve a high design quality which incorporates design features that provide for visual interest. It is emphasised within the AEE that the proposal will add to the amenity of the streetscape and the safety due to multiple people with eyes on the street in close proximity to pedestrians. The proposal provides a range of commercial spaces that are adaptable in size which will provide for a wider range of businesses and the proposal will enable people living in the area to work in the area, or visit businesses close to their home. It is apparent that the scale is in keeping with the expectations for the zone and the design responds well to the potential residential amenity on the opposite side of the street.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	31 of 40

- 8.36 The overall design of spanning two lots is to achieve a better outcome than if these two lots were designed individually and enables the site as a whole to be maximised with buildings in the most appropriate locations.
- 8.37 Bulk and location controls as well as site specific design guidelines (imposed via the existing consent notice) are in place to control and manage built form and design characteristics for development within the site to an acceptable level.

Conclusion

- 8.38 In summary having assessed the effects of the activity, subject to compliance with conditions it is considered that the activity will result in less than minor and acceptable, adverse effects on the environment.

9. Section 104(1)(b) – Provisions of Standards, Policy Statements and Plan

National Policy Statements

- 9.1 National policy statements are instruments issued under section 52(2) of the Act. The National Policy Statements of relevance to this application are:
- National Policy Statement on Highly Productive Land 2022 (NPS-HPL)
 - National Policy Statement on Urban Development 2020 (NPS-UD)
 - National Policy Statement for Freshwater Management 2020 (NPS-FW)
 - National Policy Statement on Renewable Electricity Generation 2011 (NPS-REG)
 - New Zealand Coastal Policy Statement 2010 (NZCPS)
 - National Policy Statement on Electricity Transmission 2008 (NPS-ET)

- 9.2 No consent is needed under the National Policy Statements above.

National Environmental Standards

- 9.3 National Environmental Standards are regulations issued under section 43 of the Act. The National Environment Standards of relevance to this application are:
- National Environmental Standards for Air Quality 2004 (NES-AQ)
 - National Environmental Standards for Sources of Drinking Water 2007 (NES-DW)
 - National Environmental Standards for Telecommunication Facilities 2016 (NES-TF)
 - National Environmental Standards for Electricity Transmission Activities 2009 (NES-ET)
 - National Environmental Standard for Assessing and Managing Contaminates in Soil to Protect Human Health 2011 (NES-CS)
 - National Environmental Standards for Plantation Forestry 2017 (NES-PF)
 - National Environmental Standards for Freshwater 2020 (NES-F)
 - National Environmental Standard for Marine Aquaculture 2020 (NES-MA)
 - National Environmental Standard for Storing Tyres Outdoors 2021 (NES-ST)
- 9.4 No consent is needed under the National Environmental Standards above.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	32 of 40

Regional Policy Statement

9.5 The operative Regional Policy Statement ('RPS') for Northland contains high level policy guidance for development within the region. The subject site does not contain any significant features as defined by the RPS and therefore consideration of the RPS provisions is limited to matters under the following objectives:

- Objective 3.2 Region-Wide Water Quality
- Objective 3.6 Economic Activities – Reverse Sensitivity and Sterilization;
- Objective 3.11 Regional Form

9.6 Amongst other things the RPS presents policies regarding regional form in 5.1.1 which are relevant for the consideration of the proposed development.

- *5.1.1 Policy – Planned and coordinated development*

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- a. Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- b. Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*
- c. Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- d. Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- e. Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- f. Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils¹⁰, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- g. Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- h. Is or will be serviced by necessary infrastructure.*

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	33 of 40

- 9.7 Particular consideration has been given to 5.1.1(a) and (b) and it is considered that the proposal is in accordance with the Regional Form Development Guidelines and the Regional Urban Design Guidelines.
- 9.8 The site is subject to Estuary Estates zoning including specifically the 'Service 7 subzone area', therefore reverse sensitivity is relevant as per clause 5.1.1(e). This is not of direct concern as the proposed activity will not result in any incompatible land uses in close proximity to industrial activities, noting that the wider area already contains well established mix of activities and therefore a level of non-industrial activity is anticipated by future users of the site and beyond.
- 9.9 It is considered that the proposal maintains the underlying sense of place and character of the surrounding environment consistent with the level of development that is anticipated on the subject site in accordance with the expectations in the ODP, thereby satisfying 5.1.1(g).
- 9.10 For these reasons, it is considered that the proposal is consistent with the relevant RPS provisions.

Regional Plans

Regional Water and Soil Plan for Northland 2004 and Proposed Regional Plan for Northland

- 9.11 The proposal is considered to be a permitted activity under the Operative and Proposed Regional Plan, therefore no further assessment is necessary.

Kaipara District Plan 2013

- 9.12 Chapter 16: Estuary Estates

Amenity Objective 16.2.2 *To create new and enhance existing amenity values of the Estuary Estates Structure Plan area.*

Policies 16.2.2.1

1) By implementing the structure plan, development and subdivision controls, assessment criteria, Appendix 25A Mangawhai Design Guidelines and Estuary Estates Design and Environmental Guidelines in Appendix 16.1 to achieve:

- an integrated high quality, built environment with a strong pedestrian and cycle focus;*
- architectural forms compatible with the coastal, small-town character of Mangawhai; and • road typologies that contribute to, and enhance amenity, through the provision of pedestrian / cycling networks, on-street parking, and water sensitive design*

Objective 12.5.5 To avoid, remedy or mitigate adverse effects on the quality of the rural environment without unduly restricting productive rural activities e.g. farming and forestry.

2) By implementing the development and subdivision controls to ensure the amenity values of the Estuary Estates Structure Plan area are maintained and enhanced.

5) By providing for a walkway and cycling network associated with the roading network and where practicable through green corridors, including providing opportunities for connections through to adjoining land areas as indicated on the Structure Plan.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	34 of 40

Service Sub-Zone Objectives 16.2.3

1) To provide for the town centre and service area while, ensuring that the adverse effects of those activities are avoided, remedied or mitigated.

2) To create a distinctive, attractive and vibrant town centre.

Policies 16.2.3.1

1) By providing two specific Sub-Zones to enable business and service activities to provide for social, cultural and economic wellbeing and to manage the effects of such activities upon amenity values and the environment.

3) By providing for servicing and manufacturing opportunities in Service Sub-Zone 7 that require large land areas.

5) By using a comprehensive Development Control approach and applying design and environmental guidelines to achieve an attractive and locally identifiable built form commensurate with a small town coastal vernacular.

6) By ensuring that development achieves a quality-built environment where bulk unrelieved building facades do not occur along road frontages and the design of buildings, open space and parking areas enables a lively streetscape, with safe and convenient pedestrian and cycleway connectivity.

7) In Service Sub-Zone 7, by ensuring a reasonable level of on-site amenity and streetscape is achieved by implementing the Development Controls and providing a buffer to the adjoining Residential Zone as shown on the structure plan.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	35 of 40

- 9.13 The subject site is zoned 'subzone 7' zone, as such it is allocated and serviced for business and industrial purposes. The proposed development incorporates a range of commercial activities which are ancillary to, support and are consistent with service activities. The activities are of a scale that is not considered to detract from the existing quality of the environment, or undermine the growth and sustainability of the main business centres in the district.
- 9.14 While the subject site is zoned 'Service 7' and there is a separate 'Business sub-zone 1' that is to provide for separate business activities, the policy direction is clear that the provision of two separate subzones does not explicitly restrict a mix of business and industrial activities from establishing within one of the subzones, they direct where activities could appropriately be established but do not restrict a mix of uses within the Service 7 subzone from establishing, provided that in the instance that both activities are provided within the same area, this needs to be carried out in a way that still provides for servicing and manufacturing opportunities whilst managing potential adverse effects arising from the mix and design of activities.
- 9.15 Therefore, a Gym activity requires careful consideration in terms of its location and purpose. The location and purpose of the proposed non-industrial activities in this location has been carefully considered with respect to the existing site context (in terms of the nature, scale and character of existing development and consented activities in the immediate and wider site surroundings) and anticipated future development and activities on surrounding sites.
- 9.16 The proposed mixed-use development incorporates a range of activities which have been designed to provide for are ancillary to, support or are consistent with service activities, which are anticipated and specifically provided for within the Service Zone provisions. The placement of the business activities has been carefully considered and situated along the peripheries of the site that adjoin the Business Zone to the north, and a recently consented commercial activity (real estate office and café) to the east, to ensure that the uses are compatible with and support the existing and potential activities that may establish in the wider area. This ensures that there is an appropriate transition between the surrounding land uses and the light Industrial (service activities) within the site which will effectively be visually buffered from the surrounding sites. The mix of uses ensures that Service activities that require larger land areas can still be established within the site to be consistent with and not result in an inappropriate loss of industrial land as this activity provides for a buffer between Industrial, Commercial and Residential.

Transport Objectives 16.2.5

3) To ensure the impact of activities on the safety and efficiency of the local road network is addressed and to ensure safe and efficient vehicle access, parking and manoeuvring is provided to, and on, every site while avoiding adverse effects on the environment.

4) To promote and provide for active transport (walking and cycling).

Policies 16.2.5.1

1) By ensuring development provides for the safe and convenient movement of people within the development and to wider networks by foot and cycle as well as cars, buses, and other vehicles.

2) By ensuring development includes an appropriate amount of occupant and visitor parking and manoeuvring on site.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	36 of 40

7) *By discouraging traffic generating activities in Sub-Zones where they would have significant adverse effects.*

8) *By implementing Standards that ensure vehicle access points are safe and efficient.*

9) *By ensuring that stormwater is managed and treated from areas of parking.*

9.17 The proposed activity will be accessed via the recently established Eagle Ray Road off Molesworth Drive. The development has been designed to enable the safe and efficient movement of vehicles which are considered to be the primary mode of transport. Pedestrian footpath connections with the surrounding road network are also proposed. The proposal has been designed to provide sufficient parking and loading, commensurate with the functional and operational needs anticipated by the activities, with compliant onsite maneuvering.

9.18 Overall, it is considered that the development is able to provide safe and accessible transportation for future residents and users of the surrounding transport networks which aligns with the above objective and related policies.

Proposed Kaipara District Plan

9.19 Only a limited number of rules in the Proposed Kaipara District Plan will have immediate legal effect from the date of notification. However, all of the objectives and policies of the Proposed Kaipara District Plan will have legal effect from notification on 28 April 2025. Accordingly, the objectives and policies of the Proposed Kaipara District Plan, where relevant, need to be considered and assessed here as part of the assessment of the application for resource consent under the Operative District Plan, due to section 104(1)(b)(vi) of the RMA.

9.20 In the case of this site, Chapter 16 provisions are now referred to as Special Purpose Zones – Estuary Estates Special Purpose Zone (EESPZ) as they were created by Private Plan Changes. Having reviewed EESPZ Objectives and Policies, they are the same as what has been discussed above therefore the proposal is consistent with the Objectives and Policies in EESPZ.

Conclusion

9.21 With the above in mind, it is considered that the proposal is generally in accordance with the objectives and policies of the Chapter 16 within the Operative District Plan, and EESPZ objectives and Policies.

10. Section 104(1)(c) - Other Matters

Contributions

Financial Contribution

10.1 Section 22.10.6 of the District Plan sets out the amount of reserve contributions for development of land for principally commercial or industrial purposes where additional allotments are proposed. In this case, Reserve contributions shall not apply as no additional allotments are proposed.

Development Contribution

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	37 of 40

- 10.2 The Local Government Act 2002 provides the Council with the ability to charge development contributions for increased capacity on existing Council assets in accordance with Council policy. The Consent Holder would be required to pay development contributions for the proposed commercial activity at the time of building consent.

Proposed Kaipara District Plan

- 10.3 On 28 April 2025, Council notified the Proposed Kaipara District Plan ("PDP"). The submission period is currently open and closes on 30 May 2025.
- 10.4 Some rules in the PDP have immediate legal effect upon notification in accordance with section 86B(3) of the RMA. Rules in the PDP with immediate legal effect are identified with an orange gavel next to the rule. Rules with legal effect must be complied with.
- 10.5 Pursuant to section 86B(1), all other rules in the PDP have legal effect only once decisions on submissions relating to rules are made and publicly notified. If a rule is not subject to any submissions in opposition, it can be treated as operative under section 86F of the RMA. Rules that do not have legal effect (or are not operative under section 86F) do not trigger the need for a resource consent under the PDP.
- 10.6 As the submission period is still open, and the further submission period has not commenced, it is not possible for Council to determine if any rules in the PDP can be treated as operative under section 86F. Therefore, currently only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.
- 10.7 The proposal has been assessed against the rules in the PDP that have immediate legal effect and are relevant to the proposal, as within Section 9.19 in terms of Objectives and Policies and outlined below:
- In the case of this site, Chapter 16 provisions are now referred to as Special Purpose Zones – Estuary Estates Special Purpose Zone (EESPZ) as they were created by Private Plan Changes. Having reviewed EESPZ Objectives and Policies and Activities and Performance Standards, they are the same as what has been discussed above therefore the proposal is consistent.

Part 2 of the Act

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	38 of 40

10.8 Whilst it is accepted that the relevant plans as detailed in the above assessment have been competently prepared in accordance with Part 2 of the Act, for completeness an assessment of Part 2 matters is included below.

Section 5 – Sustainable Management Purpose of the Act

10.9 Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources, with sustainable management defined in Section 5(2).

10.10 It is considered that the proposal will promote the sustainable management of natural and physical resources as its adverse effects are less than minor and the proposal will provide for the wellbeing of the applicant.

Section 6 – Matters of National Importance

10.11 Section 6 of the Act sets out matters of national importance that a consent authority must recognise and provide for. The proposal is considered to accord with Section 6 of the Act, as the site is not subject to outstanding natural features or landscapes overlays does not contain known sites of significance to Mana Whenua and will not exacerbate natural hazard risk.

Section 7 – Other Matters

10.12 Section 7 of the Act sets out other matters a consent authority must have particular regard to. The following matters are considered relevant:

- a) kaitiakitanga:
 - the ethic of stewardship:
- b) the efficient use and development of natural and physical resources:
 - the efficiency of the end use of energy:
- c) the maintenance and enhancement of amenity values:
- d) intrinsic values of ecosystems:
- e) *repealed*
- f) maintenance and enhancement of the quality of the environment:
- g) any finite characteristics of natural and physical resources:
- h) the protection of the habitat of trout and salmon:
- i) the effects of climate change:
- j) the benefits to be derived from the use and development of renewable energy.

10.13 For the reasons stated previously, it is not considered that the proposal will undermine existing amenity values, nor compromise the quality of the environment.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	39 of 40

Section 8 – Treaty of Waitangi

10.14 Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). For reasons outlined in the receding sections of this report, it is not considered that the proposal will offend against the principles of the Treaty of Waitangi.

11. Reasons for the Decision on the consent(s) required under the Operative Kaipara District Plan

- 11.1 A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.
- 11.2 In terms of section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
- 11.3 In terms of section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement 2016 as discussed in this report.
- 11.4 In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
- 11.5 The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting resource consent under the Operative Kaipara District Plan achieves the purpose of the Act as set out in the section 5.

Reporting Planner



Kelsey Newman

13 May 2025

Signed



JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

5 May 2025

Signed under delegated authority pursuant to Section 34A of the Resource Management Act 1991.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
rludecrep	RMA Land Use Decision & Report	6	QAM	Sept 2023	40 of 40