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 Harbour Side Developments Limited
File Reference:	RM220059

Decision on Resource Consent Application

1. Activity

To undertake an eight-lot subdivision of the application site, including the creation of covenant areas for landscaping and ecological purposes, as a 'non-complying' activity under Rule 12.9.4 'Non-Complying Activities'. The subdivision will create proposed Lot 1 (5465m^2 and containing an existing dwelling and to be amalgamated with proposed Lot 7), Lot 2 (5465m^2), Lot 3 (5425m^2 and containing an existing dwelling), Lot 4 (4095m^2 and containing an existing dwelling), Lot 5 (8425m^2), Lot 6 (1.2023ha), Lot 7 (275m^2 for landscaping purposes) and Lot 8 (4735m^2 as road to vest). Proposed Lots 2, 5 and 6 will be vacant and provision of wireless telecommunications for future dwellings on these lots is proposed.

The applicant also proposes a reduced front yard setback from the proposed road to vest (proposed Lot 8) due to particular site constraints. It is proposed Lot 1 will have a front yard setback of 5 metres while Lots 2, 4 and 5 will have a front yard setback of 3 metres.

2. Location

Address: 102 Settlement Road, Kaiwaka

Legal Description: Lot 1 DP 123715, RT NA72A/940

3. Reasons for Consent

Kaipara District Plan (Operative 2013) Rule Assessment

The following apply to the subject property:

Zoning: *Rural Zone*

Overlays: *Nil*

Rules: *Subdivision Consent*

12.9.4 'Non-complying Activities' as the proposal does not comply with the terms of subdivision under any relevant rules – non-complying activity.

12.15.8 'Telecommunications' as wireless telecommunication service is proposed – restricted discretionary activity.

Land Use Consent

12.10.7 'Setbacks' as the future buildings on Lots 1, 2 and 5, and the existing dwelling on Lot 4, will be within the 10m setback from the proposed public road – restricted discretionary activity.

Activity Status: *Non-complying Activity*

4. Determination

*Pursuant to Section 104, 104B,104D, 108 and 220 of the Resource Management Act 1991 ("the Act"), the Kaipara District Council **grants** RM220059; 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 18 March 2022:
   - Application form, and assessment of environmental effects prepared by Reyburn & Bryant, dated March 2022.

Plan title and reference	**Author**	**Rev**	**Dated**
'Proposed Subdivision of Lot 1 DP 123715', reference S16653	Reyburn & Bryant	J	July 2022
Landscape Plan – Overall Plan	Evolve		07 July 2022
Proposed Revegetation and Protected Areas Plan	Rural Design		December 2021
Report title and reference	**Author**	**Rev**	**Dated**
Engineering Suitability Report for Subdivision	Hawthorn Geddes	2	23 August 2022
Environmental Benefits Assessment Pertaining to a Proposed Subdivision at 102 Settlement Road, Kaiwaka Lot 1 DP 123715	Rural Design	1	December 2021
Assessment of Landscape and Visual Effects	Evolve		December 2021
Other additional information	**Author**	**Rev**	**Dated**

S92 Response	Joseph Henehan, Reyburn & Bryant		24 May 2022

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

Charges

2. 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

3. Under Section 125 of the Act, this consent lapses five years after the date it is granted unless:

   a) A survey plan is submitted to Council for approval under Section 223 of the Act before the consent lapses, and that plan is deposited within three years of the approval date in accordance with Section 224 of the Act; or

   b) 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.

Road names

4. The consent holder shall provide and install road naming signs in accordance with the Council's Engineering Standards 2011 for proposed Lot 8 (road to vest) within the subdivision. The names shall be as approved by the Council.

   Advice note: Land Information New Zealand (LINZ) requires that proposed roads, private road, right of way or access lot that service six (6) or more lots are to be named. LINZ has indicated that a name for the road or private road should be in place before the survey plan of subdivision is approved by the council under section 223 of the RMA and advises that if no name is in place this could be problematic when titles are later requested. The consent holder should contact roading@kaipara.govt.nz.

Pre-Commencement Conditions

5. Prior to the commencement of any 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;
   (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.

6. Prior to the commencement of any 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.

Prior to Section 223 Certification

7. **Prior to the sealing of the Survey Plan pursuant to Section 223 of the Act the following conditions shall be complied with:**

   General

   (a) The survey plan shall be generally in accordance with the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision J, dated July 2022, and prepared by Reyburn & Bryant.

   Easements

   (b) The survey plan shall show all necessary easements as required for servicing.

   Road to Vest

   (c) The survey plan shall show Lot 8 as public road to vest in the Council.

Amalgamation conditions

(d) Pursuant to Section 220(1)(b)(ii) of the Act, the survey plan shall show an amalgamation condition that Lot 1 hereon and Lot 7 hereon shall be held together and one Record of Title be issued for both parcels. (LINZ Ref pending).

Utility Providers

(e) The consent holder / consent holder's surveyor shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity and show the necessary easements on the survey plan to the approval of the Council.

Environmental Benefits/Conservation Covenants

(f) The survey plan shall show the proposed covenant(s) generally as indicated as Area's "A", "B", "C", "D" and "E" on the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision J, dated July 2022, and prepared by Reyburn & Bryant, as being land subject to conservation covenants pursuant to Section 77 of the Reserves Act, or open space covenants pursuant to the Queen Elizabeth the Second National Trust Act 1977.

(g) An Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP"), generally in accordance with the recommendations of the report titled 'Environmental Benefits Assessment Pertaining to a Proposed Subdivision at 102 Settlement Road, Kaiwaka Lot 1 DP 123715' dated December 2021 and prepared by Rural Design, shall be prepared by a suitably qualified ecologist and submitted to the Council for written approval (in a certifying capacity). The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:

(i) Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species that will enhance ecological values of local habitat.

(ii) An establishment and maintenance programme which includes recommendations on the frequency of maintenance and monitoring to be undertaken and the anticipated duration to achieve the objectives of the EPWCMP, including (as applicable):

- watering,
- weed control,
- cultivation,
- control of pests and diseases,

- removal of litter,
- checking of stakes and ties,
- trimming, pruning,
- topping up mulch,
- and other works required to ensure planting maintains healthy growth and form.

(iii) The measures to be adopted to achieve, as far as is practicable:

- 90% survivorship of planted species; and
- 85% canopy cover of indigenous vegetation.

(iv) The control of pests (including but not limited to rats, mustelids, possums and freshwater pests) to ensure, as far as practicable, that the ecological gains achieved via the EPWCMP are not compromised.

(v) All plant material should be eco-sourced from the Rodney Ecological District preferably within close proximity to the site.

Landscape Covenants

(h) The survey plan shall show the proposed landscaped areas as indicated as Areas "F", "G", "H", "I". "J", "K" and "L" on the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision J, dated July 2022, and prepared by Reyburn & Bryant for the purposes of ongoing compliance with condition 8(n)(xviii) of this consent (RM220059).

Landscaping Design – Private Land

(i) A detailed Landscape Planting and Management Plan generally in accordance with the recommendations of the report titled 'Assessment of Landscape and Visual Effects', dated December 2021 and prepared by Evolve, including an establishment and maintenance schedule, shall be prepared by a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture, and shall be submitted to Council for written approval. The Landscape Planting and Management Plan shall include, but may not be limited to, the following:

(i) A description of the purpose and objectives of the planting.

(ii) A plan of the planted areas detailing proposed plant species, plant sourcing, plant sizes at time of planting, plant locations, density of planting and timing of planting, height and density upon maturity. The planting sizes for the balance of the plants shall be provided such that maturity is reached and their intended purpose (e.g. privacy) achieved within 3 year period following initial planting.

(iii) A programme of establishment and post establishment protection and maintenance (e.g. planting method, fertilising, weed removal / spraying, replacement of dead or poorly performing plants, watering, length of maintenance programme). Management of the vegetation within the lot shall be the responsibility of the Lot owner.

(iv) Details of weed management.

(v) Details of certification process once established

Building Areas/Restrictive Covenants

(j) The survey plan shall show the identified building areas on Lots 2, 5 and 6 as indicated on the plan of subdivision, titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision J, dated July 2022, and prepared by Reyburn & Bryant. The survey plan is to include dimensions, areas and boundary references for accurate siting for the purposes of ongoing compliance with Condition 8(n)(iii) of this consent (RM220059).

Engineering Design

(k) The consent holder shall submit a detailed set of engineering plans, specifications and calculations, prepared in accordance with the Council's Engineering Standards 2011 to the Council's Development Engineer, of their delegated representative for approval.

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

(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:

a. Design details of the construction of the proposed vehicle crossings on all Lots 1-6 in accordance with Section 5.2.18 of the Council's Engineering Standards 2011.
b. Engineering details for the road to vest within proposed Lot 8 must be designed in accordance with the Proposed Engineering Design by Reyburn and Bryant (Reference: E16653, Rev: H, dated: 11/08/2022), and approved by NTA (Northland Transport Alliance).

(l) All Engineering works are to be undertaken and supervised by a suitably qualified professional/engineer with relevant experience as per the approved site suitability report.

Evidence shall be provided at the pre-construction meeting prior to the commencement of the physical works.

Wastewater Confirmation

(m) Written evidence, including a detailed plan layout, prepared by a licensed cadastral surveyor that the existing disposal field(s) for Lot 3 and 4 are contained within the allotment boundaries and comply with Northland Regional Council requirements, noting the required separation distances to boundaries, surface water, water bores and the groundwater table, shall be provided to the satisfaction of the Council's Development Engineer, or their delegated representative.

(n) The exiting effluent disposal field servicing the existing dwelling proposed to be removed from proposed Lot 8 (road to vest) and relocated within proposed Lot 1 shall be decommissioned and/or relocated wholly within proposed Lot 1 ensuring it meets Council's Engineering Standards 2011 and Northland Regional Council requirements before construction works are to commence on proposed Lot 8.

Prior to Section 224(c) Certification

8. Before a Certification is issued pursuant to Section 224(c) of the Act, the following conditions are to be complied with:

Utility Connections

(a) Electricity connections shall be provided to the boundary of the net site area of Lots 2, 5 and 6. The consent holder shall provide confirmation from the network utility supply authority of compliance with this condition.

Easements

(b) The consent holder shall provide written confirmation from a licensed cadastral surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.

Engineering

(c) All works on the engineering plans approved under condition 7(k) 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:

(i) Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by condition 7(k) of this consent;

(ii) 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.

Remediation of Damages

(d) In the event of any damage to any of the Council's road carriageway formation and street berm by the works associated with this consent, the consent holder shall reinstate the formation and street berm in accordance with Section 3 of the Council's Engineering Standards 2011.

As-Built Plans

(e) 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

Co-ordinates in New Zealand Transverse Mercator NZTM2000.

RAMM Data

(f) The consent holder shall submit certified Road Asset Maintenance Management (RAMM) data for all new/upgraded or extended vehicle crossing culverts prepared by a suitably qualified person in accordance with the Council's Engineering Standards 2011 to the satisfaction of the Council's Development Engineer, or their delegated representative.

Construction of roads to vest

(g) The consent holder shall construct the public road within proposed Lot 8 in accordance with drawing S21 of Council's Engineering Standards 2011, inclusive of the approved street / road name. The sign shall be located in a position where it is most visible for road/access users.

Landscaping Implementation

(h) All works described in the approved Landscape Planting and Management Plan submitted to Council in accordance with condition 7(h) of this consent shall be implemented within the first planting season (May to September) following the written approval of the Landscape Planting and Management Plan.

The planting shall be implemented to the satisfaction of the Council or Council's delegated representative.

The consent holder shall provide a completion report from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture to the satisfaction of the Council, and the Council will undertake inspections as required to confirm compliance.

The planting shall be subject to maintenance and monitoring within the proposed lots for a period of three (5) years following written approval from the Council that the planting has been implemented in accordance with the approved Landscape Plan.

Environmental Benefit

(i) All animal pest control works described in the approved EPWCMP shall be implemented to the satisfaction of the Council.

The consent holder shall provide a completion report from a suitably qualified animal pest control professional to the satisfaction of Council.

(j) All plant pest / weed control works described in the approved EPWCMP, shall be implemented to the satisfaction of the Council.

The consent holder shall provide a completion report from a suitably qualified ecologist to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.

(k) All planting described in the approved EPWCMP, shall be implemented to the satisfaction of the Council.

The consent holder shall provide a completion report from a suitably qualified ecologist to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.

Conservation Covenant

(l) Conservation covenant(s) in accordance with Section 77 of the Reserves Act 1977, or open space covenants under the Queen Elizabeth the Second National Trust Act 1977, shall be prepared for registration against the titles of the land depicted on the Survey Plan as being subject to a conservation/open space covenant. A conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document, or an open space covenant shall require compliance with the QEII Trust.

(m) The consent holder must erect and maintain fencing in stock proof condition around the boundary of the covenant area as is necessary to prevent entry to the covenant area by grazing animals, but not closer to the bush than the drip-line of the outmost tress. The standard of that fencing is to be

a 7-wire fence with posts no more than five metres apparat and with a minimum of five battens between each post and otherwise is to be as defined in paragraph 6 of the second schedule to the Fencing Act 1978.

Consent Notice/On-going conditions

(n) Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the titles of Lots 1-7 by way of Consent Notice(s).

In Regards to Lots 1- 6

General

(i) Earthworks, the location of buildings, driveways, storm water disposal and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the site suitability report prepared by Hawthorn Geddes (reference: 12610, rev: 2, dated: 23/08/2022) submitted to Council with subdivision consent RM220059.

(ii) Further geotechnical assessment shall be undertaken prior to lodgement of the building consent for development on the lot, requiring a qualified chartered engineer to assess foundation design in regard to ground stability.

(iii) All future dwellings on lots 1, 2, 5, and 6 must be located wholly within the identified building areas shown on the survey plan. Should the building sites differ from that depicted in the survey plan, then further site-specific engineering assessment, analysis and design will be required by a suitably experienced geotechnical engineering professional, acting within the bounds of their competency.

Built Development/Design Guidelines

(iv) Any accessory buildings related to the dwelling and any ancillary infrastructure shall be located within 10 metres of the dwelling. Within Lots 3 and 6, a single accessory building is permitted (excluding accessory buildings of <50m^2 in GFA.) All buildings are to comply with the reduced front yard setbacks approved under resource consent RM220059, being 5 metres on Lot 1 and 3 metres on Lots 2, 4 and 5.

(v) All new buildings and structures within proposed Lots 1, 2, 3, 4, and 5 shall not exceed 6 metres in height. All new buildings and structures within proposed Lot 6 shall not exceed 5 metres in height. The height of buildings and structures shall be measured using the rolling height limit (above existing ground level).

(vi) Glazing is to be non-mirrored.

(vii) All buildings on the lots are to be finished in the colours found in BS2525 complying with the following:

a. Hue (colour) All the colours from 00-24 are acceptable

b. Reflectance Value (RV) and Greyness Groups – The predominant wall colours shall have a RV rating of no more than 30% for greyness group A, B and C. Colours within greyness groups D and E are not permitted.

c. Roofs – A RV rating of no more than 20% for greyness groups A, B and C. Colours within greyness groups D and E are not permitted.

(viii) Any fencing shall be restricted to rural fencing typology - post and rail or post and wire fencing to complement the rural character of the site (aside from safety fencing typology around pools).

(ix) The use of spotlights and floodlights are prohibited. The spill from all exterior lighting shall be controlled so illumination and glare is contained within the lot in which the light is located.

(x) Water tanks shall be situated no more than 300mm above ground if ground conditions allow and shall be screened by vegetation.

(xi) Power and telecommunication infrastructure shall be underground.

(xii) Any retaining structures or walls shall be constructed of materials or finished in dark recessive colours or screened by vegetation.

(xiii) Driveways should follow the natural contour of the land and not be situated on any prominent ridgeline. Driveways shall suit the rural character of the site and be recessive in finish. Chip seal, metal or asphalt with natural swales is preferable, if concrete is used concrete with a black oxide additive or exposed aggregate finish is required.

In Regards to Lots 1, 2, 4, 5 and 6

Ecological Planting Maintenance, Weed and Animal/Pest Control

(xiv) All ecological planting on site shall be maintained in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM220059.

Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM220059.

(xv) Ongoing weed and animal/pest control shall be undertaken in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM220059.

Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM 220059.

(xvi) The keeping of cats, mustelids and rodents on the lots is prohibited.

(xvii) Dogs shall not be kept on the lot unless the following conditions are complied with:

1. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may be in the form of an "electronic pet containment fence" means a system installed or attached to the perimeter of a defined area (or wireless equivalent) which is designed to prevent dogs escaping by transmitting a digital or electronic signal to a receiver collar worn by the dog.
2. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

In Regards to Lots 1, 2, 3, 5, 6 and 7:

Landscape and Amenity Planting Maintenance

(xviii) All landscape and amenity planting on site shall be maintained in perpetuity in accordance with the Landscape Planting and Management Plan approved under resource consent RM220059. Diseased, dying or dangerous plants must be removed and replaced in accordance with the approved Landscape Planting and Management Plan.

Evidence of compliance with this requirement shall be provided to Council in writing from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture five (5) years from the date of issue of the Section 224(c) certificate for RM220059.

(xix) Maintenance of planting will be monitored by Council for a period of five years from the date of issue of the Section 224(c) certificate. There will be a Council charge for this monitoring payable by the lot owner.

In Regards to Lots 2, 5 and 6:

Servicing

(xx) Future lot owners are advised that no physical telecommunication connections are provided. Kaipara District Council will not be responsible for ensuring nor providing telecommunication connections to this lot.

Advice Note: This consent notice can be deleted if a hard-wired connection is provided to the Lot.

Firefighting Water Supply

(xxi) Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round.

Note: This consent notice was volunteered by the applicant an accepted by Council in support of RM220059.

(xxii) Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial or industrial land use on the lot. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).

Note: This consent notice was volunteered by the applicant and accepted by Council in support of RM220059.

In Regards to Lots 1, 2, 5 and 6:

(xxiii) At the time of building consent for a dwelling on the lot an approved Stormwater assessment accompanied by a specific stormwater design by a suitably qualified person to mitigate adverse effects of the increase impermeable surfaces must be submitted to council for approval and be approved.

(xxiv) At the time of building consent for a dwelling on Lots 1 and 2, the applicant shall demonstrate that stormwater subsoil drainage is to be installed around the footprint of the building and have discharge points provided as per the site suitability report prepared by Hawthorn Geddes (reference: 12610, rev: 2, dated: 23/08/2022) submitted to Council with subdivision consent RM220059.

Solicitors Undertaking

(o) A solicitor's undertaking shall be provided to Council confirming that all consent notices and covenants prepared for registration under the relevant conditions of this resource consent will be duly registered against the new titles to be issued for the subdivision. The solicitor must provide a post registration title and instruments.

All consent notices and covenants to be prepared or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the consent holder's expense.

Construction Maintenance Bond

(p) The consent holder shall enter into a bond as security against any defect in performance of the roading works completed under this consent. The value of the bond shall be for 25% of the total cost of the roading works based on actual construction costs.

The bond shall remain in force for at least one year after completion of the work and until any defects have been remedied to the satisfaction of the 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)

(Note: for the avoidance of doubt the works will be considered to be defective until the Falling Weight Deflectometer (FWD) or Benkelman Beam (BB) testing of the completed pavement in the Spring following completion of the construction works demonstrates a residual life of at least 25 years (FWD) or the minimum deflections (BB).

Financial Contributions

(q) A cash contribution in lieu of reserves shall be paid based on 5% of the assessed value of a "nominal" 4000m^2 dwelling site on Lots 2, 5 and 6 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant's expense.

At the time of payment of the contribution, the valuation upon which the cash contribution is calculated shall be no more than three (3) months old.

Advice Notes

i) The consent holder shall be required to pay to Kaipara District Council a Development Contribution under the Local Government Act 2002 of $3,315 plus GST for each additional lot for roading and $496 plus GST for each additional lot for communities in Kaipara District.

The proposed development will result in three additional allotments. The total Development Contribution will be $11,433 plus GST.

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

ii) The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.

iii) The consent holder shall ensure that the person responsible for carrying out construction work holds public liability insurance to the value of $2,000,000.00.

iv) The consent holder shall ensure that the consent holder's engineer responsible for design and supervision of the roading works holds professional indemnity insurance to the value of $1,000,000.00.

v) All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under the Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the Heritage New Zealand for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effects cannot be practised.

vi) If subsurface archaeological evidence (shell, midden, hangi, storage pits, etc) should be unearthed during construction, work should cease in the immediate vicinity of the remains and the Heritage New Zealand should be contacted.

vii) In the event of koiwi (human remains) being uncovered, work should cease immediately and the tangata whenua of Te Uri O Hau shall be contacted so that appropriate arrangements can be made.

viii) Erosion and sediment controls 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) and Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.

ix) 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 suitable 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.

x) 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.

xi) 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.

5. Reasons for the Decision

1. A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's Notification Assessment Report.
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.
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 as discussed in Section 9.0 of this report.
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.
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 this resource consent achieves the purpose of the Act as set out in Section 5.

Reporting Planner	_____	*21/09/2022*
	Melissa Hallett	Date
Peer reviewer	_____	*28/09/2022*
	Jess Hollis	Date
Signed	_____	*3/10/2022*
	JJ Pienaar *Resource Consents Team Leader* ***Kaipara District Council***	Date

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

RM220059

Section 104 of the Resource Management Act 1991 - Assessment Report

Details of Application	
Applicant	Harbour Side Developments Limited
Property to which the consent relates	102 Settlement Road, Kaiwaka, Lot 1 DP 123715, RT NA72A/940

1.0 Description of Proposal

1. The applicant proposes to undertake an eight-lot subdivision of the application site as a non-complying activity. The application proposes to protect 1.9575ha of existing wetlands, existing and proposed vegetation, on the application site.

2. The subdivision will result in the following lots:

   Lot 1 – 5465m^2 – including an existing dwelling to be relocated and to be amalgamated with Lot 7 (275m^2)

   Lot 2 - 5465 m^2 - vacant

   Lot 3 - 5425 m^2 - including an existing dwelling

   Lot 4 – 4095 m^2 - including an existing dwelling

   Lot 5 - 8425 m^2 - vacant

   Lot 6 – 1.2023 ha - vacant

   Lot 8 - 4735 m^2 road to vest

3. The application also fails to meet the performance standards of Rule 12.15.8 'Telecommunications' as telecommunications for all vacant proposed lots will be wireless.

4. All proposed lots will gain access from the proposed road to vest which follows an existing accessway to the three existing dwellings on site. The existing dwelling located nearest to Settlement road is located in the area proposed as road to vest and as such will be relocated within the site to be positioned within proposed Lot 1.

5. Lots 2, 5 and 6 will be vacant. These proposed lots each contain suitable building platforms and are able to be adequately serviced on site as determined by the "Engineering Suitability Report for Subdivision", Reference 12610, dated August 23, 2022, prepared by Hawthorn Geddes and submitted in support of the application. All lots will be provided with an electricity connection.

6. Across Lots 1, 2, 4, 5 and 6, 1.9575ha of ecological benefit (existing and proposed) will be protected by way of conservation covenants.

7. During the processing of this application a request for additional information pursuant to Section 92 of the Resource Management Act 1991 (the Act) was made on 6 April 2022. The key points the applicant was asked to address and the subsequent changes to the proposal are summarised below;

- *The application was initially lodged in two stages using the 'Small lot development' rule and the 'Environmental benefit' rule. The proposal is considered to be a non-complying activity due to non-compliance with the terms of subdivision for Rule 12.13.3 'Small Lot Subdivision'. This rule requires no more than three additional lots to be created in perpetuity. While only three lots are created in stage one, the second stage of the proposal will result in more than three lots having been created. As such the proposal will be assessed as non-complying. As a result of this, the applicant agreed to complete the proposal in a single stage as a non-complying activity.*
- *The applicant has requested a breach of Rule 12.10.7 'Setbacks' is included to address non-compliance with front yard setbacks following the vesting of the current access. A reduced setback of 5m is proposed for Lot 1 and 3m for Lots 2, 4 and 5.*
- *It was confirmed the existing wastewater field for the existing dwelling at the front of the site will need to be relocated within the boundaries of proposed Lot 1. A suitable location has been confirmed by the "Engineering Suitability Report for Subdivision" by Hawthorn Geddes., Reference 12610, dated August 23, 2022.*
- *The proposed road to vest was initially not supported by Northland Transport Alliance (NTA) as the use, design and construction is not in accordance with the Standards in Kaipara District Council Engineering Standards 2011. A substantial design upgrade has been proposed and NTA has agreed to accept the road to be vested in Council confirmed via email dated 12 August 2022.*
- *Following amendments to the road design alternations were made to the proposed building locations for lots 1, 2, and 5. Subsequent geotechnical information confirmed*
- *Concerns were raised over the density proposed by the development and the supporting mitigation. The Assessment of Landscape and Visual Effects, prepared by Evolve, dated December 2021 provided in support of the application was peer reviewed by Simon Cocker Landscape Architecture and following increases to the amenity planting areas and agreed alterations to the building design controls the peer review dated 1 August 2022 concluded that visual effects will be less than minor.*

8. The application was taken off hold and processing continued as of 6 September 2022.

2.0 Site and Consent History

9. The application site legally described as Lot 1 DP 123715 was created in 1988. There are no relevant interests listed on the record of title for this lot.

10. The three established dwellings on site are lawfully established by RM160416. This land use consent was granted 19 January 2017 to allow three dwellings on the application site.

3.0 Site Description and Surrounding Environment

11. The site, legally described as lot 1 DP 123715 and has a total area of 4.5908ha, is located on the southern side of Settlement Road in Kaiwaka. The site is located approximately 1km east of State Highway 1 and the township of Kaiwaka. The site contains three existing dwellings, accessed by a single common driveway and is otherwise mostly in pasture. There is an existing stream running adjacent to the site's western boundary.

12. The site is irregular in shape and is varied in topography, generally from the highest points in the southeast down towards the northwest.

13. A number of wetlands that meet the definition of a 'natural wetland' in accordance with the National Policy Statement for Freshwater Management 2020 are located along the western portion of the site.

14. The application site and surrounding area have a Rural zoning and is characterised by a mixture of rural-residential / 'lifestyle' allotments and pastoral land. Surrounding allotments range in size from 0.5ha to 5ha with larger sites up to 45+ha.

4.0 Kaipara District Plan (Operative 2013) Rule Assessment

15. The following apply to the subject property

Zoning: Rural Zone

Overlays: Nil

Rules: Subdivision Consent:

12.9.4 'Non-complying Activities' as the proposal does not comply with the terms of subdivision under any relevant rules – non-complying activity.

12.15.8 'Telecommunications' as wireless telecommunication service is proposed – restricted discretionary activity.

Land Use Consent:

12.10.7 'Setbacks' as the future buildings on Lots 1, 2 and 5, and the existing dwelling on Lot 4, will be within the 10m setback from the proposed public road – restricted discretionary activity.

Activity Status: Non-complying Activity

5.0 Notification Assessment

16. 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.

6.0 Statutory Acknowledgements

17. 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.

18. The application was formally received to Environs Holdings Limited on 23 March 2022. A response was received via email dated 28 April 2022 confirming Environs Holdings Limited had no concerns with the proposal.

7.0 Section 104D – Non-Complying Activities

19. Pursuant to Section 104D of the Act if a proposal is a non-complying activity then it must pass at least one of the tests of either Section 104D(1)(a) or Section 104D(1)(b) before an application can be assessed to make a decision under Section 104B of the Act. If the application fails both tests of Section 104D then the application must be declined

20. It is considered that, subject to appropriate conditions of consent, the proposal satisfies the threshold test of Section 104D because, as demonstrated in this report the adverse effects on the environment would no more than minor and, as concluded in this report, the proposal would not be contrary to the Objectives and Policies of the Kaipara District Plan 2013. It is therefore concluded that the application meets both of the tests of Section 104D of the Act. The application can be assessed against the provisions of Section 104B of the Act and a substantive decision made.

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

Trade Competition

21. 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

22. 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. The following persons/parties have provided written approval identified in Figure 1 below with a blue dot, and detailed in Table 1. These approvals were provided voluntarily by the applicant rather than being deemed necessary by Council.

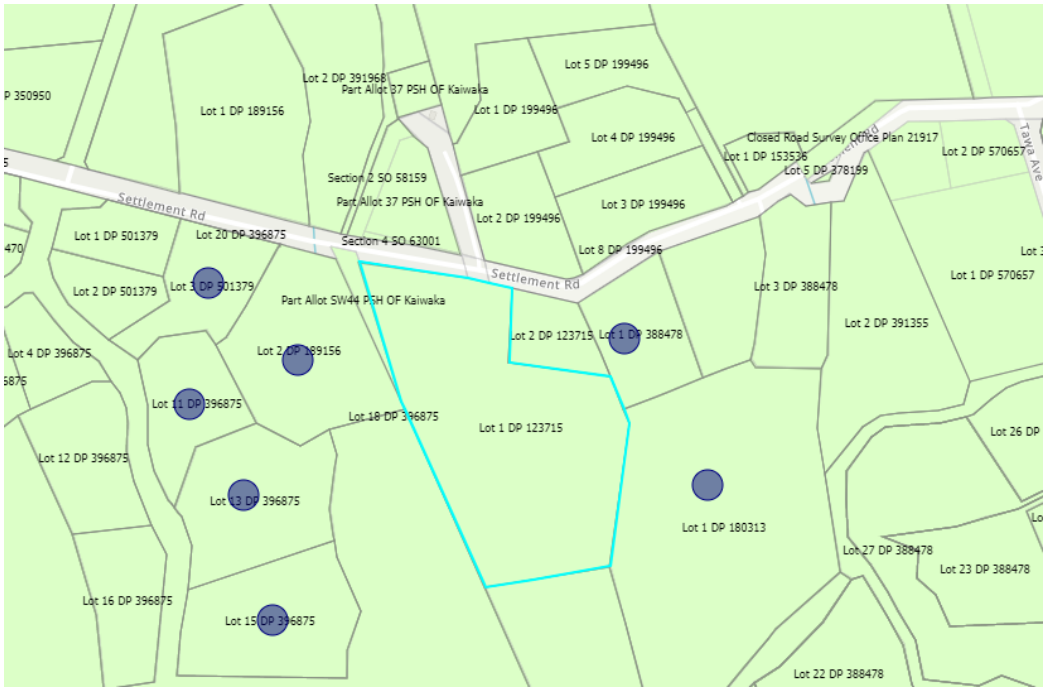


Figure 1: Location of written approvals.

Table 1: Physical address and legal description of written approvals

Physical Address	**Legal Description**
128 Settlement Road	Lot 1 DP 180313
82 Settlement Road	Lot 2 DP 189156

122 Settlement Road	Lot 1 DP 388478
25 Lupis Way	Lot 11 DP 396875
47 Lupis Way	Lot 15 DP 396875
31 Lupis Way	Lot 13 DP 396875
17 Lupis Way	Lot 3 DP 501379

Permitted Baseline

23. 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.

24. Subdivisions cannot be undertaken without a resource consent, therefore there is no relevant permitted baseline.

Receiving Environment

25. 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).

26. In this location, the receiving environment comprises both developed and vacant rural sites, of various sizes typical of those often found on the outskirts of residential settlements. In this context, the receiving environment includes small to medium sized rural-residential lots with some larger rural land holdings to the south and east of the site. The rural sites in this location are situated on the periphery of the Kaiwaka township where rural-residential sites range from 0.5ha to 5ha with larger sites up to 45+ha.

Assessment of Effects

Positive Effects

27. The south western portion of the subject site includes degraded wetland features extending along the southern ephemeral stream margins, a small stand of totara, a single kahikatea and is otherwise in pasture. The applicant proposes to protect and enhance 1.9575ha of wetlands, riparian margins and bush through the application of this subdivision, plus undertake infill planting.
28. The site is in close proximity (<500 m) to two Level 1 Protected Natural Areas (PNAs). The Otioro Road Forest Remnants (ROD019) PNA is located approximately 75 m east of the subject site and The Settlement Road Forest Remnants (ROD020) is located approximately 500m east of the site.
29. An Environmental Benefits Assessment has been prepared by Rural Design, dated December 2021 and submitted in support of this application. The report details;

    The western boundary of the site is near a Kaiwaka River permanent stream tributary, and partially abounds its floodplain and associated degraded wetland areas. Two ephemeral streams flow through the northern and southern aspects of the site into the permanent tributary stream west of the site. The watercourses on the site are dominated by exotic weedy species including gorse, woolly nightshade and Chinese privet.

    Under Land Environments of New Zealand (LENZ), the subject site and immediate surrounds are primarily within the 'Category 3 Threatened Land Environment', with only 20-30% indigenous cover remaining. As such, proposals to further protect and enhance indigenous vegetation in this area is a high priority to ensure that indigenous vegetation in these areas is legally protected in perpetuity through formal conservation covenant provisions.
30. It is noted that stock exclusion, fencing, pest plant and animal control, enhancement through infill and buffer planting of natural features are necessary for this site due to the long history of degradation. If appropriate planting is conducted it will ensure that this area provides a suitable habitat for native flora and fauna and provides a direct extension of the green and hydrological network to the north of the site and adjacent areas subject to conservation covenants and assist in the overall enhancement of this area.
31. The protection of the features on the subject site aims to protect and further enhance the ecological and biodiversity values of the site and surrounds. It is expected that the protection will over time enhance the riparian margins to improve both structural and functional connectivity of what is becoming an increasingly urbanised landscape. The planting is anticipated to stabilise the area, filter sediments, manage runoff and provide a benefit to the existing near by conservation covenants.
32. It is recommended that a site-specific Ecological Planting and Pest Control Management Plan is prepared for the site and adhered to during the physical implementation of the works to ensure appropriate initial site preparation and weed control, planting size, species and percentages, technique, weed/animal pest control, maintenance, monitoring and plant survival for at least 5

years and animal pest control in perpetuity. Rural Design notes that pest control needs to be continuous and remain in perpetuity to be effective.

33. Other domestic species such as cows, horses, goats, sheep, pigs, cats and dogs have the potential to damage the bush areas on site. As such a fencing condition has been recommended to fence the covenanted areas along with a stock exclusion consent notice prohibiting the keeping of stock on the site. It is also recommended to prohibit the keeping of cats, mustelids and rodents on site and for dogs to be kept outside of the covenanted areas.

34. Council's Consultant Ecologist, Manu Davison of Ecology Solution Ltd, has reviewed the environmental benefit report and recommendations from Rural Design submitted in support of the application and confirms agreement with the assessment and recommendations made by Rural Design.

35. Given the assessments and recommendations of the two expert Ecologists, it is considered that there will be positive effects on the ecology of the wider environment as a result of the proposal.

Assess and Traffic

36. Access to the site is from Settlement Road, is a sealed road with vehicle speed limit posted as 80km/hr. Settlement Road has access from State Highway 12 to its west where the township of Kaiwaka is located.

37. The current access arrangements comprise of a metalled vehicle crossing and accessway, with the vehicle crossing located on the top of a crest. Hawthorn Geddes have assessed the access and safety sight lines concluding that the current location has a blind spot, recommending a new double crossing approximately 25m west of the existing crossing.

38. It is proposed that all lots will gain access off a proposed road to vest. The initial plans for the road to vest and vehicle crossing consisted of a 3.5m carriageway and a 10m wide legal width. The initial plans were assessed by Council and NTA and were not approved for vesting as the design did not meet KDC standards. The applicant has since redesigned the proposal and submitted a new roading design to NTA. The final plans submitted by Reyburn and Bryant (reference: E16653, rev: H, dated: 11/0/2022) have been approved by NTA, and assessed by Council's development engineer. It is concluded that the proposal will result in a safe and efficient roading arrangement. Settlement Road is also considered to have sufficient capacity to absorb and accommodate this increase in traffic without adverse effects on the roading network.

39. The construction of the vehicle crossings on all lots shall be constructed as part of this consent. A scheme plan (reference: 12610, Rev:5, dated: 06/09/2022) provided by Hawthorn Geddes has been submitted indicating locations of crossings to be constructed in accordance with KDC engineering standards (drawing S06). All lots have sufficient space to provided manoeuvring on site and two parking spaces.

40. Overall, it is considered that any adverse traffic effects will be acceptable.

Servicing

41. The proposed lots are not serviced by the Council's public reticulated stormwater or wastewater networks and as such on-site treatment and disposal is proposed for all lots.
42. Proposed Lots 1, 2, 5 and 6 each contain suitable building platforms and are able to be adequately serviced on site as determined by the "Engineering Suitability Report for Subdivision" by Hawthorn Geddes., Reference 12610, dated August 23, 2022 submitted in support of the application.
43. Proposed Lots 3 and 4 contain existing dwellings and are already adequately serviced.
44. The Council's Engineer has assessed the application and considers all proposed vacant lots to be of sufficient size to accommodate on-site disposal within the lot boundaries. Specific wastewater and stormwater treatment design will be provided at building consent stage at the time of development of each lot. Given the above, it is considered that the proposed on-site treatment and disposal of stormwater and wastewater is appropriate.
45. The proposal does not have access to a reticulated water network and will need to rely on rainwater capture and on-site storage to provide for drinking water and firefighting supply. Each lot will be required to retain at least 10,000L of water on site for firefighting purposes. A consent notice to this effect has been included as a condition of consent.
46. Confirmation from Northpower has been provided confirming the availability of their service and the ability to connect to this. The applicant has proposed power connections for all proposed vacant lots with occupied sites being serviced already. The applicant proposes to provide wireless telecommunications to the proposed vacant lots and has provided confirmation of network coverage.
47. Overall, suitable utilities are available to service the subdivision, which will not constrain the respective utility networks and will result in acceptable effects.
48. Overall, the site is considered suitable for development.

Landscape, Character and Amenity Values

49. The subject site is 4.5908ha in area and is located in a rural-residential environment that contains a mixture of larger rural land holdings, and smaller 'lifestyle' sized sites as small as 0.5ha in area. In the immediate vicinity of the site there is a cluster of lots ranging in size from 0.5ha to 2ha.

50. The land uses in the immediate area include mostly lifestyle grazing of 'hobby farm' animals on the smaller properties, to predominantly residential that results in a mixed character to the locality.

51. The proposed development is appropriately located in relation to the nearby township of Kaiwaka. The site is approximately 1km from Kaiwaka in an area of predominantly rural residential activity characterised by similar sized lifestyle properties. In this location on the periphery of the settlement, it is considered acceptable to enable higher densities than what is provided for by the District Plan where adverse effects can be appropriately addressed. This location is considered to sit right on the cusp of this rural-residential extension of the township with larger rural properties beyond the site to the east providing a strong rural landscape. The mitigation proposed and the limited views of the proposal from outside of this immediate rural residential environment ensure that the adjacent rural landscape will not be eroded.

52. The AEE and the landscape assessment provided by Evolve provide an assessment of the landscape values and character effects. The landscape assessment has been peer reviewed by Simon Cocker of Simon Cocker Landscape Architecture. Initial concerns raised in this review have been overcome through design changes and acceptance of suggested alterations to the proposed design controls. Generally, I concur with the assessment provided in the AEE and landscape assessment and the subsequent changes which have resulted through this process. The following provides a summary of my assessment.

53. The nature of the site itself will change with the introduction of potentially three additional dwellings and associated infrastructure. The effects of this on the external, or surrounding environment, however, will be somewhat minimised through the extensive planting proposed, both for ecological and visual mitigation purposes and open space that maintained between future built form. The proposed building platforms on the proposed lots are evenly dispersed across the site with ample open space between to maintain onsite amenity values. Further to this, built form will be subject to design controls offered by the applicant as appropriate mitigation for visual effects of built form. Design controls seek to limit future buildings to 5-6m in height and require buildings are to be finished in recessive colours with relatively low reflectivity values to ensure any development fits into the existing landscape. Accessory buildings are also required to be clustered within 10m of the dwelling to limit the 'spread' of built form across the site and concentrate buildings to the most appropriate locations within each lot. The proposed design controls have also been applied to all lots to ensure that future built development on the occupied sites remains in keeping with this intent. As such the future development enabled by this proposal is considered to be in keeping with the rural-residential character and not result in visually dominant built form.

54. The site is located in a shallow valley sloping up from Settlement Road towards the south of the site. When viewed from Settlement Road the proposed lots will be visible to passing traffic traveling east only although views will be transient in nature. It is not anticipated that future built form will appear visually dominant due to the extensive planting proposed. The dryland buffer

planting proposed, which comprises the majority of the planted area, includes mainly taller growing tree and shrub species. It is expected that over time the planting will achieve a height that effectively softens and partially screens the future built form.

55. When viewing the site from the wider environment the development is viewed in the context of other existing development of a similar size and scale which increases in density nearer to Kaiwaka. As such the proposed lot sizes are considered an appropriate size within the surrounding environment.

56. In terms of wider environmental effects on rural character and amenity, it is proposed that the retention natural features and enhancement through additional planting will strengthen the natural patterns of the Site – in linking with riparian vegetation to the south and will assist in balancing the effects of the adjacent cluster and retain a sense of openness for the development as a whole.

57. Given that the site is mostly viewed in the wider context of the surrounding landscape, within the valley, the effects of the proposal on the wider area will not be dominating from beyond the site.

58. There will be no additional vehicle access proposed onto Settlement Road. All proposed lots will access Settlement Road via the proposed road to vest. The proposed road is to be sealed which will reduce potential dust, noise or visual effects of future development beyond the site.

59. The increased planting and protection of vegetation on the site will provide/enhance ecological links and also link visually to the other areas of native vegetation on surrounding sites and will contribute to an enhancement of amenity values in this respect. The proposed vegetation will also help to mitigate adverse visual effects by screening development in places, softening appears of built form in other locations and providing a level of onsite privacy and amenity between the proposed lots. The addition of Lot 7, to be amalgamated with Lot 1 is to be completely planted for the purpose of screening adjoining Lot 2 DP 123715 from the effects of increased density adjacent to this site. The mixed approach is supported in this instance where the intention is not to mask the development but rather assist in integrating it into the landscape in a way that is visually appropriate to the surrounding environment.

60. The applicant has also requested a reduced setback of 5m from the proposed road to vest for the relocated dwelling within proposed Lot 1. This is due to the suitability of the site and topography constraints resulting in the portion of the site closest to the access road being most suitable. The relocated dwelling will not encroach the front yard setback from Settlement Road. Similarly, a reduced setback of 3m has been requested for the existing building on Lot 4 and future buildings on Lots 2 and 5. Again this is based on site constraints resulting in the proposed building areas being in the most suitable locations. While it is considered that the proposed reduced setback will not impede the sightlines or result in adverse traffic safety effects it is also

considered that the reduced setback will be in keeping with the pattern along the proposed road and any character and amenity effects would be internal to the site. In this instance the reduced setbacks proposed are acceptable.

61. In conclusion, the rural character of the site will be maintained, and any changes to the amenity values in the wider area will be acceptable. The proposed lot sizes are consistent with the surrounding area being a transition area from the residential areas of Kaiwaka to the more rural surrounding areas. They are not considered to be of such a small size that open space and privacy will be compromised within the wider environment. As such, the effects of the proposed subdivision on the rural amenity and character of the surrounding environment are considered to be acceptable.

Reverse Sensitivity

62. The surrounding area is characterised by small to medium rural-residential lots and the respective residential activities. The proposed new lots are consistent with the minimum lot size provided for in the rural zone and will provide five additional rural-residential lots to provide for continued rural use of the land, while being in close proximity to existing services and amenities, which is not considered to have adverse effects on the viability of surrounding landholdings and rural activities. The surrounding land uses are generally similar in nature to the proposed lots. Given the established rural-residential character of the wider area and the retention of open space between potential dwellings and rural activities no reverse sensitivity effects are anticipated as a result of the proposed development; and the development is considered acceptable overall.

Cumulative Effects

63. On-going and subsequent subdivision and development of land can potentially result in cumulative adverse effects as the volume and nature of development exceeds the carrying capacity of the environment to absorb these effects. While the proposed lots do not meet the density requirements of the District Plan to be assessed as a controlled activity, they do meet the minimum lot sizes provided for by other rural subdivision rules of the District Plan including small lot development and environmental benefit. The proposed lot sizes are considered appropriate in this location and allow for ongoing rural residential activities on the periphery of the township and services of Kaiwaka. Therefore, it is considered that the resulting density of development would not result in adverse cumulative effects.

64. Therefore, in this instance, it is considered that the cumulative effects of the proposed subdivision on the environment will be acceptable.

Conclusion

65. In summary having assessed the effects of the activity, subject to compliance with conditions it is considered that the activity will result in no more than minor and acceptable, adverse effects on the environment.

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

National Environmental Standards

National environmental standards (NESs) are regulations issued under section 43 of the Resource Management Act 1991.

The National Environment Standards in effect are;

- National Environmental Standards for Air Quality
- National Environmental Standards for Sources of Drinking Water
- National Environmental Standards for Telecommunication Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standards for Assessing and Managing Contaminates in Soil to Protect Human Health
- National Environmental Standards for Plantation Forestry
- National Environmental Standards for Freshwater
- National Environmental Standards for Marine Aquaculture (takes effect 1 December 2020)

66. No National Environmental Standards are of relevance to the application with the exception of the National Environmental Standard for Freshwater. The applicant has been granted resource consent from the Northland Regional Council under the National Environmental Standard for Freshwater due to vegetation clearance within 10 metres of a natural wetland, and to divert stormwater within 100 metres of a natural wetland. The consent was granted on 6 April 2022. The proposal remains in general accordance with the activity approved by Northland Regional Council.

National Policy Statements

National policy statements (NPSs) are instruments issued under section 52(2) of the Resource Management Act 1991.

- National Policy Statement on Urban Development
- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation

- New Zealand Coastal Policy Statement

67. No National Policy Statements are of relevance to the application with the exception of the National Policy Statement for Freshwater Management. The applicant has been granted resource consent from the Northland Regional Council under the National Environmental Standard for Freshwater due to vegetation clearance within 10 metres of a natural wetland, and to divert stormwater within 100 metres of a natural wetland. The consent was granted on 6 April 2022. The proposal remains in general accordance with the activity approved by Northland Regional Council.

Regional Policy Statement

Northland Regional Policy Statement 2016

The Operative Regional Policy Statement ("RPS") for Northland contains high level policy guidance for development. 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 3.11 Regional Form*
- *Objective 3.13 Natural Hazard risk*

Several underpinning policies are also relevant to this application, including:

Policy 5.1.1 - 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.

68. Issues about water quality include the pollution of water bodies (including coastal waters) from contaminants in non-point discharges and stormwater runoff, including sediment from earthworks; and the effects on water quality of major land use changes and drainage. With appropriate conditions of consent, water quality issues can be addressed.

69. The RPS recognises that there are activities and land that should be protected from the negative impacts brought about through subdivision, as further development can result in incompatible land use and reverse sensitivity issues. As discussed previously in this report, the application site is located within a predominantly rural-residential area in very close proximity to an established settlement and associated services. Given the established rural- residential character of the wider area and the retention of open space between potential dwellings and rural activities no reverse sensitivity effects are anticipated.

70. Future dwellings will be required to appropriately manage stormwater and wastewater onsite, and site works are to be undertaken in a manner that the water quality of the surrounding environment is maintained.

Regional Plans

Regional Water and Soil Plan for Northland 2004.

71. The proposal does not require any consent under the Regional Water and Soil Plan for Northland 2004.

Proposed Regional Plan for Northland

72. The proposal does not require any consent under the Proposed Regional Plan for Northland.

Kaipara District Plan 2013

Chapter 12: Rural Zone

Objective 12.5.2 To maintain the rural character and amenity, including the:

- · Sense of openness;
- · Low dominance of built form;
- · Pasture and Commercial Forest Areas;
- · Areas of indigenous vegetation and significant fauna; and
- · Unmodified natural landforms.

Objective 12.5.3 To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna so as to avoid, remedy or mitigate the decline of indigenous vegetation and fauna.

Objective 12.5.4 To ensure that the servicing of new subdivision and development does not adversely affect the environment, in particular sensitive receiving environments.

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.

Objective 12.5.6 To provide for a range of activities in the Rural Zone which are located, designed and operated in such a way as to avoid, remedy or mitigate reverse sensitivity effects on existing land uses in the vicinity.

Objective 12.5.8 To provide for development of land with a range of allotment sizes that is appropriate to the character of the surrounding rural environment.

Policy 12.6.3c By providing for more intensive and innovative site-specific subdivision and development where this results in better environmental outcomes.

Policy 12.6.4 By requiring all subdivision to contribute to the retention of rural character and amenity.

Policy 12.6.5 By avoiding, remedying or mitigating the adverse effects of subdivision and development (including ribbon development) on the natural environment values of the rural area.

Policy 12.6.6 By promoting the integration of subdivision, use or development with the protection, enhancement or establishment of natural features, vegetation and open space,

Policy 12.6.7 By avoiding, remedying or mitigating the adverse effects of activities which pose the greatest threat to remaining areas of significant indigenous vegetation and significant habitats of indigenous fauna), and rural amenity (e.g. vegetation clearance, excavation and fill, the bulk and location of buildings and structures).

Policy 12.6.10 By maintaining opportunities for the diversity of rural land use, without significant interference from adjacent residential, lifestyle or rural – residential activities.

Policy 12.6.12 By requiring subdivision and development to demonstrate adequate service provision (including maintenance), and ensure the costs of any service upgrades are borne by the development.

73. The above objectives and policies seek to manage, protect and enhance rural character, high amenity values and biodiversity values by limiting rural subdivision and development. This requires subdivision to result in the protection of significant vegetation, wetlands and wildlife habitats, or enhancement planting, which can offset some of the adverse effects of subdivision on the environment and landscape values.

74. No clearance of native vegetation is required to facilitate earthworks for the subdivision and the proposal benefits and increases the quality of the wetland onsite and adjacent remnant bush.

75. Overall, it is considered the density of development will not compromise amenity values of the locality given the proposed lot sizes. The proposed ecological benefit area will be maintained while the proposed areas of amenity planting will provide effective mitigation for the effects of development that are associated with further subdivision and intensification of rural land.

76. The proposed subdivision would create five additional lots, and the site sizes of the proposed lots are considered appropriate and consistent with those typically found and anticipated in the surrounding locality.

77. The proposed development will not adversely affect any existing rural land practices on neighbouring sites.

78. The disposal of stormwater and wastewater can be adequately contained within the respective lot boundaries as can an adequate supply/storage of water. The proposal would therefore avoid adverse effects on sensitive receiving environments and would protect the health and safety of residents.

79. In addition, the proposal includes extensive areas of amenity planting which will ensure future development is integrated into the landscape while also providing ecological connections and corridors, to the existing conservation covenant on site.

80. Overall, these demonstrate the suitability of the subdivision and consistency with the relevant objectives and policies.

Conclusion

81. The proposal is considered to be consistent with the relevant provisions of the Regional Policy Statement and the objectives and policies contained within the District Plan.

10.0 Section 104(1)(c) - Other Matters

Contributions

Reserves Contribution

82. Section 22.10.6 of the District Plan sets out the amount of reserves contributions for subdivision of land for principally residential purposes where lots can accommodate a residential dwelling at 5% of the value of a 4000m² building site on a rural lot. In this case, three additional undeveloped lots are proposed and therefore a reserves contribution is required and will be imposed as a condition of consent.

Development Contribution

83. 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 three additional undeveloped lots.

Spatial Plans

84. While the application site sits outside of the scope of the Kaiwaka Spatial Plan, it has identified the subject site as being adjacent to an area identified for future high-density residential development. The Spatial Plan envisages a mix of medium and low-density housing areas in close proximity to the application site. The proposed area of ecological environmental benefit also links directly to a key ecological corridor that has been identified for future ecological networks.

85. While the Kaiwaka Spatial Plan has no legal weight it is considered that the proposal is generally in keeping with what is anticipated for this area and is not contrary to the outcome sought by this.

Precedent

86. A precedent effect is not an effect on the environment but rather it is a consideration of how a decision to allow the proposed activity may subsequently lead to subsequent similar applications being granted (in the sense of like cases being treated alike). The matters of precedent and District Plan integrity are considered relevant for this application.

87. In this instance the application contains two unique features which prevents this proposal from setting a precedent for similar non-complying activities. Firstly the site is one of the last larger properties left in an area mostly surrounded by smaller development in close proximity to an existing settlement and associated services. The site is located within a transition zone from residential to rural where the resulting development will be in keeping with the surrounding

development pattern which contains urban creep rather than extending this into the rural production area found approximately 1km east of the site. Secondly, the site contains a beneficial ecological feature which provides a strong connection to the surrounding ecological network.

88. The application is non-complying due to the size and number of proposed lots. However, the location is considered appropriate for this level of development as a sustainable use of land which concentrates development near to existing residential activities and associated amenities and services without eroding the rural landscape. The proximity of the site to Kaiwaka positions six additional rural-residential sites within close proximity of neighbourhood services and amenities.

89. Further to this the site is considered to sit right on the cusp of this rural-residential extension of the township with larger rural properties beyond the site to the east providing a stronger rural landscape. As such intensification is considered appropriate and 'in-keeping' in this location where it would not be further from the township. It is considered there is limited potential for continuation of this type of development within this rural-residential area before spilling into the adjacent rural area which would limit potential for uncontrolled sprawl.

90. It is considered that given the unique location, the proposed subdivision provides a logical development which results in an efficient use of land while remaining consistent with the objectives and policies of the District Plan.

91. It is concluded there are no undesirable precedent effects.

12.0 Section 106 Assessment

92. Pursuant to Section 106(1)(a) Council may refuse subdivision consent if there is a significant risk from natural hazards.

93. The site is not located in area identified as susceptible to flooding in the Kaipara District Plan, nor does it contain any geological features.

94. Pursuant to Section 106(1) (c) Council may refuse subdivision consent if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

95. The proposed development provides for each proposed Lot to gain access via proposed Lot 8 (road to vest) and the proposed relocated vehicle crossing on to Settlement Road which are to be constructed/upgraded to the relevant Council engineering standards.

13.0 Part 2 of the Act

96. 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

97. 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).

98. It is considered that the proposal will promote the sustainable management of natural and physical resources as the proposal will enable the use and development of the physical resources of the site in a manner that would continue to enable the applicant and current and future land owners to provide for their future social and economic wellbeing. At the same time the proposal sufficiently avoids, remedies or mitigates adverse effects on receiving environments, amenity and rural character of the surrounding environment.

Section 6 – Matters of National Importance

99. 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 be consistent with the provisions of Section 6 as it does not detract from the natural character of the coastal environment and is not located within any outstanding natural landscape. The proposal does not result in the removal of any vegetation and does not restrict access to the coastal environment.

Section 7 – Other Matters

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

(b) the efficient use and development of natural and physical resources:

(c) the maintenance and enhancement of amenity values:

(g) maintenance and enhancement of the quality of the environment:

101. Pursuant to Section 7(b) particular regard shall be had to the efficient use and development of natural and physical resources. The proposal involves the creation of six additional lots which is unlikely to generate adverse effects. This is considered efficient use of the physical resources.

102. Pursuant to 7(c) particular regard shall be had to the maintenance and enhancement of amenity values. In this case, the proposal is consistent with the site's rural character and would maintain the character and amenity values of the surrounding environment.

103. Pursuant to 7(g) particular regard shall be had to maintenance and enhancement of the environment. In this case, stormwater and wastewater disposal is able to be appropriately managed onsite and therefore the health of the surrounding environment would be maintained.

Section 8 – Treaty of Waitangi

104. Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). In this case, the proposal does not raise any treaty issues.

14.0 Reasons for the Decision

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

106. 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.

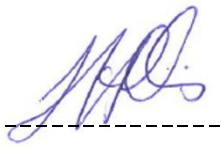
107. In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement as discussed in Section 9.0 of this report.

108. 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.

109. 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 this resource consent achieves the purpose of the Act as set out in Section 5.

Reporting Planner  *21/09/2022*

Melissa Hallett Date

Peer reviewer  *28/09/2022*

Jess Hollis Date

Signed  *3/10/2022*

JJ Pienaar Date

Resource Consents Team Leader

Kaipara District Council

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