

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU**

**Decision [2022] NZEnvC 035**

IN THE MATTER OF      an appeal under clause 14 of Schedule 1  
of the Resource Management Act 1991

BETWEEN

MANGAWHAI MATTERS  
INCORPORATED

(ENV-2021-AKL-062)

CLIVE RICHARD GERALD  
BOONHAM

(ENV-2021-AKL-061)

Appellant

AND

KAIPARA DISTRICT COUNCIL

Respondent

AND

MANGAWHAI CENTRAL LIMITED

Applicant

Court:                      Environment Judge J A Smith sitting alone under s 279 of the Act

Date of Order:            22 March 2022

Date of Issue:            22 March 2022

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**CONSENT DETERMINATION**

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- A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
- (a) The Kaipara District Plan is amended in accordance with Annexure A (insertions from the Kaipara District Council's decision on PC78 are shown in underline and deletions are shown in strikethrough);
  - (b) The following clauses of Annexure A are noted in the text as being subject to appeal, to be determined on the papers. Pending such decision these provisions cannot be relied on:
    - (i) 16.3.9.1 Policies( 5);
    - (ii) 16.7.4 Discretions for Restricted Discretionary Activities (eee);
    - (iii) 16.7.4.1 Assessment Criteria (eee);
    - (iv) 16.10.8.1 Matters Over Which Discretion is Restricted (ff); and
    - (v) 16.10.8.2 Assessment Criteria for Restricted Discretionary Activities (f).
  - (c) Kaipara District Plan Land Use Maps 56, 56A, and 57 be amended in accordance with the zone map at Annexure B (including rezoning Lot 1 DP 314200 and Lot 4 DP 314200 from Residential to Estuary Estates Zone); and
  - (d) Kaipara District Plan Appendix E Maps 1-26 be deleted and replaced with the structure plan map at Annexure C.
- D: In relation to those matters which overlap with the interests of Mr Boonham the Mangawhai Matters appeal will remain open and the memorandum and draft consent order will be held on file pending resolution/determination of Mr Boonham's appeal. The appeal by Mr Boonham remains outstanding. A timetable for filing of submissions is underway.
- E: Under s285 of the Resource Management Act 1991, no party seeks nor is there an order as to costs in relation to the Mangawhai Matters appeal.

## REASONS

### Introduction

[1] This consent determination relates to the appeal by Mangawhai Matters Inc (**Mangawhai Matters**) against the decision by Kaipara District Council (the **Council Decision**) to approve Plan Change 78 to the Kaipara District Plan (**PC78**).

[2] PC78 provides for a comprehensive mixed-use development in Mangawhai, on land already identified for development in the operative Kaipara District Plan. It achieves this principally through amendments to the operative Chapter 16 (Estuary Estates) of the Kaipara District Plan, as opposed to deletion and full replacement of Chapter 16.

### Background

#### *Appeals*

[3] In December 2019 Mangawhai Central Limited (**MCL**) lodged a private plan change request (PC78) to amend the Kaipara District Plan. PC78 was notified in April 2020. A hearing was held on 23 – 25 November 2020 and 3 February 2021 before a Hearing Panel comprising Commissioners appointed by Kaipara District Council.

[4] On 12 March 2021 the Hearing Panel recommended that PC78 be approved. On 28 April 2021 Kaipara District Council accepted the recommendation of the Hearing Panel and approved PC78.

[5] Two parties appealed the Council Decision:

- (a) Mangawhai Matters Incorporated;<sup>1</sup> and
- (b) Clive Boonham.<sup>2</sup>

[6] The appeal by Mangawhai Matters relates to the parts of the Council Decision that deal with the following matters:

- (a) residential capacity;

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<sup>1</sup> ENV-2021-AKL-000062.

<sup>2</sup> ENV-2021-AKL-000061. Mr Boonham made a submission opposing PC78 (submission 156).

- (b) potable water supply;
- (c) traffic;
- (d) stormwater management and harbour quality;
- (e) community amenities; and
- (f) staging and funding of development.

[7] The following parties joined the appeal by Mangawhai Matters as interested parties under s274 of the RMA:

- (a) The New Zealand Fairy Tern Charitable Trust;<sup>3</sup>
- (b) Peter Rothwell;<sup>4</sup>
- (c) Northland Transportation Alliance (s274 notice withdrawn in July 2021);  
and
- (d) Northland Regional Council (s274 notice withdrawn in February 2022).

[8] The appeal by Mr Boonham relates to the Council Decision in its entirety and has a particular focus on wastewater infrastructure capacity and funding. Mr Boonham subsequently narrowed the scope of issues remaining with respect to his appeal. His remaining interest is in relation to wastewater infrastructure capacity (existing and planned), particularly the following provisions:<sup>5</sup>

- (a) 16.3.9.1 Policies (5);
- (b) 16.7.4 Discretions for Restricted Discretionary Activities (eee);
- (c) 16.7.4.1 Assessment Criteria (eee);
- (d) 16.10.8.1 Matters Over Which Discretion is Restricted (ff); and
- (e) 16.10.8.2 Assessment Criteria for Restricted Discretionary Activities (f).

[9] The following parties joined Mr Boonham's appeal as interested parties under s274 of the RMA:

- (a) The New Zealand Fairy Tern Charitable Trust; and
- (b) Northland Regional Council (s274 notice withdrawn in February 2022).

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<sup>3</sup> The New Zealand Fairy Tern Charitable Trust made a submission opposing PC78 (submission 157).

<sup>4</sup> Mr Rothwell made a submission opposing PC78 (submission 176).

<sup>5</sup> Evidence of Clive Boonham dated 11 March 2022.

***Mediation and discussions between the parties***

[10] Court assisted mediation occurred via Audio-Visual Link on:

- (a) Tuesday 30 November 2021;
- (b) Wednesday 1 December 2021;
- (c) 13 January 2022; and
- (d) 15 February 2022.

[11] Mediation agreements recording the outcomes of discussions were produced.<sup>6</sup>

[12] Parties have also engaged in direct discussions with a view to narrowing and/or resolving matters in contention. A Joint Witness Statement dated 15 December 2022 was produced by the planning witnesses for MCL, Kaipara District Council and Mangawhai Matters, addressing numerous agreed amendments to the PC78 provisions.

[13] At a subsequent telephone conference on 7 March 2022 the parties sought to vacate the hearing of this matter set down for April. As a consequence the parties advised they would file a joint memorandum settling the Mangawhai Matters appeal. Engagement between the parties has resulted in complete agreement being reached, with respect to the Mangawhai Matters appeal, with a full set of PC78 text and maps.

[14] So far as the Boonham appeal the hearing date was vacated on the basis of an email minute as follows:<sup>7</sup>

**ENV-2021-AKL-000061 - Boonham v Kaipara District Council**

The Council are to identify and file the clauses around the timing of development in relation to existing and planned capacity by 8 March 2022, and;

Mr Boonham is to file a submission setting out the wording of those clauses and his reasoning for the changes by 11 March 2022, and;

MCL and the Council will file their reply on 18 March 2022 setting out their preferred wording and the reasons for that preference, and;

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<sup>6</sup> The mediation agreements are dated 1 December 2021; 14 January 2022; and 15 February 2022.

<sup>7</sup> Email dated 8 March 2022.

Mr Boonham to file his final reply with any changes to wording and his response by 25 March 2022.

[15] The agreed basis of the vacation of the Boonham hearing was that only the identified clauses were in issue and these issues would be determined on the papers by Judge alone.

[16] However, when the settlement memorandum for the Mangawhai Matters appeal was filed the parties to the Mangawhai Matters appeal requested that the Court hold the memorandum and draft order on file pending resolution/determination of Mr Boonham's appeal and, should PC78 be approved, amend PC78 as agreed by the parties to the extent consistent with the resolution/determination of Mr Boonham's appeal.

### **Agreement reached**

[17] The memorandum for the Mangawhai Matters appeal includes amendments as follows:

- (a) *Financial contributions:* Changes to the financial contribution provisions have been agreed, including to reinforce that the timing of subdivision and development needs to be coordinated with the provision of infrastructure and that the development must contribute its share of the growth-related costs of this infrastructure.<sup>8</sup>
- (b) *Wastewater:* The operative District Plan contains existing provisions for wastewater which apply to the PC78 area and throughout the District (Rules 13.14.6 and 14.13.6, cross-referenced in Chapter 16). In summary, these provisions provide that resource consents for reticulated development can be declined if there is insufficient capacity in Kaipara District Council's wastewater infrastructure system. A range of changes to PC78 have also been agreed to strengthen the wastewater infrastructure provisions. The agreed set of provisions includes comprehensive rules, discretions, and assessment criteria which require the provision of a wastewater network, along with assessment of the

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<sup>8</sup> Objective 16.3.10 and Policy 16.3.10.1.

capacity of the existing and planned network and the wastewater treatment plant.<sup>9</sup>

- (c) *Water supply:* The operative District Plan contains existing provisions for water supply which apply to the PC78 site and throughout the District (Rules 13.14.4 and 14.13.4, cross-referenced in Chapter 16). In addition, changes to PC78 have been agreed to strengthen the water supply infrastructure provisions.<sup>10</sup> The parties have agreed a suite of amendments (including to the Chapter 16 zone description, objectives, policies, and rules) to address matters raised by Northland Regional Council, which subsequently withdrew its s274 notices as a result of the position reached.
- (d) *Stormwater:* Changes have been agreed to strengthen the stormwater infrastructure provisions.<sup>11</sup>
- (e) *Character:* A range of changes, including rules to manage the location of onsite water storage, vehicle access and manoeuvring; and the location of buildings and private outdoor living spaces, have been agreed to strengthen the provisions relating to Mangawhai small town coastal character and how the development enabled by PC78 is required to respond to this.<sup>12</sup>
- (f) *Lot size/density:* The parties have agreed to change the minimum lot size<sup>13</sup> and density<sup>14</sup> rules for Residential Sub-zone 3A from 350m<sup>2</sup> to 500m<sup>2</sup>.

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<sup>9</sup> *Land Use:* discretion 16.7.4 e) and eee), assessment criteria 16.7.4.1 e) and eee), Rule 16.8.3 (which cross references Rules 14.13.6 and 13.14.6 of the District Plan); *subdivision:* discretion 16.10.8.1 f) and ff), assessment criteria 16.10.8.2 f), and Rule 16.10.10.4 3 (cross referencing Rule 14.13.6 and 13.14.6 of the District Plan). See also 16.1.6. See also Utilities, Services and Infrastructure Objective 16.3.9 and Policies 16.3.9.1 4) and 5).

<sup>10</sup> 16.1.6; 16.3.9.1 5); 16.3.9.1 6); 16.7.4 ee); 16.7.4.1 e) and ee); 16.8.3; 16.10.8.1 d); 16.10.8.2 n) and q); and 16.10.10.4 3 (and a minor amendment to the Network Utilities Chapter at 10.10). See also Utilities, Services and Infrastructure Objective 16.3.9 and Policy 16.3.9.1 3) which are not subject to changes agreed by the parties.

<sup>11</sup> 16.1.6; and 16.3.8.1 9) and 12). See also 16.3.9.1 5).

<sup>12</sup> 16.3.2.1 2) and 8); 16.3.4.1 8); 16.3.6.1 2) and 5); 16.3.11.1 4); and 16.6.3.1.

<sup>13</sup> 16.10.10.1.

<sup>14</sup> 16.8.2.2.

- (g) *Transport*: Changes to transport provisions have been agreed (including relating to roading design, parking, manoeuvring, and cycling and pedestrian facilities and connectivity).<sup>15</sup>
- (h) *Fairy Tern / Tara Iti*: A range of changes have been agreed to address potential effects on NZ Fairy Tern / Tara Iti, including:<sup>16</sup>
  - (i) changes to Policy 16.3.1.1 14), providing for the precautionary approach with respect to adverse effects on the habitat of Fairy Tern / Tara Iti and their food sources;
  - (ii) identification of a Coastal Buffer Overlay on the PC78 Structure Plan map, within which certain activities are provided for as non-complying.<sup>17</sup>
  - (iii) amendments to a range of matters of discretion to explicitly refer to potential effects on the habitat of Tara Iti / Fairy Tern and their food sources (and other matters relevant to Fairy Tern / Tara Iti such as stormwater monitoring and fish passage).<sup>18</sup>
  - (iv) addition of provisions providing for:
    - (1) the containment of dogs on residential properties via fencing or alternative means (for example electronic control).<sup>19</sup>
    - (2) the exclusion of dogs from Wetlands 3 and 1 through perimeter fencing as shown on the PC78 Structure Plan map.<sup>20</sup>
    - (3) the prohibition of dogs from the walking track within Wetland 3 during the Fairy Tern / Tara Iti breeding season and the requirement for dogs to be on leads at other times.<sup>21</sup>
  - (v) increasing the building yard (set-back) from 10m to 20m in several locations, including from Wetland 1.<sup>22</sup>

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<sup>15</sup> 16.1.6; 16.3.8; 16.3.8.1; 16.10.8.1 a) and c); and 16.10.8.2 p).

<sup>16</sup> Refer also amendments to 16.1.6.

<sup>17</sup> Refer the activity table at 16.7.1-1.

<sup>18</sup> 17.7.4 e), n), and (g); 17.7.4.1 e) and g); 16.7.5; 16.10.8.1; and 16.10.8.2.

<sup>19</sup> 16.8.2.14; and 16.10.10.4 8.

<sup>20</sup> 16.8.2.14; and 16.10.10.4 8.

<sup>21</sup> 16.7.5.

<sup>22</sup> 16.8.2.3.



- (vi) amendments to the temporary activity provisions to include express reference to potential effects on Fairy Tern / Tara Iti and to provide for spatial, temporal, and other limits on events.<sup>23</sup>
- (i) *PC78 Structure Plan*: Several amendments to the PC78 Structure Plan have been agreed, including:
  - (i) inserting red asterisks for “*indicative locations for future pedestrian and cycle connection to the north of the structure plan*”.
  - (ii) inserting a black asterisk for “*20m width land set aside for future potential road connection to Old Waipū Road*”.
  - (iii) inserting “*indicative local roads*” (illustrated as grey lines).
- (j) *Miscellaneous*: The parties have also agreed a range of other changes to the PC78 provisions, including:
  - (i) a range of changes aimed to clarify the intent and application of provisions, including strengthening the policy framework to ensure a robust framework for assessing future resource consent applications.
  - (ii) a range of other minor and/or miscellaneous amendments.

### Section 32AA evaluation

[18] Section 32AA of the Resource Management Act 1991 (**RMA**) requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report.

[19] The joint memorandum of the parties dated 11 March 2022 set out the evaluation summarised below.

[20] In summary, the parties consider that the agreed objectives are the most appropriate way to achieve the purpose of the RMA, including for the following reasons:

- (a) the revised land use pattern proposed by PC78 will provide appropriate opportunities for development to service the employment, business, residential and recreational needs of the fast-growing population of Mangawhai;

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<sup>23</sup> 16.12.

- (b) PC78 as agreed between the parties will provide quality housing opportunities; with a mix of housing typologies on land adjoining the proposed business land that have architectural forms compatible with the coastal, small-town character of Mangawhai, thereby enabling communities to provide for their social and economic well-being;
- (c) the agreed changes include suitable provisions to ensure that development will be coordinated with the delivery of required infrastructure; and
- (d) the protection and enhancement of important natural features (including streams, bush and wetlands) and ecology within the site and surrounding environment (including with respect to Fairy Tern / Tara Iti) is provided for through the agreed Zone Map, Structure Plan and relevant Chapter 16 provisions.

[21] In addition, the parties consider that the agreed provisions are the most appropriate way to achieve the objectives (including with respect to other reasonably practicable options; and the efficiency and effectiveness of the provisions, including their costs and benefits), including for the following reasons:

- (a) the operative Chapter 16 framework and provisions are highly directive and complex/difficult to implement. The agreed changes to the zoning, Structure Plan and Chapter 16 provisions respond to this (among other things) and will ultimately provide a clearer framework for decision making enabling development to occur in a more efficient and sustainable manner;
- (b) the agreed set of provisions will enable a connected and high-quality urban environment to be achieved that responds to the specific land characteristics of the site and Mangawhai itself;
- (c) the agreed PC78 provisions will ensure that growth is integrated with the delivery of required infrastructure and will facilitate a quality built environment, including one that provides for active modes of transport through the provision of cycleways and pedestrian paths and connectivity opportunities beyond the site; and

- (d) the agreed provisions will strengthen the requirements relating to the management of ecological effects, including with respect to potential effects on Fairy Tern / Tara Iti, in a manner that is ecologically effective and also reasonable/proportionate in terms of associated financial costs.

[22] In summary, the parties consider:

- (a) the agreed framework achieves an appropriate balance of enabling development (including economic growth and employment) while managing adverse environmental, social, economic, and cultural effects; and
- (b) the overall suite of provisions provides a clearer and simple/streamlined framework for development within the Estuary Estates Zone.

[23] The parties consider that this is not a situation where there is uncertain or insufficient information such that the risk of acting or not acting needs to be evaluated. We add that Mr Boonham does not agree with this conclusion as it relates to wastewater infrastructure planning and delivery.

## **PC78: Summary**

### ***The PC78 site***

[24] The PC78 site is approximately 130 hectares and is located adjacent to Tara Creek and the upper Mangawhai Harbour.<sup>24</sup> The site is bounded by Molesworth Drive to the south east, Tara Creek to the north east, countryside living development to the north and west, Old Waipu Road to the west and residential development to the south (accessed off Sunlea Lane, Hills View Lane and Molesworth Drive).

### ***The operative District Plan***

[25] The site was subject to a previous private plan change request (**PC22**) which was made operative in 2008. PC22 rezoned the site from rural to a mixture of residential, rural-residential (countryside living), “green network”, business, service and community sub-zones within an overall Estuary Estates Zone, and implemented

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<sup>24</sup> The site comprises four records of title: Lot 6 DP 314200, Lot 4 DP154785, and Lots 1 and 4 DP 314200.

an Estuary Estates Structure Plan (**EESP**). PC22 resulted in a dedicated chapter of the Kaipara District Plan (Chapter 16 – Estuary Estates) applying to the site.

[26] Since 2008, no development of the site has been undertaken in a manner aligning with the form of development provided for in the operative Chapter 16 provisions.

### ***PC78***

[27] PC78 proposes to update the operative District Plan’s Estuary Estates Chapter 16 and EESP, providing for a comprehensive mixed-use development of a different form to that currently provided for in the District Plan. PC78 provides for an overall greater level of housing density than the operative Chapter 16, primarily around the centrally located commercial / town centre area. Other key changes proposed include reducing the number of sub zones, deleting the 500-household unit cap, replacing the Operative Plan’s “green network” with a Natural Environment 8 Sub Zone, and simplifying the numerous operative planning maps down to a zone map and single structure plan map.

[28] Key components are outlined below.

### ***PC78 zone map***

[29] The PC78 zone map is set out in **Annexure B** attached.

[30] PC78 proposes the following “zoning” changes based on the zone map:

- (a) amend the Business 1 Sub Zone to match the amended PC78 Structure Plan (as set out below) and reduce its size to 5.34 ha from 7.5 ha.
- (b) amend the Service 7 Sub Zone to align with the Ring Road route in the amended PC78 Structure Plan (and increase its size from 7.5 ha to 8.2 ha).
- (c) delete Sub Zones 2 (Community), 4 (Parkside Residential), 5 (Rural Cluster) and 6 (Rural-Residential).
- (d) replace Sub-Zones 2, 3, 4, 5 and 6 with new Residential Sub Zones 3A (30.85 ha), 3B (28.12 ha), 3C (2.38 ha) and 3D (25.64 ha).

- (e) replace the Green Network Overlay of the EESP with a new Natural Environment 8 Sub Zone which encompasses the existing native bush and wetlands (Wetland 1, 2, 3 and D), and provides for their protection and enhancement (29.75 ha).
- (f) rezone Lot 1 DP 314200 and Lot 4 DP 314200 from the District Plan's Residential Zone to Estuary Estates Zone.<sup>25</sup> The Sub Zones applied to these lots are Residential Sub Zones 3B and 3C and Natural Environment Sub-Zone 8 (accounting for Wetland D).
- (g) amend maps 56, 56A, and 57 of the District Plan based on the PC78 zone map.

[31] The purposes of the Business 1 Sub Zone and Service 7 Sub Zone remain the same, including to support the town centre and employment related activities provided for by Chapter 16. The layout of the Business 1 Sub Zone reflects the consented Main Street development.

[32] New Residential Sub Zone 3A provides for standard residential development with subdivision of vacant fee simple lots to a minimum size of 500m<sup>2</sup>.

[33] The Residential Sub Zones 3B, 3C and 3D replace Sub Zones 5 and 6, deleting the Rural Clusters and Rural Countryside Living Sub Zones, and enabling 500m<sup>2</sup>, 750m<sup>2</sup>, and 1,000m<sup>2</sup> minimum vacant fee simple lots.

#### PC78 Structure Plan map

[34] A single PC78 Structure Plan map is proposed, as set out in **Annexure C** attached.

[35] The PC78 Structure Plan illustrates the framing elements important to the delivery of the objectives of the Estuary Estates Zone as amended by PC78. Key elements shown on the PC78 Structure Plan map include:

- (a) the upgrade of Molesworth Drive along the site's frontage, including the two roundabouts and the vesting of sufficient land to accommodate

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<sup>25</sup> These two lots comprise a total area of 0.9377 ha and are located on the site's frontage to Old Waipu Road and the site's farm track access from this road.

these. This matches the approved Molesworth Drive Upgrade resource consent;

- (b) a “Ring Road” connecting to the two roundabout intersections on Molesworth Drive. This generally accords with the Ring Road from the EESP;
- (c) a “Collector Road” forming an internal connecting network between Molesworth Drive and the Ring Road;
- (d) the “Main Street”, which in combination with the Collector Road forms the road network that contains the Business Sub-Zone 1 (being the Town Centre);
- (e) a cycle and walking trail from Old Waipu Road to the Tara Creek esplanade reserve;
- (f) the “Gum Diggers Track”, which is an existing recreational trail within Wetland 3 connecting to the existing walking track within the esplanade reserve. It is proposed to expand this trail to include a route encompassing an existing farm track around the Manuka Wetland 3;
- (g) areas of existing native bush and wetlands for protection and enhancement;
- (h) areas of the riparian margins of streams and wetlands to enhance;
- (i) amenity planting areas associated with the slopes of the site and road boundary with Old Waipu Road, along with the buffer planting along the edge of the Service Sub Zone 7 adjacent to the adjoining residential zoned land outside the Estuary Estates Zone;
- (j) an indicative open space (park);
- (k) a building frontage to the Main Street, corresponding with the consented pattern of development fronting Main Street;
- (l) a new Central Watercourse is identified through the site to Tara Creek. This provides an opportunity to establish an amenity feature and overland flow path conveyance, co-located with the cycle and walking trail network;
- (m) the Coastal Environment Overlay from the Northland Regional Policy Statement, linked to proposed Rules 16.7.1-1 and 16.17.2 which impose

additional landscaping and building design requirements for buildings within the Coastal Environment Overlay;

- (n) as outlined above, a Coastal Buffer Overlay, within which certain activities are non-complying for the purpose of managing potential effects on Fairy tern / Tara Iti;<sup>26</sup> and
- (o) a 10m widening of the existing Tara Creek esplanade reserve to provide for riparian margin planting to be established between the coastline and the existing walking track, and this walking track to be relocated further inland to accommodate this planting.

Amendments to Chapter 16 provisions

[36] The PC78 provisions amend the operative Chapter 16 to reflect the proposed Sub Zones and PC78 Structure Plan. Some sections of the operative Chapter 16 remain unchanged. The approach of PC78 was not to delete and replace the operative Estuary Estates Zone and Chapter 16 outright, but to amend those provisions.

- [37] In summary, PC78's changes to the operative Chapter 16 provisions include:
- (a) updated Sub Zone objectives, policies, rules and descriptions reflecting the amendments to the Sub Zones outlined above;
  - (b) deletion of the 500-household unit cap;
  - (c) deletion of requirements for comprehensive development plans and associated staging;
  - (d) alignment of the provisions for Service Sub Zone 7 with the approved Service Zone Subdivision resource consent;
  - (e) deleting provisions requiring explicit building location as detailed on the EESP and adherence to this type of detail; and
  - (f) deleting the provisions that require adherence to the staging illustrated on the EESP.

[38] Subdivision for vacant fee simple lots in accordance with the relevant standards, including minimum lot size (Rule 16.10.10.1), is a restricted discretionary activity. Where minimum lot sizes are not complied with, the subdivision becomes

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<sup>26</sup> Refer also the activity table at 16.7.1-1.

non-complying (Rule 16.10.5-1). The parties consider this is appropriate to establish certainty as to the outcomes anticipated by the minimum lot size rules and the distribution of the Residential Sub Zones 3A to 3D.

[39] Residential Sub Zone 3A provides for standard residential development with subdivision of vacant fee simple lots to a minimum size of 500m<sup>2</sup>. The Residential Sub Zones 3B, 3C and 3D replace Sub Zones 5 and 6. These delete the Rural Clusters and Rural Countryside Living Sub Zones, and enable 500m<sup>2</sup> (3B), 750m<sup>2</sup> (3C), and 1000 m<sup>2</sup> (3D) minimum vacant fee simple lots. The lot sizes graduate from higher density adjoining the Town Centre to lower density near the rural edge of the Estuary Estates Zone.

[40] To address water supply matters PC78 includes:<sup>27</sup>

- (a) additions to Objective 16.3.9, the Policies at 16.3.9.1, and discretion 16.7.4 ee) and assessment criteria 16.7.4.1 ee) to reflect that certain forms of development, and development within Residential Sub Zone 3A, should be supported by an appropriate reticulated water supply solution;
- (b) discretion in 16.10.8.1 d) and assessment criteria 16.10.8.2 m) for firefighting water supply;
- (c) Rule 16.11A clarifying network utilities provision in relating to water supply; and
- (d) Rule 16.8.3, in addition to existing operative Rules 13.14.4 and 14.13.4, requires non-reticulated sites to have a minimum water storage of 50m<sup>3</sup> (including 10m<sup>3</sup> for firefighting) which is approximately double that required by Kaipara District Council in the remainder of the District.

[41] With respect to ecology matters, PC78 includes:<sup>28</sup>

- (a) Rule 16.7.1.3 for any 'natural inland wetland' meeting the definition in the National Policy Statement for Freshwater Management 2020 where located outside of the mapped extent of Sub Zone 8 to be subject to the rules in Table 16.7.1-3 for Sub Zone 8.

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<sup>27</sup> Refer also [17](c) above.

<sup>28</sup> Refer also [17](h) above.



- (b) buildings/structures as a discretionary activity in Sub Zone 8 (Table 16.7.1-3).
- (c) assessment criteria in 16.7.4.1 j) ii. requiring – in addition to the District-wide earthworks discretions – the implementation of best practice for erosion and sediment control.
- (d) matters of discretion 16.10.8.1 ee), j) and k) and assessment criteria 16.10.8.2 ee), i) and l) for wetland hydrology, stream enhancement and protection.

[42] With respect to Fairy Tern / Tara Iti specifically, PC78 as set out in Annexure A to this consent order includes the following (as outlined above at [17](h)):

- (a) Policy 16.3.1.1 14), providing for the precautionary approach with respect to adverse effects on the habitat of Fairy Tern / Tara Iti and their food sources;
- (b) a range of matters of discretion explicitly referring to potential effects on the habitat of Tara Iti / Fairy Tern and their food sources (and other matters relevant to Fairy Tern / Tara Iti such as stormwater monitoring and fish passage);<sup>29</sup>
- (c) provisions providing for:
  - (i) the containment of dogs on residential properties via fencing or alternative means (for example electronic control);<sup>30</sup>
  - (ii) the exclusion of dogs from Wetlands 3 and 1 through perimeter fencing as shown on the PC78 Structure Plan map;<sup>31</sup>
  - (iii) the prohibition of dogs from the walking track within Wetland 3 during the Fairy Tern / Tara Iti breeding season and the requirement for dogs to be on leads at other times;<sup>32</sup>
  - (iv) increased building yards (set-backs) from 10m to 20m in several locations, including from Wetland 1;<sup>33</sup> and

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<sup>29</sup> 16.7.4 e), and (g); 16.7.4.1 e) and g); 16.7.5; 16.10.8.1; and 16.10.8.2.

<sup>30</sup> 16.8.2.14; and 16.10.10.4 8.

<sup>31</sup> 16.8.2.14; and 16.10.10.4 8.

<sup>32</sup> 16.7.5.

<sup>33</sup> 16.8.2.3.

- (v) temporary activity provisions including express reference to potential effects on Fairy Tern / Tara Iti and providing for spatial, temporal, and other limits on events.<sup>34</sup>

[43] To address stormwater matters PC78 includes:<sup>35</sup>

- (a) Policy 16.3.8.1 12) to address the management of stormwater from commercial car parks;
- (b) Policy 16.3.11.1 1A) to address the management of stormwater associated with subdivision;
- (c) assessment criteria 16.7.4.1 c) v. for litter management;
- (d) Rule 16.9.3.2 c) and assessment criteria 16.9.3.2.1 c) for an activity providing more than 30 car parks to manage stormwater treatment;
- (e) Discretion 16.10.8.1 e) for low impact design associated with stormwater and assessment criteria 16.10.8.2 jj) for stormwater treatment;
- (f) Discretion 16.10.8.1 ee) and assessment criteria 16.10.8.2 j) for stormwater hydrology;
- (g) Discretion 16.10.8.1 eee) to require stabilised roofing material; and
- (h) Discretion 16.10.8.1 k) and assessment criteria 16.10.8.2 l) to manage the design over the Central Watercourse.

[44] To address urban design matters PC78 includes:<sup>36</sup>

- (a) a Coastal Environment overlay requiring the design of buildings to obtain resource consent (Rule 16.7.1-1) based on coastal character (including design guidance at 16.17.2);
- (b) yard controls relating to the Coastal Marine Area, streams, wetlands, and Natural Environment 8 Sub Zone (Rule 16.8.2.3); and
- (c) provisions managing Integrated Residential Development and retirement facilities (16.16.3).

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<sup>34</sup> 16.12.

<sup>35</sup> Refer also [17](d) above.

<sup>36</sup> Refer also [17](e) above.

[45] With respect to transport matters, PC78 addresses:<sup>37</sup>

- (a) pedestrian connections on the PC78 Structure Plan with respect to Gum Diggers Track;
- (b) rules 16.9.3.2 e) and 16.9.3.2 1 a) regarding the additional traffic assessment required where the cumulative number of dwellings exceeds 850; and
- (c) modification to existing assessment criteria 16.7.4.1 b) and subdivision assessment criteria 16.10.8.2 k) to include traffic effects on the wider network.

### **Consideration**

[46] When it comes to wastewater there have been some amendments sufficient to satisfy all parties but Mr Boonham. Given the fraught history of the wastewater treatment plant at Mangawhai Mr Boonham is concerned that new connections will be permitted before the wastewater treatment system is upgraded.

[47] He is concerned that there is no upgrading funded in the Council long term plan and that if connections are permitted without the necessary upgrades the plant will be overwhelmed.

[48] Mr Boonham agrees that the issue is about timing of construction in relation to the improvements to the wastewater plant. He would like to see conditions which assured wastewater improvements before buildings enabled by PC78 could be utilised. He agrees as does the Council that this Court might reword the relevant provisions which would resolve his appeal and that this can be considered by the Court, in the near future, on the papers.

[49] I conclude that there are many elements to a Plan Change of this type. The construction of buildings is still some time away. I conclude that any decision on the wording and any appeals on that wording can be resolved prior to the wastewater conditions being relevant. To make the plan change operative but for the wording of

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<sup>37</sup> Refer also [17](g) above.

these particular clauses seems appropriate and enables the Council and Applicant to start planning for the next phase.

[50] The Court concludes that an order can be made, by consent, except on those matters Mr Boonham has identified an outstanding interest in, namely:

- (a) 16.3.9.1 Policies (5);
- (b) 16.7.4 Discretions for Restricted Discretionary Activities (eee);
- (c) 16.7.4.1 Assessment Criteria (eee);
- (d) 16.10.8.1 Matters Over Which Discretion is Restricted (ff); and
- (e) 16.10.8.2 Assessment Criteria for Restricted Discretionary Activities (f).

[51] The above listed provisions are noted in Annexure A as still being in dispute as to final wording, and will be subject of particular decision by the Court in relation to Mr Boonham's appeal.

[52] In relation to the remaining matters agreed by the parties to the Mangawhai Matters appeal, I am satisfied that the agreement reached is one that represents the various interests of the parties. It is clear the parties have considered other reasonably practicable options and the efficiency and effectiveness of the provisions, including their costs and benefits. I conclude the parties have taken a considered and balanced approach, and accept the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan.

[53] Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

[54] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the

relevant requirements and objectives of the Act including, in particular, Part 2.

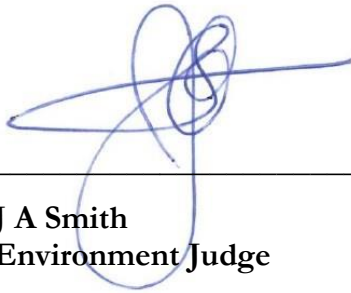
## Orders

[55] Therefore the Court orders, by consent, that:

- (a) The Kaipara District Plan is amended in accordance with **Annexure A** (insertions from the Kaipara District Council's decision on PC78 are shown in underline and deletions are shown in strikethrough);
- (b) The following clauses of **Annexure A** are noted in the text as being subject to appeal, to be determined on the papers. Pending such decision these provisions cannot be relied on:
  - (i) 16.3.9.1 Policies 5);
  - (ii) 16.7.4 Discretions for Restricted Discretionary Activities (eee);
  - (iii) 16.7.4.1 Assessment Criteria (eee);
  - (iv) 16.10.8.1 Matters Over Which Discretion is Restricted (ff); and
  - (v) 16.10.8.2 Assessment Criteria for Restricted Discretionary Activities (f).
- (c) Kaipara District Plan Land Use Maps 56, 56A, and 57 be amended in accordance with the zone map at **Annexure B** (including rezoning Lot 1 DP 314200 and Lot 4 DP 314200 from Residential to Estuary Estates Zone); and
- (d) Kaipara District Plan Appendix E Maps 1-26 be deleted and replaced with the structure plan map at **Annexure C**.

[56] The appeal by Mr Boonham remains outstanding. A timetable for filing of submissions is underway.

[57] Under s285 of the Resource Management Act 1991, no party seeks nor is there an order as to costs in relation to the Mangawhai Matters appeal.



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**J A Smith**  
Environment Judge



# Annexure A

Private Plan Change 78: JWS (dated 15.12.2021) amendments in **yellow**; January/February 2022 amendments in **blue**; NZ Fairy Tern Charitable Trust amendments in **green** v.16 dated 10.3.2022

## 16 Estuary Estates

### 16.1 General Description

#### 16.1.1 Description Of The Estuary Estates Structure Plan **Area**

The Estuary Estates Structure Plan area is comprised of approximately 130 hectares of land located on the upper Mangawhai Harbour. It sits to the west of Molesworth Peninsula, south of the Mangawhai Heads settlement and northwest of Mangawhai Village.

#### 16.1.2 Relationship of the Mangawhai Structure Plan and the Estuary Estates Structure Plan

The provisions of Chapter 16 and the Estuary Estates Structure Plan have precedence over the Mangawhai Structure Plan 2005.

#### 16.1.3 [DELETED]

#### 16.1.4 Description of the Estuary Estates Structure Plan Provisions

The Estuary Estates Structure Plan Map is provided in Appendix E of this District Plan.

This Chapter has its own set of definitions in Section 16.13 which apply specifically to the Estuary Estates Structure Plan area. Where any 'alternative' definitions are contained within Chapter 24 of the District Plan, the definitions in Section 16.13 apply. In all other cases the definitions contained within Chapter 24 of the District Plan will apply.

The Sub-Zones contained within the Estuary Estates Structure Plan area include the:

- Business 1 Sub-Zone;
- Residential 3A to 3D Sub-Zones;
- Service 7 Sub-Zone; and
- Natural Environment 8 Sub-Zone.

The Sub-Zones shown on Map 56A in Map Series 1. Each of these Sub-Zones provides for a specific mix of land use activities with corresponding Subdivision and Development Controls.

The Estuary Estates Structure Plan Map, together with ~~the~~ **the objectives, policies and** associated Development Control Rules, and subdivision provisions discussed below are the means through which the environmental and amenity values contemplated by the Structure Plan will be achieved.

For each Sub-Zone, Development Controls define the nature and scale of development that is considered appropriate for each particular Sub-Zone to ensure consistency with the outcomes promoted by the Structure Plan.

The Permitted Activity Standards and Development Controls rely upon Development Control parameters such as coverage, density, height, height in relation to boundary, yards and other environmental effects related controls to achieve the integration and secure the stated Policy outcomes for the area.

The Subdivision provisions include minimum Site Area Standards. In the case of the Residential 3 Sub-Zones there is provision for a higher number of **dwelling residential units** to enable multi-level development of separate dwellings **s units** and a diversity of housing typologies and lifestyle choice across the A-D areas.

Provision for integrated residential development is also enabled via an overlay on the Structure Plan to encourage diversity in housing typologies and lifestyle options in close proximity to the Business 1 Sub-Zone.

#### Estuary Estates Design and Environmental Guidelines (Appendix 16.1)

The Estuary Estates Design and Environmental Guidelines address a range of environmental and design matters. They are used as Resource Consent application assessment criteria to enable the Estuary Estates Structure Plan provisions to be properly interpreted to achieve the **objectives of this Chapter outcomes**.

#### 16.1.5 [DELETED]

#### 16.1.6 District Plan Wide Provisions

In any instance where your property is subject to any site feature or management unit (Map Series 2) and the Rules in the relevant Part C Chapter overlap with (or duplicate a Rule in this Zone Chapter), the Rules in the Part C Chapter shall take precedence.

In any instance where works in the road (road reserve) or network utility activities are proposed and the Rules in Chapter 10 and 11 (respectively) overlap with (or duplicate) a Rule in this Zone Chapter other than those listed in 16.11A, the Rules in Chapter 10 and 11 (respectively) shall take precedence.

Kaipara District Council Engineering Standards 2011 shall apply. The following documents should also be referred to as they may contain Standards **and/or guidelines** which apply to a particular site or proposal.

- Austroads Guide to **Road Design Traffic Engineering Practice**;
- ~~Austroads Urban Road Design~~;
- NZS 4404:2010 Land Development and Subdivision Engineering.
- **Guideline Document 2017/01 Stormwater Management Devices in the Auckland Region. December 2017 (Amendment 2).**
- **Guideline Document 2015/04 Water Sensitive Design for Stormwater. March 2015.**
- **Guideline Document 2021/07 Stormwater Soakage and Groundwater Recharge in the Auckland Region. Version 1, 2021.**
- [Guideline Document 2016/05 Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region. Incorporating amendment 2, 2020.](#)
- [The Auckland Code of Practice for Land Development and Subdivision: Water and Wastewater Code of Practice for Land Development and Subdivision, Chapter 6: Water \(version 2.4, 1 June 2021\)](#)
- [Dog Control Act 1996](#)
- [Dogs and Dog Management Bylaws](#)

#### 16.2 [DELETED]

#### 16.2.1 [DELETED]

#### 16.2.2 [DELETED]

#### 16.2.3 [DELETED]

#### 16.2.4 [DELETED]

#### 16.2.5 [DELETED]

#### 16.2.6 [DELETED]

#### 16.2.7 [DELETED]

#### 16.2.8 [DELETED]

#### 16.2.9 [DELETED]

#### 16.2.10 [DELETED]

### 16.3 Objectives and Policies

#### 16.3.1 Natural Environment Objective

To conserve, protect and enhance the landscape, recreational and ecological resources associated with wetlands, streams, coastal marine area and identified areas of indigenous vegetation.

##### 16.3.1.1 Policies

- 1) [DELETED]
- 2) By recognising and providing for the preservation and enhancement of the significant ecological habitat adjacent to the Tara Estuary.
- 3) [DELETED]
- 4) [DELETED]
- 5) [DELETED]
- 6) By ensuring development contributes to revegetation, so as to enhance the landscape and extend ecological linkages.
- 7) [DELETED]
- 8) **[RELOCATED FROM 16.3.7.1]** [By applying specific Development Controls for earthworks, to minimise sediment laden runoff and, in order to protect and enhance the natural character and ecological values of the coastal environment as well as the intrinsic values of ecosystems. By using specific Development Controls for earthworks, in order to manage development and thus achieve the protection and enhancement of the natural environment.](#)

8A) Design earthworks to tie in with topography consistent with that on adjacent land.

- 9) **[RELOCATED FROM 16.3.7.1]** By ensuring that site works associated with subdivision and development avoid adverse effects on wetlands, water courses, areas of ecological value, arising from changes to land form and the generation of sediments.
- 10) By ensuring that stormwater is managed and treated to maintain and enhance the health and ecological values of the wetlands, streams, and the coastal marine area.
- 11) All land use, development and subdivision must be designed and implemented to be consistent with the relevant Regional Stormwater Discharge Consent, including the application of water sensitive design.
- 12) Enabling land vested in Council for reserve purposes to be developed and utilised for its vested purpose.
- 13) By recognising the impact of climate change and ensuring subdivision and development can avoid, remedy, or mitigate hazards associated with climate change.
- 14) Decision makers adopt a precautionary approach to adverse effects on the habitat of Tara Iti / Fairy Tern and their food sources.

### 16.3.2 Amenity Objective

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

#### 16.3.2.1 Policies

- 1) **[DELETED]**
- 2) ~~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 focus associated with buildings fronting on to and having a clear relationship with the street to provide amenity and passive surveillance with architectural forms compatible with the coastal, small town character of Mangawhai.~~  
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.
- 3) **[DELETED]**
- 4) By implementing the development and subdivision controls ~~Development Controls~~ to ensure the amenity values of the Estuary Estates Structure Plan area are maintained and enhanced.
- 5) **[DELETED]**
- 6) **[DELETED]**
- 7) ~~To ensure that roads are developed as high quality public spaces by incorporating amenity features as such as tree planting. To ensure that roads are developed as high quality public spaces by incorporating amenity features such as pedestrian and cycleways, on-street carparking, tree planting and water sensitive design.~~
- 8) ~~By managing the density of development within the residential sub-zones so as to reduce landscape and visual effects. By managing the density of development within the residential sub-zones, and in particular in sub zone 3C and 3D, ensuring the scale of development is compatible with the coastal small-town character of Mangawhai and to minimise adverse effects of development on landscape values and the natural character of the coastal environment.~~
- 9) By providing for a walkway network associated with the roading network and where practicable through green corridors. 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.

### 16.3.3 **[DELETED]**

#### 16.3.3.1 **[DELETED]**

### 16.3.4 Business and Service Sub Zone Objectives

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. **[RELOCATED AND AMENDED FROM 16.6.1.2]** To create a distinctive, attractive and vibrant town centre.

#### 16.3.4.1 Policies

- 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.
- 2) By using specific development and subdivision controls, the structure plan, and the Estuary Estates Design and Environmental Guidelines to ensure development within the Business 1 Sub-Zone achieves an integrated high quality built environment with a strong pedestrian focus, and a high quality streetscape.
- 3) **[DELETED]**
- 4) **[DELETED]**
- 5) By providing for servicing and manufacturing opportunities in Service Sub-Zone 7 that require large-land areas.
- 6) By providing for residential activities within the Business 1 Sub-Zone; where adverse effects on residential amenity from business activities or buildings can be avoided, remedied or mitigated.
- 7) **[DELETED]**
- 8) **[RELOCATED FROM 16.6.1.2]** ~~By using a comprehensive Development Control approach and applying environmental and design provisions to achieve an attractive and locally identifiable built form commensurate with the town centre's 'gateway character'. 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.~~
- 9) **[RELOCATED FROM 16.6.1.2]** 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.
- 10) **[RELOCATED AND AMENDED FROM 16.6.7.2]** 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.

### 16.3.5 **[DELETED]**

#### 16.3.5.1 **[DELETED]**

### 16.3.6 Residential Objective

To provide for a diverse range of residential living opportunities and to enable ~~promote~~ residential intensification in proximity to the Business Sub-Zone 1.

#### 16.3.6.1 Policies

- 1) By enabling a range of Sub-Zones to provide for diverse housing to support the Business Sub-Zone 1 ~~and~~ to accommodate growth within Mangawhai.
- 2) ~~By ensuring that the type and intensity of residential activity in each Sub-Zone occurs at a level that will not result on significant adverse landscape or visual effects on the environment. By ensuring that the type and intensity of residential activity in each Sub-Zone occurs at a level that is compatible with the coastal small-town character of Mangawhai and will not result in significant adverse landscape or visual effects on the environment.~~
- 3) ~~By ensuring a high level of on-site residential amenity is provided together with the appropriate maintenance of amenity to neighbouring sites and the streetscape.~~  
By ensuring a high level of on-site residential amenity is provided by:
  - managing the location of buildings and structures;
  - managing the location of onsite water storage;
  - ensuring that the onsite outdoor living needs can be met through a variety of means; and
  - providing suitable onsite car parking and manoeuvring;together with the appropriate maintenance of amenity to neighbouring sites and the streetscape.



- 4) ~~By ensuring that the outdoor living needs can be met through the use of courtyards, communal areas and balconies.~~
- 5) By ensuring a high quality of built environment is developed which relates positively to the [established character of Mangawhai](#), street, neighbouring properties and open spaces.
- 6) By encouraging integrated residential development in proximity to the Business Sub-Zone 1 to assist with enabling a diversity of housing typologies.
- 7) **[DELETED]**
- 8) By providing for non-residential activities, or home occupations, education and/or childcare facilities where the activities do not adversely affect residential amenity.
- 9) By providing for residential growth in an integrated urban form.
- 10) By minimising rear lots so as to give sites the spacious outlook area of a street, as well as [enhancing public safety through passive surveillance opportunities and](#) a street address that connects each lot into the neighbourhood.

#### 16.3.7 **[DELETED]**

#### 16.3.7.1 **[DELETED/ POLICIES 1) & 2) RELOCATED TO 16.3.1.1]**

#### 16.3.8 **Transport Objectives**

1. To achieve a high amenity, well connected, low speed and sustainable roading network that provides for easily and safely accessed, development.
2. **[RELOCATED & AMENDED FROM 16.9.2.1 OBJECTIVE 1]** To develop a roading network which integrates safely and efficiently with the surrounding roading network whilst ensuring adverse effects [on the local road network](#) are avoided or mitigated.
3. **[RELOCATED FROM 16.9.2.2 OBJECTIVE 1]** 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).

#### 16.3.8.1 **Policies**

- 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) **[DELETED]**
- 3) By ensuring development includes an appropriate amount of occupant and visitor parking [and manoeuvring](#) on site.
- 4) **[RELOCATED FROM 16.9.2.2 POLICY B)]** By implementing particular Standards for the [provision and](#) formation of car park spaces.
- 5) By ensuring that development provides for roading in an integrated manner [consistent with the Appendix 25A Mangawhai Design Guidelines and the Appendix 16.2 and](#) that supports multi-modal transport options.
- 6) By ensuring that the roading network can be efficiently used by emergency services at all times.
- 7) **[DELETED]**
- 8) **[DELETED]**
- 9) By ensuring a landscaped design approach for new roads; including utilising water sensitive design techniques to achieve stormwater management outcomes.
- 10) By discouraging traffic generating activities in sub zones where they would have significant adverse effects.
- 11) By implementing Standards that ensure vehicle access points are safe and efficient.
- 12) By ensuring that stormwater is managed and treated from ~~larger~~ areas of parking [to appropriately avoid or mitigate adverse effects on water quality in wetlands, watercourses and the coastal marine area.](#)

#### 16.3.9 **Utilities, Services and Infrastructure Objective**

To ensure the provision of sustainable infrastructure networks that provides for properly serviced, and orderly development.

#### 16.3.9.1 **Policies**

- 1) **[DELETED]**
- 2) **[DELETED]**
- 3) By ensuring that all infrastructures can be efficiently used by emergency services at all times.
- 4) By requiring that all wastewater systems be connected to Council's public reticulated (EcoCare) system.
- 5) ~~By ensuring subdivision and development is aligned with infrastructure necessary to serve development.~~ [By ensuring the infrastructure capacity necessary to serve subdivision and development is available, or that development provides for the necessary extensions or upgrades required to ensure sufficient capacity.](#)

*This wording has been settled under ENV-2021-AKL-062 Mangawhai Matters Incorporated v Kaipara District Council (see [2021] NZEnvC 035). It is still subject to change under ENV-2021-AKL-061 Boonham v Kaipara District Council. Until final wording is settled this provision cannot be relied upon.*

- 6) ~~Ensuring that subdivision in Residential Sub Zone 3A (except lower density lots capable of providing adequate onsite water supply), integrated residential development, dwellings in sub-zone 1, visitor accommodation and retirement facilities are serviced by adequate reticulated water supply solutions which meet all relevant legislative requirements for drinking water.~~

[By ensuring that the following activities are serviced by water supply including reticulated water supply with adequate capacity to serve the scale and nature of development \(in accordance with all relevant guidelines, the Code of Practice referenced in 16.1.6 and legislative requirement for drinking water\) and opportunities for water demand management and rainwater harvesting:](#)

- a. [Subdivision and land use in the Residential Sub Zone 3A \(except lower density lots capable of providing adequate onsite water supply\)](#)
- b. [integrated residential development](#)
- c. [dwellings in sub-zone 1](#)
- d. [visitor accommodation](#)
- e. [retirement facilities](#)
- f. [conference centre](#)
- g. [event centre](#)
- h. [education facility or](#)
- i. [recreation facility.](#)

#### 16.3.10 **Staging and Financial and Development Contributions**

**[DELETED]**

#### 16.3.10 **Financial Contributions Objective**

[1. To ensure that the timing of subdivision and development of the Estuary Estates Structure Plan area is coordinated with the provision of infrastructure needed to serve the area and that development contributes its share of the growth related costs of this infrastructure](#)

#### 16.3.10.1 **Financial Contributions Policies**

[1. By requiring development to make contributions at the time of subdivision and/or development \(including at the building stage\) to provide for infrastructure and reserves within Mangawhai as enabled by Rules 22.10, including 22.10.7 of the District Plan.](#)

[2. Ensure the proportion of costs associated with the provision of growth-related infrastructure arising from the development, such as provision of new, or upgrades or extensions to community facilities within Mangawhai as provided for under Rules 22.10.1, 22.10.6 and 22.10.7 are met by the development by imposing conditions on resource consents.](#)

#### 16.3.10.1 [DELETED]

#### 16.3.11 Subdivision Objective

To provide for subdivision in a manner which achieves an urban amenity and the integrated management of the use, development and protection of the natural and physical resources of the District.

##### 16.3.11.1 Policies

- 1) By ensuring that existing bush, streams and wetlands are protected and enhanced.
- 1A) By ensuring that stormwater is managed and treated to maintain and enhance the health and ecological values of the wetlands, streams and the coastal marine area.
- 2) By ensuring that all subdivisions are able to be properly serviced and can avoid, remedy, or mitigate the effects of natural hazards.
- 3) ~~By ensuring subdivision implements the features of the structure plan and achieves the relevant outcomes of Appendix 25A Mangawhai Design Guidelines and the Estuary Estates Design Guidelines.~~ By ensuring subdivision implements the features of the structure plan and achieves the relevant outcomes of Appendix 25A Mangawhai Design Guidelines and the Estuary Estates Design Guidelines.
- 4) By ensuring subdivision density and lot sizes respond to the site's characteristics, compatible with the coastal small-town character of Mangawhai and avoid significant landscape and visual effects
- 5) By ensuring subdivision establishes the roads illustrated on the structure plan, and establishes a well connected local roading network consistent with the Table in Appendix 16.2.
- 6) By ensuring subdivision upgrades the Molesworth Drive frontage
- 7) By ensuring subdivision establishes the open spaces, and walking and cycle network illustrated on the structure plan in proportion to the planned density of the locality.
- 8) By ensuring that subdivision establishes and maintains the amenity buffer between Service Sub Zone 7 and the neighbouring residential sites

#### 16.4 [DELETED]

#### 16.4.1 [DELETED]

#### 16.4.2 [DELETED]

#### 16.4.3 [DELETED]

#### 16.4.4 [DELETED]

#### 16.5 [DELETED]

#### 16.5.1 [DELETED]

#### 16.6 The Estuary Estates Structure Plan Sub-Zones [DELETED]

##### 16.6.1 Business Sub-Zone 1

##### 16.6.1.1 Sub-Zone Description

The Business Sub-Zone provides for a town centre designed to serve both the business and retail needs of the Estuary Estates Structure Plan area and the wider community.

Particular attention is given to establishing a mainstreet, defining the scale and design of buildings and detailing, pedestrian streetscapes, open-space permeability and connectivity through the Sub-Zone into the surrounding community and residential areas with generous landscaping and tree planting in streets, car parks, and inter-building spaces designed to link to open spaces in the wider area.

##### 16.6.1.2 [DELETED / OBJECTIVE 1 RELOCATED TO 16.3.4, POLICIES A) & B) RELOCATED TO 16.3.4.1]

#### 16.6.2 [DELETED]

##### 16.6.2.1 [DELETED]

##### 16.6.2.2 [DELETED]

#### 16.6.3 Residential Sub-Zone 3

##### 16.6.3.1 Sub-Zone Description

The Sub Zone is split into sub-zones 3A to 3D. These are defined by the topography of the site, the landscape and visual absorption capacity of the site and proximity of the sub zones to Business Sub-Zone 1.

Sub Zone 3A is the closest to Business Sub-Zone 1 and is anticipated to accommodate the higher highest densities for residential development on the site, including that part which is subject to the Integrated Residential Development Overlay illustrated on the Structure Plan. ~~The location affords opportunities for a variety of housing typologies and densities, along with retirement facility development. Sub Zone 3A affords opportunities for a variety of housing typologies and densities, along with retirement facility development in locations where adverse effects on ecosystems and the natural character of the coastal environment can be avoided.~~

Sub Zone 3B area adjoins Sub Zone 3A and offers opportunity for medium density housing (500 m2 lots) opportunities associated with the enhancement of slopes, and a transition of density to and adjoining natural environment features.

Sub Zone 3C buffers the Estuary Estates Structure Plan area from Old Waipu Road.

Sub Zone 3D is located in the north facing slopes of the site, distant from Business Sub-Zone 1. It is the least dense residential zone recognising the existing slopes and the adjoining natural environment features. The provisions of Sub Zone 3D ensure the scale of development is compatible with the coastal small-town character of Mangawhai and to minimise adverse effects of development on landscape values and the natural character of the coastal environment.

#### 16.6.3.2 [DELETED]

#### 16.6.4 [DELETED]

##### 16.6.4.1 [DELETED]

##### 16.6.4.2 [DELETED]

#### 16.6.5 [DELETED]

##### 16.6.5.1 [DELETED]

##### 16.6.5.2 [DELETED]

#### 16.6.6 [DELETED]

##### 16.6.6.1 [DELETED]

##### 16.6.6.2 [DELETED]

#### 16.6.7 Service Sub-Zone 7

##### 16.6.7.1 Sub-Zone Description

The purpose of the Service Sub-Zone is to provide for local service activities which are not appropriate elsewhere in the Estuary Estates Structure Plan area. The location of the Sub-Zone has been selected to minimise potential reverse sensitivity issues and also to provide good accessibility without needing to access the area through residential or commercial areas.

The Sub-Zone anticipates a buffer between the anticipated uses and adjoining residential land to avoid reverse sensitivity and/or visual detracting issues arising.

#### 16.6.8 Natural Environment Sub Zone 8

##### 16.6.8.1 Sub-Zone Description

The purpose of the Sub Zone is to protect and enhance existing natural environment features (native vegetation, wetland and streams) and ensure avoidance of adverse effects on avifauna habitat and freshwater and coastal marine area ecosystems. Where possible public walkways and cycle paths are envisaged within the Sub Zone. Enhancement includes weed and pest control, and indigenous revegetation (where appropriate). Enhancement and ongoing protection measures for these features are expected to from part of subdivision applications (i.e. whether they are vested in Council or held in private ownership).

The provisions of this Sub Zone are also intended to apply to any land vested in Council as reserve (recreation, stormwater and/or local purpose access).

The rules of this Sub Zone shall apply to any 'natural inland wetland' meeting the definition in the National Policy Statement for Freshwater Management 2020 where these are located outside of the mapped extent of the Sub Zone.

16.6.7.2 [DELETED / POLICY C] RELOCATED TO 16.3.4.1]

16.7 Rules: Activities

16.7.1 Activity Tables

The following tables specify the status of various activities within the different Sub-Zones. There are three separate tables: Table 16.7.1 is for the residential Sub-Zones being Sub-Zones 3A-D. Table 16.7.2 is for the business, and service Sub-Zones being Sub-Zones 1 and 7, and Table 16.7.1-3 is for Sub Zone 8.

Where any land is vested in Council as open space the underlying zoning/sub-zone and provisions shall be administered in accordance with the Sub-Zone 8 provisions.

For the purpose of these tables:

- |    |                                     |    |                          |
|----|-------------------------------------|----|--------------------------|
| P  | = Permitted Activity                | D  | = Discretionary Activity |
| C  | = Controlled Activity               | NC | = Non Complying-Activity |
| RD | = Restricted Discretionary Activity |    |                          |

Table 16.7.1-1 - Residential Sub-Zone

Activities	Sub-Zones			
	3A-D Residential	[DELETED]	[DELETED]	[DELETED]
Any activity not provided in the following table	NC			
Accessory buildings to a maximum gfa of 50m <sup>2</sup> per site	P			
[DELETED]				
[DELETED]				
Child care facility				
• Up to five children	P			
• More than five children	D			
Construction of a building or additions/alterations to an existing building and construction of any other structures (e.g fences, and decks less than 1m) not meeting the definition of a building	P Except in the Coastal Environment Overlay			
Construction of a building or external additions to an existing building within the Coastal Environment Overlay	RD			
Alterations to any existing building and construction of any other structures (e.g fences, and decks less than 1m) not meeting the definition of a building within the Coastal Environment Overlay	P			
[DELETED]				
Demolition of an existing building	P			
Education Facility (other than childcare centres provided for above)	D			
Home occupation	P			
Homestay accommodation	P			
Integrated Residential Development within the Integrated Residential Development Overlay on the Estuary Estates Structure Plan	RD			
Integrated Residential Development outside the Integrated Residential Development Overlay on the Estuary Estates Structure Plan	3A-3B – D 3C-3D - NC			
[DELETED]				
Any non-compliance with any of the Development Controls set out in Section 16.8 other than density limits specified in Rule 16.8.2.2. The activity status in Chapter 16 prevails over any activity status identified in Chapter 13.	RD			
Residential unit(s) for residential	P			

purposes within the density limits specified in Rule 16.8.2.2				
One dwelling per site and its associated accessory buildings	P			
Two or more dwellings per site (not being an Integrated Residential Development) within the density limits specified in Rule 16.8.2.2	3A-3B – D 3C-3D - NC			
Retirement facility	RD  NC in Coastal Buffer Overlay on the Estuary Estates Structure Plan			
Visitor accommodation, including hotels, tourist houses and camping grounds	RD  NC in Coastal Buffer Overlay on the Estuary Estates Structure Plan			
[DELETED]				

**Table 16.7.1-2 - Business and Service Sub-Zones**

Activities	Sub-Zones		
	1 Business	[DELETED]	7 Service
Any activity not provided in the following table			NC
<b>[DELETED]</b>			
Boat sale and contractor yard			P
Community facility and services	P		
<b>[DELETED]</b>			
Construction of a building or external additions to an existing building	RD		P
Conference and event centre	RD		
Education facility	RD		
Entertainment facility	RD		
Garden centre including an associated cafe not exceeding 100m <sup>2</sup> gfa			P
Garden centre including an associated cafe exceeding 100m <sup>2</sup> gfa			D
Factory shop not exceeding 50m <sup>2</sup> gfa per site and ancillary to a manufacturing activity			P
Healthcare services	P		
Home occupation	P		
Internal and/or external alterations to an existing building and any other structures not meeting the definition of a building	P		P
Local service activity			P
Any non-compliance with any of the Development Controls set out in Section 16.8. The activity status in Chapter 16 prevails over any activity status identified in Chapter 14.	RD		RD
Office	P		
Offices which are ancillary to any other activity will have the same activity status as the activity to which they are ancillary.			
Public toilet and/or changing room	P		
Recreational facility	RD		
Residential accommodation for persons whose duties require them to live on site	P		P
<b>Dwelling Residential unit for residential purpose above ground level</b>	<b>P RD</b>		
<a href="#">Dwelling at ground level that does not front the Main Street annotation on the Structure Plan</a>	<a href="#">D</a>		
<a href="#">Dwelling at ground level fronting the Main Street annotation on the Structure Plan</a>	<a href="#">NC</a>		
Restaurant or tavern	RD		
Shop and commercial activities/services	P		
Shop not exceeding 50m <sup>2</sup> gfa that are ancillary to a local service activity			P

Service station	RD		RD
Transport depot and services			P
Visitor accommodation, including hotels and tourist houses	RD		
Visitor centre	P		

**Table 16.7.1-3 Sub-Zone 8**

16.7.1.3 Where any 'natural inland wetland' meeting the definition in the National Policy Statement for Freshwater Management 2020 is located outside of the mapped extent of Sub-Zone 8, the rules in Table 16.7.1.3 shall apply

Activities	[DELETED]	[DELETED]	[DELETED]	[DELETED]	[DELETED]	Sub-Zone 8
Any activity not listed in the following table						NC
Visitor information sign						P
[DELETED]						
Construction of public toilet/changing room						D
Formation of walking, fitness and riding trail /track (bridle and cycle)						D
Playground (including play equipment)						D
[DELETED]						
Park and Street furniture (including seats, rubbish bins, lighting, signs, BBQ and picnic facilities) and underground services and lighting						D
Stormwater management works including detention ponds and associated management/ maintenance, landscaping and planting and outfalls						D
Indigenous Planting and vegetation maintenance of including removal of pest and weed species						P
Clubrooms and any other structures and car parking for recreational activities on any land vested as recreational reserve <a href="#">excluding any form of structure or access for watercraft launching</a>						D

#### 16.7.2 Notification Requirements

Activities will be subject to the normal tests for notification as prescribed by the Resource Management Act 1991.

##### 16.7.2.1 [DELETED]

##### 16.7.2.2 [DELETED]



**16.7.2.3 [DELETED]**

**16.7.2.4 [DELETED]**

**16.7.2.5 [DELETED]**

**16.7.3 [DELETED]**

**16.7.3.1 [DELETED]**

**16.7.3.2 [DELETED]**

**16.7.4 Assessment Criteria Discretions for Restricted Discretionary Activities**

Where an activity is a Restricted Discretionary Activity Council will restrict its discretion over the following matters (and as listed as being relevant to each activity in Table 16.7.4) when considering and determining an application for Resource Consent:

- a) Building design, external appearance and amenity;
  - b) Traffic generation;
  - c) Parking;
  - d) Access;
  - e) Infrastructure, including appropriate stormwater quality monitoring associated with the design and construction stages as well as the consent holder's maintenance obligations;
  - ee) Reticulated Water Supply which meets all relevant legislative requirements for drinking water (including firefighting, rainwater harvesting and water demand management (savings\*))
  - eee) The capacity of the existing or planned reticulated wastewater network(s) to meet the servicing needs of the proposal.
- This wording has been settled under ENV-2021-AKL-062 Mangawhai Matters Incorporated v Kaipara District Council (see [2021] NZEnvC 035). It is still subject to change under ENV-2021-AKL-061 Boonham v Kaipara District Council. Until final wording is settled this provision cannot be relied upon*
- f) Noise;
  - g) Natural environment, including the effects on the habitat of Tara Iti / Fairy Tern and their food sources (including wetlands, watercourses and the coastal marine area), including disturbance by people and dogs;
  - h) Outdoor activities;
  - i) Artificial lighting;
  - j) Effects associated with the matter of non-compliance for the relevant Development Controls;
  - k) Intensity and scale;
  - l) Sustainable building design.
  - m) Cumulative effects

\* For example through the use of the Water Efficiency Labelling Scheme

**Table 16.7.4-1 Restricted Discretionary Activities**

Restricted Discretionary Activities	Particular Matters												
Any non-compliance with a Development Control										j			
Conference and event centre	a	b	c	d	e ee eee	f	g		i		k	l	m

Construction of any new building, including external additions to an existing building	a	b	c	d	e		g		i			l	m
Entertainment facility	a	b	c	d	e ee eee	f	g		i		k	l	m
Education facility	a	b	c	d	e ee eee	f	g	h	i		k	l	m
Integrated Residential Development	a	b	c	d	e ee eee	f	g	h	i		k	l	m
<u>Dwellings above ground in sub-zone 1</u>	<u>a</u>	<u>b</u>	<u>c</u>	<u>d</u>	<u>e</u> <u>ee</u> <u>eee</u>						<u>k</u>	<u>l</u>	<u>m</u>
[DELETED]													
Recreational facility	a	b	c	d	e ee eee	f	g	h	i		k	l	m
Rest home and retirement facility	a	b	c	d	e ee eee	f	g	h	i		k	l	m
Restaurant or tavern	a	b	c	d	e eee	f	g	h	i		k		
Service station	a	b	c	d	e	f	g	h	i				
Visitor accommodation	a	b	c	d	e ee eee	f	g	h	i		k	l	m
Construction of a building within the Coastal Environment Overlay on the Structure Plan,	a						g						m

**16.7.4.1 Assessment Criteria**

**a) Building Design and External Appearance and Amenity**

The assessment of any application must establish the means through which any proposal will implement the Estuary Estates Design and Environmental Guidelines detailed under Appendix 16.1.

Where no changes to the building external design or appearance are required this criteria will not apply.

**b) Traffic Generation**

The extent to which the expected traffic generation of a proposal will adversely affect the safety and capacity of the roading network including the wider network. Any adverse effect may be mitigated by action taken to upgrade road design and/or intersection design.

**c) Parking**

- i. Whether adequate parking and manoeuvring space will be provided on site appropriate to the particular form of the development in accordance with Section 16.9 – Transport.
- ii. Whether large areas of aboveground parking spaces are proposed as part of the activity and if there are, their impact on visual and aural amenity values.



- iii. The extent to which the location of parking areas avoids proximity to Residential Sub-Zones and provides adequately for pedestrian safety.
- iv. Whether the internal circulation of parking areas has been designed for safe and efficient on site vehicle circulation and pedestrian safety.
- v. Litter management

d) **Access**

- i. The extent to which any potential adverse effects associated with access may be reduced or mitigated by controlling the location of entry and exit points to the site.
- ii. The extent to which Council's Standard for access design is met.

e) **Infrastructure**

- i. Whether the proposal avoids creating any demand for services and infrastructure at a cost to the wider community.
- ii. The extent to which the proposal provides for sustainable infrastructure and servicing and in particular the supply of water.
- iii. ~~For integrated residential developments, visitor accommodation, or retirement facilities, the provision and design of reticulated supply of water (storage, reticulation, treatment and ongoing management), rainwater harvesting and appropriate water demand management (savings), including legal mechanisms for their implementation.~~
- iv. Whether the proposal utilises low impact stormwater design solutions.
- v. Whether the proposal includes appropriate stormwater quality monitoring associated with the design and construction stages as well as the consent holder's maintenance obligations.

**ee) Water Supply**

~~For integrated residential developments, visitor accommodation, dwellings in sub-zone 1, conference or event centre, education, recreation facility or retirement facilities;~~

~~ii. the provision, capacity and design of reticulated supply of water which meet all relevant legislative requirements for drinking water (including storage, reticulation, treatment and ongoing management), rainwater harvesting and appropriate water demand management (savings), including legal mechanisms for their implementation.~~

The provision, capacity, and design of the reticulated supply of water which meets all relevant guidelines, Code of Practice referenced in 16.1.6 and legislative requirements for drinking water (including storage, reticulation, treatment and ongoing management), rainwater harvesting and appropriate water demand management (savings), including legal mechanisms for their implementation for the following activities:

- i. integrated residential development;
- ii. dwellings in sub-zone 1 and Residential 3A (except lower density lots able to provide adequate on-site water supply);
- iii. visitor accommodation;
- iv. conference or event centres;
- v. education facilities;
- vi. recreation facilities; or
- vii. retirement facilities.

**eee) Wastewater Network Capacity**

Whether the proposed development or activity can be accommodated within the existing or planned capacity of the reticulated wastewater network and whether the servicing needs of the proposed development require upgrades to existing infrastructure.

*This wording has been settled under ENV-2021-AKL-062 Mangawhai Matters Incorporated v Kaipara District Council (see [2021] NZEnvC 035). It is still subject to change under ENV-*

*2021-AKL-061 Boonham v Kaipara District Council. Until final wording is settled this provision cannot be relied upon.*

f) **Noise**

Whether the activity gives rise to adverse noise effects beyond the boundaries of the site. Methods available to mitigate any adverse off site noise effects may include:

- i. The provision of or construction of barriers;
- ii. Acoustic insulation and separation of activities;
- iii. The construction of earthen mounds;
- iv. The provision of greater distances between the noise generator and existing development;
- v. Screening the noise generator using natural or manmade materials; and
- vi. Imposing restrictions/conditions on hours of operation - in particular between 10 pm and 7 am.

g) **Natural Environment**

- i. The extent to which the activity gives rise to adverse effects on the natural environment, such as through the creation of wastewater or stormwater, vegetation removal and/or habitat destruction and sediment runoff, including the extent to which revegetation using eco-sourcing of native plants is proposed as part of the activity.
- ii. Effects on the habitat of Tara Iti / Fairy Tern and their food sources (including wetlands, watercourses and the coastal marine area), including disturbance by people and dogs.
- iii. Ecologically appropriate fish passage.

h) **Outdoor Activities**

Whether any outdoor activity areas will be screened, separated or have a landscaped buffer from any adjacent sites in a residential sub zone and whether any acoustic attenuation to reduce the noise effects of outdoor activities has been undertaken.

i) **Artificial Lighting**

And whether:

- An application demonstrates that significant adverse effects including light spill and glare on the visual privacy of adjoining sites in a residential sub zone can be reduced, avoided or mitigated. The use of measures such as screening, dense planting of buffer / separation areas may be required where these may lessen impact.
- Particular consideration has been given to the placement, design and screening of light fittings and whether their size and luminance is appropriate to the size of the subject site and to the general lighting levels of the surrounding area.

j) **Compliance with Development Controls**

i. **[RELOCATED FROM 16.7.6 B)]** For any activity which does not comply with one or more of the Development Controls the Council shall also have regard to any unusual circumstances, including, but not limited to, the following:

- Inherent site considerations; including unusual size, shape, topography, substratum, vegetation, or flood susceptibility;
- Particular site development characteristics; including the location of existing buildings or their internal layout, achievement of architectural harmony or physical congruence, compliance with bylaw or Kaipara District Council Engineering Standards 2011, the preservation of privacy, enhancement of private open space, outlook improvement, building restoration, or renovation of demonstrable merit, temporary buildings, provision of public facilities, the design and arrangement of buildings to facilitate access for the disabled, or legal impediments;
- Unusual environmental circumstances; including adverse topography, unusual use or particular location of buildings on neighbouring sites, improved amenity for neighbouring sites, the presence of effective adjacent screening or permanent open space;
- Extraordinary vehicle or pedestrian movement considerations; including the achievement of a better relationship between the site and the road, improved operation of parking areas, an adequate alternative supply of parking in the vicinity, the improved safety, convenience or efficiency of pedestrian or traffic movement on the site or adjacent roads, unusual incidence or time of traffic movement, demonstrably less than normal use intensity, and the considered need for pedestrian protection;

ii. Any non-compliance with any development control will also be assessed as a restricted discretionary activity (Tables 16.7.1-1 and 16.7.1-2) utilising the relevant matters listed in:

- Chapter 13.10 for the applicable or equivalent Residential standards for land zoned Sub-Zones 3A-D where the assessment criteria shall be the matters of discretion.
- Chapter 14.10 for the applicable or equivalent standards for land zoned Sub-Zones 1 and 7 where the assessment criteria shall be the matters of discretion.
- For earthworks, in addition to the assessment matters listed in Rule 13.10.1a and Rule 14.10.1, the activity shall implement best practice for erosion and sediment control. [For bulk earthworks associated with subdivision and land development, the activity shall prepare and implement an avian mitigation plan.](#)

k) **Intensity and Scale**

The intensity and scale of the proposal, in particular the number of people involved in the activity, traffic generation, hours of use, size of building and associated parking, signs, noise and other generated effects should be compatible with the character and amenities of the surrounding area.

l) **Sustainable Building Design**

The extent to which the applicant has investigated alternatives in terms of sustainable design such as green building methods, renewable energy sources, and low impact designs.

m) **Cumulative Effects**

**Whether the proposed activity will result in adverse cumulative effects.**

**16.7.5 Specific Discretionary Activity Assessment Criteria**

1. Gum Diggers Track

A Remedial Management Plan associated with Wetland 3 and the manuka gumland addressing:

- a) Weed and pest control to restore ecological quality.
- b) Restoration of the hydrology of the wetland by replacing sections of track with boardwalks and placing subsurface drainage so that water can flow freely.
- c) Planting to reduce edge effects and weed invasion.
- d) Measures restricting or prohibiting the presence of dogs [including:](#)
  - [Fencing and gating of Wetland 3 to exclude dogs in general accordance with the fence line location illustrated on the Structure Plan.](#)
  - [At a minimum, prohibiting dogs \(except service dogs\) during the Tara Iti / Fairy Tern breeding season September-February, and requiring dogs to be on a lead at all times when dogs are not prohibited.](#)
- e) Redesign of coastal culverts to reduce coastal erosion, while also ensuring the protection of any mudfish in drains within the wetland.
- f) Realigning the track to increase the setback from the coastal margin in areas where it is exacerbating cliff erosion.
- g) [Ecologically appropriate fish passage.](#)
- h) [Measures to maintain or improve water quality during remedial works.](#)

**16.7.6 [DELETED / CLAUSE B] RELOCATED TO 16.7.4.1 J]**

**16.8 Rules: Development Controls**

**16.8.1 [DELETED]**

**16.8.1.1 [DELETED]**

**16.8.1.2 [DELETED]**

**16.8.1.3 [DELETED]**

**16.8.1.4 [DELETED]**

**16.8.2 Development Control Rules**

All activities shall comply with the relevant controls in Rule 16.8.2.

**16.8.2.1 Building Location**

- a) Habitable buildings shall have a minimum floor level of 3.5m above mean sea level (Reference One Tree Point Datum).
- b) Commercial and Industrial Buildings and non-habitable buildings such as garages and sheds shall have a minimum floor level of 3.3m above sea level (Reference One Tree Point Datum).

**16.8.2.2 Residential Density**

The following densities shall not be exceeded where more than one dwelling per site is proposed (except that the densities do not apply to Integrated Residential Development or Retirement Facilities).

Any density shall exclude any land identified as Sub-Zone 8.

Sub-Zone	Density
3A	1 dwelling per <a href="#">350m2</a> <a href="#">500m2</a>
3B	1 dwelling per 500m2
3C	1 dwelling per 750m2
3D	1 dwelling per 1,000m2

**16.8.2.3 Building Yards**

- a) Buildings shall be clear of the yard setbacks specified in Table 16.8.2.1 below:

**Table 16.8.2-1 - Minimum Yards**

Sub-Zone	Front Yard	Side Yard	Rear Yard	From Coastal Marine Area	From a Stream, wetland, or sub-zone 8
1					
<b>[DELETED]</b>					
3A-C	2m*	1m*	6m	30m	10m
3D	5m	1m	6m	30m	20m from Wetland 1 and the fence line between Wetland 1 and Wetland 3 as illustrated on the Structure Plan. 10m otherwise
4					
<b>[DELETED]</b>					
<b>[DELETED]</b>					
7	7.5m	0m	20m where the boundary adjoins a residential zone 0m where the boundary adjoins any other site in Sub-Zone 7		10m

\* exception as below

- b) Table 16.8.1-1 side yard and rear yard controls do not apply in the following circumstances:
- i) where buildings abut a common boundary or have a common wall.
- c) In the Residential Sub Zones 3A-C any garage must be set back a minimum of 5m from the front boundary of the site.
- cc) In the Residential Sub Zones 3A-D above ground rainwater tanks must not be located between the front façade of the dwelling and the site's street boundary.**
- d) In addition to Table 16.8.2-1 above, the following shall also apply in the Sub-Zone 7:
- i) Any yard adjoining a residential zone shall be 20m and contain a 15m width landscape strip
  - ii) Front yards shall contain a 2.5m wide landscape strip (excluding any area for vehicle or pedestrian access/egress)
  - iii) side yards on a site greater than 10,000 m<sup>2</sup> shall contain a 2m landscape strip
- e) In addition to Table 16.8.2-1 above, the following shall also apply in sub-zone 1:
- i) Where a front yard contains a car parking area fronting Molesworth Drive, a 5m wide landscape strip containing 3m wide planted vegetation shall be provided immediately adjoining the road boundary (excluding any area for vehicle or pedestrian access/egress).
  - ii) Where a front yard contains a car parking area fronting a road other than Molesworth Drive, a 2m wide landscape strip shall be provided immediately adjoining the road boundary (excluding any area for vehicle or pedestrian access/egress).

#### 16.8.2.4 Height in Relation to Boundary Control

Height in relation to boundary controls shall apply as follows:

Sub-Zone	Maximum Height in Relation to Boundary
----------	--

1	No part of any building on that part of a site which is directly opposite any residentially Sub-Zoned land shall exceed a height equal to 3.0m plus the shortest horizontal distance between that part of the building and the road boundary.
<b>[DELETED]</b>	
3A-D	No part of any building shall exceed a height of 3.0m plus the shortest horizontal distance between that part of the building and any site boundary.
7	No part of any building shall exceed a height of 3.0m plus the shortest horizontal distance between the building and the road boundary

Provided that the following are excluded:

- a) Where existing or proposed buildings abut at a common wall, the height in relation to boundary control will not apply along the length of that common wall;
- b) No account shall be taken of radio and television aerials, solar heating devices and chimneys (not exceeding 1.1m in any direction) provided that such structures are located at least 1m from each side boundary;
- c) A gable end or dormer window may project beyond the recession plane where the extent of the projection complies with the following:
  - i. It has a maximum height of 1m; and
  - ii. It has a maximum width of 1m measured parallel to the nearest adjacent boundary; and
  - iii. It has a maximum depth of 1m measured horizontally at 90° to the nearest adjacent boundary; and
  - iv. There are no more than two such projections occurring in relation to any 6m length of site.
- d) For Sub Zone 3A-D no account shall be taken of any boundary adjoining a road;
- e) Where a boundary adjoins an accessway, the furthest boundary may be used.

#### 16.8.2.5 Maximum Height

- a) No building shall exceed the following maximum height limits:

Sub-Zone	Maximum Height
1	12m
<b>[DELETED]</b>	
3A-D	8m Except that Integrated Residential Development, retirement facilities or visitor accommodation in the "Integrated Residential Development Overlay" the maximum height is 12m.
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	8m

- b) In Sub-Zones 3A-D fences shall not exceed 1.2m height on boundaries to public open space, and street boundaries.

#### 16.8.2.6 [DELETED]

#### 16.8.2.7 [DELETED]

#### 16.8.2.8 Building Coverage

The maximum net site area building coverage shall not exceed the following thresholds:

Sub-Zone	Maximum Net Site Coverage
----------	---------------------------

1	50%
<b>[DELETED]</b>	
3 A-D	35% Except that Integrated Residential Development, retirement facilities or visitor accommodation in the "Integrated Residential Development Overlay" the maximum net site coverage is 50%.
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	60%

#### 16.8.2.9 Maximum Impermeable Surfaces

The area of any site covered by buildings and other impermeable surfaces shall not exceed:

Sub-Zone	Total Impermeable Surfaces
1	100%
<b>[DELETED]</b>	
3A	60% Except that Integrated Residential Development, retirement facilities or visitor accommodation in the "Integrated Residential Development Overlay" the maximum total impervious surfaces are 70%.
3B, C and D	50%
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	80%
<b>[DELETED]</b>	

#### 16.8.2.10 Outdoor Living Areas /Screening

- a) Every **dwelling residential unit** in Business 1 Sub-Zone shall be provided with an outdoor living area as follows:
  - i. A balcony or terrace with a minimum area of 10m<sup>2</sup> with a minimum depth of 2m which is readily accessible from the main living room.
- b) Every **dwelling residential unit** in Residential 3A-D Sub-Zones shall be provided with an outdoor living area with dimensions as follows (except that **dwelling residential unit** above ground level shall comply with clause (c) below):
  - i. Shall have a minimum area of 60m<sup>2</sup>OR  
Integrated Residential Development or Retirement -Facilities shall have a minimum area of 40m<sup>2</sup>  
AND
  - ii. Shall contain a minimum dimension of 3m measured at right angles to the perimeter of the area; and
  - iii. Must be capable of containing a 6m diameter circle; and

- iv. Shall not be located on the southern side of the **dwelling residential unit**; and
- v. Shall be readily accessible from a the main living area; and
- vi. Shall not be obstructed by buildings, parking spaces or vehicle access and manoeuvring areas, other than an outdoor swimming pool; and
- vii. **Dwelling residential unit** above the ground floor shall be have a balcony or terrace with a minimum area of 10m<sup>2</sup> with a minimum depth of 2m and which is readily accessible from a living room located on the east, north or west side of the **dwelling residential unit**; and

c) **[DELETED]**

d) **[DELETED]**

e) Screening of Storage and Service Areas

Where any storage or service area (including incinerators, and rubbish receptacle areas) directly faces a public road or any open space, such an area shall be screened by either:

- i. A solid wall or screen not less than 1.8m in height; or
- ii. Planting

#### 16.8.2.11 Earthworks

Earthworks are a Permitted Activity where they are required for the addition, maintenance or removal of an underground storage tank or septic tank.

Earthworks associated with residential activities (i.e. gardening, landscaping, etc) shall be deemed to be permitted activities subject to compliance with the threshold listed below.

Excavation or deposition of material within a site shall not exceed the following dimensions within any 12 month period:

Sub-Zone	Maximum area of earthworks on slopes less than 1 in 6	Maximum area of earthworks on slopes greater than 1 in 6
1	1000 m <sup>2</sup>	500 m <sup>2</sup>
<b>[DELETED]</b>		
3	500 m <sup>2</sup>	250 m <sup>2</sup>
<b>[DELETED]</b>		
<b>[DELETED]</b>		
<b>[DELETED]</b>		
7	700 m <sup>2</sup>	350 m <sup>2</sup>

#### 16.8.2.12 General Noise

a) The following Noise Performance Standards shall apply as follows:

Sub-Zone	Performance Standards
1	14.10.14(1)
<b>[DELETED]</b>	
3	13.10.14
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	14.10.14(2)

b) New buildings and alterations to existing buildings to be used for residential purposes in the Business Sub-Zone shall meet the following:

- i. Noise received in all habitable rooms shall not exceed 45 dBA L<sub>10</sub> between 23:00 hours and 07:00 hours with ventilating windows open; and

- ii. An Acoustic Design Report shall be obtained from a suitably qualified Acoustic Engineer confirming that the building will be constructed to meet the above requirement.

**16.8.2.13 Verandah Control**

Rule 14.10.9 shall apply in Sub Zone 1 along the “building frontage to main street” as identified on the Estuary Estates Structure Plan.

**16.8.2.14 Fencing**

i. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control).

ii. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Plan. The fence shall:

- Where the fence forms a side or rear boundary of a residential allotment:
  - have a minimum height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
- Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
  - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
  - include a landscaped hedge between the fence and road reserve.
- Include self-closing gates to the gum diggers track in appropriate locations.
- If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

**16.8.3 Water Supply and Wastewater Supply**

a) The following Rules shall apply as follows:

Sub-Zone	Water Supply Performance Standards	Wastewater Performance Standard
1	14.13.4	14.13.6
[DELETED]		
3	13.14.4	13.14.6
[DELETED]		
[DELETED]		
7	14.13.4	14.13.6

b) A non-reticulated dwelling must have available a minimum of 50 m3 water storage capacity, inclusive of 10 m3 for fire safety (Rule 16.8.11). Where a reticulated firefighting network is available, the dwelling must provide a minimum 40 m3 water storage capacity.

c) A reticulated dwelling must have available a minimum of 5 m3 water storage capacity for rainwater harvesting and use associated with the dwelling.

d) A reticulated dwelling in a retirement facility must have available a minimum of 3 m3 water storage capacity for rainwater harvesting and use associated with the dwelling.

e) The details of the water storage must be provided with a building consent and/or resource consent application.

f) References in 13.14.4 and 14.13.4 to a Council water supply for the purpose of this rule shall also include a private water supply entity in the Estuary Estates Zone meeting the requirements of relevant legislation.

**16.8.4 Hazardous Substances**

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.21
[DELETED]	
3	13.10.21
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.21

**16.8.5 Temporary Noise**

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.15
[DELETED]	
3	13.10.15
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.15

**16.8.6 Wind Generation: Noise**

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.16
[DELETED]	
3	13.10.16
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.16

**16.8.7 Vibration**

The following Rules shall apply as follows:

Sub-Zone	Performance Standards
1	14.10.17
[DELETED]	
3	13.10.17
[DELETED]	
[DELETED]	
[DELETED]	



7	14.10.17
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#### 16.8.8 Contaminated Land – Change of Land Use

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.19
[DELETED]	
3	13.10.19
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.19

#### 16.8.9 Contaminated Land – Remediation

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.20
[DELETED]	
3	13.10.20
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.20

#### 16.8.10 Radioactive Materials

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.22
[DELETED]	
3	13.10.22
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.22

#### 16.8.11 Fire Safety

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.26
[DELETED]	
3	13.10.26
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.26

#### 16.8.12 Lighting

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.23
3	13.10.23
7	14.10.23

#### 16.9 Transportation Provisions

##### 16.9.1 [DELETED]

##### 16.9.2 [DELETED]

##### 16.9.2.1 [DELETED / OBJECTIVE 1 RELOCATED TO 16.3.8 OBJECTIVE 2]

##### 16.9.2.2 [DELETED / OBJECTIVE 1 RELOCATED TO 16.3.8 OBJECTIVE 3 & POLICY B) RELOCATED TO 16.3.8.1 POLICY 4]

##### 16.9.3 Rules: Activities

##### 16.9.3.1 Permitted Activities

The following transportation activities shall be Permitted Activities:

- All parking and loading activities are Permitted Activities where they comply with the Standards detailed under part 16.9.4 of this Section, unless stated otherwise in the Estuary Estates Structure Plan provisions (and for the avoidance of doubt this includes stacking parking where parking remains in the same ownership).
- Maintenance and upgrading of existing roads in accordance with the Standards of Rule 16.9.4

##### 16.9.3.2 Restricted Discretionary Activities

The following are Restricted Discretionary Activities:

- An activity that does not comply with the access way, parking and loading Standards of Rule 16.9.4.
- Any activity providing for more than 100 car parks.
- Any activity providing for more than 30 car parks.
- The creation of a new road (including associated street lighting, furniture etc) and any road location not meeting standard 16.9.4.1
- Any new activity that exceeds any of the following thresholds:

- Dwellings Residential Units** (excluding retirement facilities) that exceed a cumulative total of 850 dwellings Units;

##### 1 Criteria for Assessing Restricted Discretionary Activities

Restricted Discretionary Activities will be assessed against the following matters with the Council's discretion in regard to any of the Restricted Discretionary Activities listed above being limited to the following matters.

- Traffic / New Road and Road Location, and any new activity that exceeds the thresholds in Rule 16.9.3.2. **d) e)** Considerations
  - Whether the site is adequately accessible from the roading network.
  - Existing and probable future traffic volumes on adjacent roads.
  - The ability of the adjacent existing or planned roading network to absorb increased traffic and the feasibility of improving the roading system to handle any increases.
  - The extent of traffic congestion and pedestrian/vehicle conflict likely to be caused by a proposal.
  - Whether vehicle access to and from the site:
    - Ensures adequate sight distances and prevent congestion caused by ingress and egress of vehicles; and
    - Is sufficiently separated from pedestrian access to ensure the safety of pedestrians.
- Any activity providing for more than 100 car parks

- i. Whether the parking area(s) is / are properly graded, drained and sealed to prevent dust nuisance or concentrated runoff of water from the site.
  - ii. The nature and extent of proposed landscaping in terms of screening, visual and streetscape amenity
  - iii. The extent to which parking areas are set back from residential and community activities. Where this is impracticable whether adequate screening will be provided in the form of fencing or landscaping, in order to reduce to an acceptable level any adverse aural or visual impacts.
  - iv. Whether a parking areas internal circulation is designed so that safe and efficient vehicle circulation on site is achieved and so that adverse effects on the roading network are prevented.
  - v. The location of access from the road into parking areas and the effects on safety and movement.
- c) Any activity providing for more than 30 car parks
- i. The extent to which stormwater quality treatment and litter management has been provided to protect the environment from contaminants generated from the activity.
- d) Reduction in Parking Spaces
- i. Whether or not it is physically practicable to provide the required parking on the site in terms of the existing or proposed location of buildings, availability of access to the road, and other similar matters.
  - ii. Whether there is an adequate alternative supply of parking in the vicinity such as a public car park or on-street parking. In general, on street parallel parking particularly on residential streets is not considered a viable alternative.
  - iii. Whether there is another site or parking area in the immediate vicinity that has available parking spaces which are not required at the same time as the proposed activity and where a legal agreement between the applicant and owner of the site is provided to show a right to use such areas.
  - iv. Whether the proposal has less than normal parking requirements e.g. due to specific business practices, operating methods or the type of customer.
  - v. The extent to which significant adverse effect on the character and amenity of the surrounding area will occur as a result of not providing the required parking spaces.
- e) **[DELETED]**
- f) **[DELETED]**
- g) Any non-compliance with any development control listed in 16.9.4.2, 16.9.4.4 and 16.9.4.5 will also be assessed utilising the relevant matters listed in:
- Chapter 13.10 for the applicable or equivalent Residential standards for land zoned Sub-Zones 3A-D
  - Chapter 14.10 for the applicable or equivalent standards for land zoned Sub-Zones 1 and 7.

#### 16.9.4 Rules: Permitted Activity Standards

All Permitted, Controlled and Restricted Discretionary Activities shall comply with the relevant controls in Rule 16.9.4.

##### 16.9.4.1 Roads

###### 1 Road Hierarchy

Roads shall be located in accordance with the roading hierarchy identified on the Estuary Estates Structure Plan.

##### 16.9.4.2 Vehicle Access and Driveways

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.25
<b>[DELETED]</b>	
3	13.10.25
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	14.10.25

##### 16.9.4.3 Parking

Provision of Parking Spaces - the following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.27
<b>[DELETED]</b>	
3	13.10.27
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	14.10.27

##### 16.9.4.4 Loading

The following Rules shall apply as follows:

Sub-Zone	Performance Standard
1	14.10.28
<b>[DELETED]</b>	
3	13.10.28
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	14.10.28

##### 16.9.4.5 Signs

The following Rules shall apply as follows:

Sub-Zone	Performance Standards
1	14.10.24
<b>[DELETED]</b>	
3	13.10.24
<b>[DELETED]</b>	
<b>[DELETED]</b>	
<b>[DELETED]</b>	
7	14.10.24

## 16.10 Subdivision Provisions

The following subdivision provisions apply specifically to the Estuary Estates Structure Plan area.

### 16.10.1 [DELETED]

### 16.10.2 [DELETED]

### 16.10.3 [DELETED]

### 16.10.3.1 [DELETED]

### 16.10.3.2 [DELETED]

### 16.10.4 Rules: Activities

These Rules apply to all subdivision proposals within the Estuary Estates Structure Plan area.

### 16.10.4.1 [DELETED]

### 16.10.4.2 [DELETED]

### 16.10.4.3 [DELETED]

### 16.10.4.4 [DELETED]

### 16.10.4.5 [DELETED]

### 16.10.4.6 [DELETED]

### 16.10.5 Subdivision Activity Table

The following table specifies the status of various subdivision activities within the different Sub-Zones.

For the purpose of this table:

P = Permitted Activity

D = Discretionary Activity

C = Controlled Activity

NC= Non-Complying Activity

RD= Restricted Discretionary Activity

Table 16.10.5-1

ACTIVITIES	1 Business	[DELETED]	3 Residential	[DELETED]	[DELETED]	[DELETED]	7 Service	8 Natural Environment
Amendments to existing Cross Leases, Unit Titles and company lease plans for the purpose of showing additions and alterations to lawfully established buildings, accessory buildings and areas for exclusive use by an owner/s	RD		RD				RD	
Any subdivision not otherwise provided for in Table 16.10.5	D		D					
Boundary adjustments or realignments	RD		C				RD	

[DELETED]								
Right of way easements and access lots	RD		RD				RD	
[DELETED]								
[DELETED]								
Subdivision for the purpose of creating free-hold Titles in accordance with Rule 16.10. 10 (except minimum lot sizes)	RD		RD				RD	
Subdivision for the purpose of creating free-hold Titles which does not comply with the minimum lot sizes	NC		NC				NC	
Subdivision of existing or approved buildings and/or activities by way of unit Title,	RD		RD				RD	
Subdivision that creates a lot/s for the purpose of a reserve, public utilities or infrastructure	RD		RD				RD	RD
Subdivision not meeting one or more of the Standards detailed under Part 16.10.10 (except minimum lot sizes)	D		D				D	

### 16.10.6 [DELETED]

### 16.10.6.1 [DELETED]

### 16.10.7 [DELETED]

### 16.10.7.1 [DELETED]

### 16.10.7.2 [DELETED]

### 16.10.8 Restricted Discretionary Activities

#### 16.10.8.1 Matters Over Which Discretion is Restricted

Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent:

- Subdivision, **roading** and Lot design **including the ability for sites to accommodate a complying dwelling, required water storage, and suitable onsite parking and manoeuvring areas;**
- Consistency with the Estuary Estates Structure Plan Map;
- Transport network **(including parking, cycleway and pedestrian facilities)** and vehicle access to lots;



- d) [Availability of sufficient water supply](#) (rainwater harvesting and/or reticulated water supply [for sub-zone 3A which meet all relevant legislative requirements for drinking water](#)), and water demand management (savings\*)) including for fire fighting;
  - dd) The location and land area requirements of water reservoirs(s) identified with the first subdivision of the Residential Sub-Zone 3D
  - e) Low impact design, stormwater treatment and disposal, [including appropriate stormwater quality monitoring associated with the design and construction stages as well as the consent holder's maintenance obligations](#);
  - ee) Stormwater management plan for the hydrology of Wetlands 1, 2 and 3 [including stormwater quality](#);
  - eee) Consent notices for stabilised roofing material
  - f) Public utilities;
  - [ff\) The capacity of the existing or planned reticulated wastewater network\(s\) to meet the servicing needs of the proposal](#)
- This wording has been settled under ENV-2021-AKL-062 Mangawhai Matters Incorporated v Kaipara District Council (see [2021] NZEnvC 035). It is still subject to change under ENV-2021-AKL-061 Boonham v Kaipara District Council. Until final wording is settled this provision cannot be relied upon.*
- g) Planting and landscaping.
  - h) Ecological effects [including the effects on the habitat of Tara Iti / Fairy Tern and their food sources \(including wetlands, watercourses and the coastal marine area\), including disturbance by people and dogs](#);
  - i) Pedestrian and cycling connectivity to open space and shared path networks;
  - j) Ecology management plan for the Sub-Zone 8 areas ~~Wetland 3~~, including weed and pest control and indigenous revegetation (where appropriate) and any required mechanisms for ownership an maintenance of the area
  - k) Design and construction of central watercourse

\* For example through the use of the Water Efficiency Labelling Scheme

#### 16.10.8.2 Assessment Criteria for Restricted Discretionary Activities

Council will have regard to the following assessment criteria when considering and determining an application for Resource Consent:

- a) The extent to which the proposal is consistent with the Estuary Estates Structure Plan Map. The assessment of any application must establish the means through which any proposal will implement the Estuary Estates Design and Environmental Guidelines detailed under Appendix 16.1 and the Mangawhai Design Guidelines in Appendix 25A.
- b) The extent to which adequate access is provided to each lot.
- c) Where common lots are proposed, the extent to which appropriate mechanisms are provided to ensure that all infrastructure management and maintenance requirements are sustainable.
- d) The nature of proposed street frontage in terms of securing effective, safe access onto a legal road.
- e) Where staged subdivision is proposed, whether all necessary infrastructure, roading, utilities, public spaces and connections to service the proposed development will be established.
- [ee](#) For the catchment of Wetlands 1, 2 and 3, a stormwater management plan shall address the best practicable option to maintain surface flow hydrology.
- [eee](#) Consent notices shall require stabilised roofing materials.
- f) [The nature of the connection to Council's reticulated wastewater system. Whether the proposed development or activity can be accommodated within the existing or planned capacity of the reticulated wastewater network and whether the servicing needs of the proposed development require upgrades to existing infrastructure.](#)

*This wording has been settled under ENV-2021-AKL-062 Mangawhai Matters Incorporated v Kaipara District Council (see [2021] NZEnvC 035). It is still subject to change under ENV-*

*2021-AKL-061 Boonham v Kaipara District Council. Until final wording is settled this provision cannot be relied upon.*

- g) Where any existing or approved buildings are to be subdivided, the effects of the proposal in regard to meeting relevant Development Control Standards.
- h) Where there are any communally owned or managed services, infrastructure or other such assets or joint responsibilities arising from any proposal; that the nature of arrangements which are proposed ensure the on-going implementation of such arrangements whether through body corporate or similar mechanisms.
- i) Where any subdivision adjoins an area identified as “amenity planting” and/or any areas identified as Sub-Zone 8 on the Structure Plan, whether the details of the planting have been provided and for Sub-Zone 8 areas an ecology management plan, including [10m riparian planting to streams and wetlands](#), weed and pest management controls and indigenous revegetation (where appropriate), are provided and any required mechanisms for ownership and maintenance of the area. For the avoidance of doubt the amenity planting areas may form parts of private lots and be held in private ownership.
- j) Whether the proposal utilises low impact and/or water sensitive stormwater management devices and designs, outfalls that mitigate concentrated flows and detail of any obligations for lot owners to construct and maintain such devices.
- jj) The extent to which stormwater quality treatment has been provided to protect the environment from contaminants generated from the activity [including whether the proposal includes appropriate stormwater quality monitoring associated with the design and construction stages as well as the consent holder's maintenance obligations](#).
- k) Existing and probable future traffic volumes, pedestrian and cyclist volumes and effects on adjacent roads including the intersection of Molesworth Drive and Moir Street, and the intersection of Insley Street and Moir Street.
- l) The design of the central watercourse within sub-precinct 3A to establish stormwater conveyance, treatment opportunities, recreation links and recreated freshwater habitat
- m) Sufficient firefighting water supply is available, taking into account a risk based assessment (Refer to Note 8 of 13.11.1)
- n) [The provision, capacity and design of reticulated supply of water which meet all relevant legislative requirements for drinking water \(including storage, reticulation, treatment and ongoing management\), rainwater harvesting and appropriate water demand management \(savings\), including legal mechanisms \(eg. consent notices\) for their implementation within Residential Sub Zone 3A. The provision, capacity and design of reticulated supply of water sufficient to meet the needs of the subdivision and development which meet all relevant guidelines, the Code of Practice referenced in 16.1.6 and legislative requirements for drinking water \(including storage, reticulation, treatment and ongoing management\), rainwater harvesting and appropriate water demand management \(savings\), including legal mechanisms \(eg. consent notices\) for their implementation within Residential Sub Zone 3A or any other sub zone intended to be reticulated.](#)
- o) The extent the proposal has regard to the assessment criteria i) to v) in Rule 13.14.4.
- p) The extent to which the proposal provides connections to transport networks [including walking and cycling \(and indicative connections as shown on the structure plan\) and roading function and design, including parking consistent with Appendix 16.2.](#)
- q) The extent of land required for water reservoir(s) to service [the Residential Sub-Zone 3A subdivision and development proposed to be provided with reticulated water supply](#) is detailed by an engineering assessment by a suitably qualified and experienced professional associated with the first subdivision of the Residential Sub-Zone 3D.
- r) [Effects on the habitat of Tara Iti / Fairy Tern and their food sources \(including wetlands, watercourses and the coastal marine area\), including disturbance by people and dogs.](#)
- s) [Ecologically appropriate fish passage.](#)

#### 16.10.9 [DELETED]

#### 16.10.9.1 [DELETED]

#### 16.10.10 Development Controls

All Activities shall comply with the relevant controls of Rule 16.10.10.

**16.10.10.1 Lot Sizes**

- a) No vacant lots shall be created by subdivision, where the gross area of any Freehold Title is less than the minimum specified for each Sub-Zone in the table below.
- b) There shall be no minimum lot size where subdivision occurs around existing approved development or in conjunction with a land use consent.
- c) The minimum lot sizes must be exclusive of any area shown as Sub-Zone 8 on the Structure Plan.

Sub-Zone	Minimum Vacant Freehold Lot Size
1	500m <sup>2</sup>
[DELETED]	
[DELETED]	
[DELETED]	
3	A 350m <sup>2</sup> 500m <sup>2</sup>
	B 500m <sup>2</sup>
	C 750m <sup>2</sup>
	D 1000m <sup>2</sup>
[DELETED]	
[DELETED]	
[DELETED]	
7	1000m <sup>2</sup>

**16.10.10.2 Building Platform Locations**

All vacant residential lots shall be of a size and shape which accommodates a building platform which is 8 by 15 and clear of all yard setbacks identified in Rule 16.8.2.3.

**16.10.10.3 Boundary Adjustments**

New lots may be created by way of boundary adjustments between existing lots provided that:

- a) There are two **are or** more existing lots;
- b) Each of the lots has a separate Certificate of Title;
- c) Any approved residential building platform is retained in its approved location, or a new location which meets Rule 16.10.10.2 is identified;
- d) There is no increase in any existing non-compliance with the Development Controls for Permitted Activities as set out in Part 16.8 unless Resource Consent is obtained for such non-compliances in conjunction with the proposed boundary adjustment; and
- e) No additional lots or Certificate of Title in separate ownership are created.

**16.10.10.4 Subdivision Design**

**1 Roads and Access**

- a) All roading and access shall be consistent with the Estuary Estates Structure Plan Map
- b) The following Rules shall apply as follows:

Sub-Zone	Performance Standards
1	14.13.2
[DELETED]	
3	13.13.2

[DELETED]	
[DELETED]	
[DELETED]	
7	14.13.2

**2 [DELETED]**

**3 Services**

The following Rules shall apply as follows:

Sub-Zone	Provision for the Extension of Services	Water Supply	Stormwater Disposal	Wastewater Disposal
1	14.13.3	14.13.4	14.13.5	14.13.6
[DELETED]				
3	13.14.3	13.14.4 <b>and 16.8.3 b), c) &amp; d).</b>  Lots less than 500 m2 in the Residential Sub Zone 3A must be serviced by a reticulated water supply <b>sufficient to meet the needs of the subdivision and development.</b> Lots greater than 500 m2 in the Residential Sub Zone 3A that are not serviced by reticulated water supply must comply with Rule 13.14.4 <b>and 16.8.3 a).</b>	13.14.5	13.14.6
[DELETED]				
[DELETED]				
[DELETED]				
7	14.13.3	14.13.4	14.13.5	14.13.6

**4 [DELETED]**

**5 [DELETED]**

**6 Legal Protection**

As appropriate, legal protection of any amenity landscape feature, bush area, indigenous vegetation plantings as an enhancement of bush, stream or wetland, public access way or stormwater management systems shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the land concerned. Where appropriate, legal protection may also be achieved through a Queen Elizabeth II National Trust Covenant, a covenant with Council, a Conservation Covenant under Section 77 of the Reserves Act or by vesting land in a public authority as a public reserve and/or through private reserve status.

**7 Preservation/Enhancement of Areas Of Archaeological, Cultural Or Spiritual Significance**

The subdivision design and layout shall preserve and/or enhance areas of archaeological, cultural or spiritual significance.

**8. Fencing**

i. Every residential allotment shall be required to contain any dogs on the allotment by fencing or alternative means (such as electronic control). This shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the site concerned.

ii. Wetlands 1 and 3 shall be perimeter fenced, together with the boundary line between Wetlands 1 and 3, in general accordance with the fence line location illustrated on the Structure Plan. Where relevant to a residential allotment, this shall be secured through a Consent Notice or other suitable legal instrument that is registered on the title of the land concerned.

The fence shall:

- Where the fence forms a side or rear boundary of a residential allotment:
  - have a minimum height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
- Where the fence adjoins a road reserve or allotment for a network utility (including a reservoir):
  - have a height of 1.8m from ground level and be either a close board timber fence with capping or a steel wire mesh fence, in either case with no gap at ground level and continuous with adjoining allotment fences.
  - include a landscaped hedge between the fence and road reserve.
- Include self-closing gates to the gum diggers track in appropriate locations.
- If the steel wire mesh fence option, have mesh dimension of no greater than 50 millimetres and include top and bottom rail.

Wetlands 1 and 3 are illustrated on the Structure Plan.

#### 16.11 Financial Contribution Provisions

The provisions of Chapter 22: Financial Contributions of this Plan shall apply.

#### 16.11A Network Utilities

- 1) Water storage that does not comply with the permitted activity performance standards in Rule 10.11.1 is a Restricted Discretionary Activity, and the assessment criteria listed in Rule 10.11.1 shall be the matters of discretion.
- 2) Rule 10.11.10 does not apply to water storage.

#### 16.12 Temporary Activity Provisions

##### 16.12.1 Resource Management Issues

Temporary activities within the Estuary Estates Structure Plan area have the potential to have significant adverse effects on neighbouring properties, ~~and~~ the community at large and ecology (including Tara Iti / Fairy Tern). In particular temporary activities create the following issues:

##### 16.12.1.1 The appearance of temporary buildings associated with construction works.

##### 16.12.1.2 The size, frequency, ~~and~~ duration and timing of temporary buildings and activities.

##### 16.12.1.3 The impact of such buildings and activities from noise, crowd management, health and safety and traffic generation.

#### 16.12.2 Objectives and Policies

##### 16.12.2.1 Temporary Activities Objective

To provide for the community within the Estuary Estates Structure Plan area and the wider Mangawhai Areas general wellbeing through the provisions of Temporary Activities while ensuring such activities are operated at a level which avoids or mitigates adverse effects on the environment.

#### Policy

- a) By adopting appropriate provisions to control the duration, size, ~~and~~ extent and timing of Temporary Activities.

#### 16.12.3 Rules: Activities

##### 16.12.3.1 Permitted Activities

The following activities listed in 16.12.3.2-16.12.3.4 and any buildings and structures associated with the temporary activities are Permitted Activities in all Sub-Zones. Should any activity listed in this section conflict with the activity status listed in another section of this Chapter, the Temporary Activities provisions shall prevail.

##### 16.12.3.2 Temporary Activities Ancillary to Building and Construction Works

Temporary buildings, offices, storage sheds, storage yards, scaffolding and false work, workshops or uses of a similar character where such activities are:

- a) Ancillary to and required for a building or construction project; and
- a) Located on the site same as the building or construction project; and
- b) Limited to the duration of the project or for a period of 12 months (whichever is the lesser).

##### 16.12.3.3 Public Performances, Concerts, Shows, Musical and Theatrical Entertainment, Cultural and Sporting Events, Exhibitions, Fairs, Galas, Markets, Carnivals, Festivals, Parades, Rallies, Filming, Weddings, Meetings

Any Temporary Activity, including the use of buildings, for purposes such as public performances, concerts, shows, musical and theatrical entertainment, cultural and sporting events, exhibitions, fairs, galas, markets (excluded those listed in Rule 16.12.3.4), carnivals, festivals, parades, rallies, filming, weddings, meetings and activities of a similar nature provided that:

- a) In the Coastal Buffer overlay as illustrated on the Structure Plan, and the Coastal Environment overlay where it overlays the Business Sub Zone 1 as illustrated on the Structure Plan:
  - i) Such activities do not occur during the Tara Iti / Fairy Tern breeding season September-February.
  - ii) No dogs (with the exception of service dogs) are brought to the event.
- b) Such activities, including structures for these activities, do not occupy any venue for more than a total of five days (inclusive of the time required for establishing and removing all structures and activities associated with the use);
- c) The number of people attending the event at any one time does not exceed 200 persons when the activity is undertaken outside;
- d) Any associated electronically amplified entertainment complies with all of the following:
  - i. It does not commence before 10am on any day;
  - ii. It is completed by 10pm on the day of the performance or 12.00pm on Fridays and/or Saturdays or 1:00am the following day on New Year's Eve; and
  - iii. The 'Temporary Noise' Performance Standards shall apply as follows:

Sub-Zone	Performance Standards
1	14.10.15
[DELETED]	
3	13.10.15
[DELETED]	
[DELETED]	
[DELETED]	
7	14.10.15

- e) The  $L_{eq}$  noise level and  $L_{10}$  noise level arising from the event does not exceed 75dBA  $L_{eq}$  or 85dBA  $L_{10}$  when measured at the notional boundary of any adjacent site with a residential use;
- f) A Temporary Activity occurs no more than five times in any one calendar year at any one location;
- g) All fixed exterior lighting associated with Temporary Activities shall be directed away from adjacent residential sites and public roads;
- h) All temporary activities that exceed a duration of two hours and do not have access to public or private toilet facilities shall provide sanitary facilities for the duration of the activity in accordance with the NZ Building Code Clause G1. When using Clause G1 if the activity is not undertaken within a building the most appropriate building use shall be applied.

#### 16.12.3.4 Markets in Sub-Zone 1

Markets occurring at any frequency throughout the year in Sub-Zone 1.

#### 16.12.4 Restricted Discretionary Activities

The following activity is a Restricted Discretionary Activities in all Sub-Zones and on public roads provided that the activity meets the terms detailed below, otherwise the activity is a Discretionary Activity.

##### 16.12.4.1 Public Performances, Concerts, Shows, Musical and Theatrical Entertainment, Cultural and Sporting Events, Exhibitions, Fairs, Galas, Markets, Carnivals, Festivals, Parades, Rallies, Filming, Weddings, Meetings

- a) Any Temporary Activity, including the use of buildings, for purposes such as public performances, concerts, shows, musical and theatrical entertainment, cultural and sporting events, exhibitions, fairs, galas, markets (excluded those listed in Rule 16.12.3.4), carnivals, festivals, parades, rallies, filming, weddings, meetings and activities of a similar nature which:
  - i. [In the Coastal Buffer overlay as illustrated on the Structure Plan, and the Coastal Environment overlay where it overlays the Business Sub Zone 1 as illustrated on the Structure Plan](#)
    - [Such activities do not occur during the Tara Iti / Fairy Tern breeding season September-February.](#)
    - [No dogs \(with the exception of service dogs\) are brought to the event.](#)
  - ii. Occupies a venue for more than five days but no more than seven days (inclusive of the time required for establishing and removing all structures and activities associated with the use); and/or
  - iii. Exceeds a capacity of 200 persons but no more than 500 persons at any one time when the activity is undertaken outside; and/or
  - iv. Occurs more than five times a year at any one location; and/or
  - v. Is not located in any area identified as Green Network on the Estuary Estates Structure Plan Map 1 other than the Village Green in Community 2 Sub-Zone or any public road.

##### 16.12.4.2 Restricted Discretionary Assessment Criteria

The following criteria shall be taken into account when considering Restricted Discretionary Applications for Temporary Activities:

- a) The proposed hours of operation, ~~and~~ duration [and timing](#) of the activity;
- b) The nature and intensity of the activity;
- c) The extent to which the activity may give rise to adverse effects including noise on residentially used buildings within and surrounding the activity;
- d) The extent to which the activity may give rise to adverse effects related to the activities of crowds using the road network and the car parking facilities and the extent to which those effects are avoided, remedied or mitigated;
- e) The ability to supply potable water in compliance with the Drinking-Water Standards for New Zealand for the duration of the activity;
- f) The provision and location of adequate sanitation facilities throughout the duration of the activity in accordance with the Building Act;
- g) Compliance with Food Hygiene Standards and regulations;
- h) The appropriateness and control measures in place for the sale of liquor for consumption on the premises;

- i) Provision of an Emergency Management Plan which specifies a clear set of roles and procedures in the case of an accident or emergency; and
- j) The effect of the activity on the use normally made of the site if the site is usually available to the public.
- k) [Effects on the habitat of Fairy Tern and their food sources \(including wetlands, watercourses and the coastal marine area\), including disturbance by people and dogs.](#)

#### 16.13 Definitions Specific to the Structure Plan Area

The following definitions apply specially to the Estuary Estates Structure Plan area and override definitions contained in Chapter 24. In all other cases the definitions of Chapter 24 apply:

**Community Facilities and Services:** means any land or buildings which are used in whole or in part for cultural, social, ceremonial, spiritual and religious activities for meditation, community services, including fire and medical service bases, and functions of a community character. This may include a church, church hall, church yard and marae.

**Conference and Events Facility:** means non-retail activities catering for conferences, functions, meetings, education forums and including events such as trade and cultural shows, and exhibitions and does not include visitor accommodation.

**Entertainment:** means land or buildings in which facilities are provided for at a charge to the public, or by private reservation, for entertainment purposes and may include premises licensed under the Sale of Liquor Act, theatres, cinemas, casinos, cabarets, clubs, amusement galleries.

**Gross Floor Area:** means the sum of the gross area of the several floors of all buildings on a site, measured from the exterior faces of the exterior walls, or from the centre lines of walls separating two buildings or, in the absence of walls, from the exterior edge of the floor. In particular, gross floor area includes:

- Voids except as otherwise provided, where vertical distance between storey levels exceeds 6.0m, the gross floor area of the building or part of the building affected shall be taken as the volume of that airspace in cubic metres divided by 3.6;
- Basement space except as specifically excluded by this definition;
- Elevator shafts, stairwells and lobbies at each floor unless specifically excluded by this definition;
- Breezeways;
- Interior roof space providing headroom of 2m or more whether or not a floor has been laid;
- Floor spaces in interior balconies and mezzanines;
- Floor space in terraces (open or roofed), external balconies, porches if more than 50% of the perimeter of these spaces is enclosed, except that a parapet not higher than 1.2m or a railing not less than 50% open and not higher than 1.4m shall not constitute an enclosure; and
- All other floor space not specifically excluded.

The gross floor area of a building shall not include:

- Uncovered steps;
- Interior roof space having less than 2m headroom provided that this area shall not be used for any other purpose than for building services such as electrical ducting but does not include ablutions;
- Floor space in terraces (open or roofed), external balconies or porches where not more than 50% of the perimeter of these spaces is enclosed and provided that a parapet not higher than 1.2m or a railing not less than 50% open and not higher than 1.4m, shall not constitute an enclosure;
- Pedestrian circulation space;
- Basement space for stairs, escalators and elevators essential to the operation of a through-site link, or servicing a floor primarily for car parking and/or loading;
- Required off-street car parking and/or loading spaces;
- Car parking in basement space or underground parking areas (including manoeuvring areas, access aisles and access ramps);
- Service station canopies;
- Non-habitable floor space in rooftop structures; and



- Any entrance foyer / lobby or part of it including the void forming an integral part of it (being a primary means of access to a building), which is open to the public, is accessed directly from a public place and has an overhead clearance of not less than 6.0m.

**Homestay Accommodation;** means a resident person, family or other household within their own dwelling provides accommodation (which may include meals) for reward or payment for not more than five persons. Homestay accommodation is not self-contained and does not include a kitchen sink, dishwashing or laundry facilities.

**Impermeable Surface:** means any surface that does not allow the transfer of surface water to the soil, including buildings, paved areas and unsealed surfaces compacted by regular vehicle use.

**Integrated Residential Development:** Residential development on sites more than 1000m<sup>2</sup> where elements of the development such as building design, open space, landscaping, vehicle access, roads and subdivision are designed to form an integrated whole. The height in relation to boundary and yards development controls do not apply to internal site boundaries within the integrated residential development. The maximum density land use controls do not apply to integrated residential development.

**Local Service Activity:** means business activities providing for servicing, light manufacturing, warehousing, depots and construction and home improvements supply and services.

**Recreational Facilities:** means any public or private land or building which is used wholly or partly for the purpose of active and passive sports and recreation activities, such as health centres, gyms, swimming pools, and stadiums.

**Stacked Parking:** means parking which occurs when access to a parking space is achieved through another park.

**Visitor Centre:** means premises providing information, travel and hire services catering for visitors and tourists.

## APPENDIX 16.1: ESTUARY ESTATES DESIGN AND ENVIRONMENTAL GUIDELINES

These guidelines are to be referenced as assessment criteria for Resource Consent applications as required by Estuary Estates Plan provisions. The Mangawhai Design Guidelines at Appendix 25A of the District Plan also required to be assessed.

### 16.14 [DELETED]

### 16.15 [DELETED]

### 16.15.1 [DELETED]

#### 16.15.2 Road network and streetscape

The Structure Plan Maps illustrate the desired road and streetscape outcomes. Roads shown on the Structure Plan Maps are those that are required, however it is anticipated that additional roads will also be constructed.

All subdivision and development (which seeks to create any new road) should secure the following outcomes:

- Achieve a roading network (as shown on Estuary Estates Structure Plan Map. that is well-connected, visually interesting and which promotes active transport (walking and cycling).
- Provision within the road reserves for **safe** footpaths, **and** cycle ways, underground services, lighting, parking, trees, landscaping, street furniture and signage.
- Ensure the scale and type of street tree planting, under planting, carriage alignments, footpaths, cycle ways, underground services, lighting, parking, street furniture and signage reflect the road hierarchy
- Maximise pedestrian and cyclist safety and connectivity through the use of appropriate materials to define routes/pathways, visibility of linkages and using clear signage.
- Use mountable kerbs, swales, rain gardens, grass berms and sand filters to capture and filter stormwater.
- Street lighting should safely illuminate pedestrian and cycle paths and roads and access ways without adversely affecting residential uses.
- Provide on-road and short term parking within the road network without impeding traffic or pedestrian movements.
- Align roads to front the green network or other public open spaces where practicable.
- Street blocks in the sub zones 3A and 3B should not exceed a length of 250m or a perimeter of 650m.
- Other than for the collector road and the ring road, streets should be designed with traffic calming measures that result in 30km/h maximum vehicle speeds.
- Roads and blocks should be laid out so as to relate to the underlying landform, and minimise the need for tall retaining structures.

### 16.15.3 [DELETED]

#### 16.15.2.1 Residential Lot Layout

- As many lots as possible should front onto and be accessed directly from a legal road or from a privately owned rear lane which is used for access only, while lots still front public roads.
- Rear lots should be avoided unless there are topographical or natural feature constraints that justify the rear lot(s).
- In any event rear lots should not exceed 5% of the total number of lots delivers in the zone
- ~~Blocks and lots should be designed to enable dwellings with good solar access, privacy and opportunities for buildings to overlook the street. Blocks and lots should be designed to accommodate a complying dwelling, required water storage, and suitable onsite parking and manoeuvring areas, in a manner that will enable good solar access, private outdoor living spaces, dwelling privacy and opportunities for buildings to overlook the street.~~
- Lots should, where practicable, be based on simple rectilinear shapes, preferably rectangles with the narrow-side fronting a street.
- North-facing lots should in general be wider than south, east or west-facing lots so as to allow garages, outdoor spaces and dwellings to sit side-by-side.

- Planting of associated riparian margins and other natural features (within the subdivision site) shall be integrated with the subdivision. Application should include mechanisms for ongoing ownership and maintenance of open space areas (i.e. vesting or private ownership structures).

## 16.16 Sub-Zone Specific Guidelines

### 16.16.1 Business Sub-Zone 1

All development in the Business Sub-Zone 1 should be designed, arranged and laid out to be in accordance with the following guidelines:

- Parking spaces should generally be located behind the mainstreet buildings with some onstreet parking along mainstreet Parking areas and pedestrian access thereto shall be accessible to and from mainstreet to car parking area
- Development should create a focal point and gateway into the zone by defining and reinforcing a pedestrian-orientated main street as the heart of the community.
- Architecture should be based on a coastal and small-village vernacular promoting intimacy, geometric simplicity, and the use of pitched roofs (including mono pitched roofs).
- Buildings should create an active street frontage by abutting the footpath and should complement one another in terms of design, form and mass.
- Individual buildings should be physically and/or visually connected to each other through the use of pergolas, verandas, awnings, colonnades and/or landscape elements.
- Buildings should incorporate verandas, awnings, or other features which provide shelter for pedestrians.
- Continuity of active building frontages should be provided to promote public interaction between the street and the buildings.
- Active uses such as retail, restaurants, cafes and other eating places should be located to reinforce the streetscape amenity in the Business Sub-Zone.
- Design variation and architectural detail should be used to keep areas of blank wall to a minimum and break up any likely perception of excessive bulk of building(s).
- The external glazing should not be mirrored, tinted or coloured except for isolated feature glazing.
- Areas set aside for service uses should be screened from public view through the use of planting and permeable screens.

### 16.16.2 [DELETED]

### 16.16.3 Integrated Residential Development and Retirement Facilities- Residential Sub-Zone

All integrated residential development or retirement facilities in the Residential Sub-Zone 3 should be designed, arranged and laid out ~~and~~ in general accordance with the following guidelines **and the relevant guidelines in 16.15.2.1**:

- Units should be oriented, through the placement of doors, windows and balconies, so that they overlook the public street, any adjoining public open space, and the cycle and walking trail shown on the Structure Plan.
- Where a common pedestrian entrance is provided to a building comprising a number of units, the entrance should be clearly visible and accessible from a public street.
- The development should achieve an integrated design theme through consistency of façade treatments, including articulation, window and door proportions, design feature materials and colours. The development should also create visual character and variety through variation in building form and materials, and modulating the built form.
- The main living areas and outdoor space of each unit shall be designed to achieve privacy and good sunlight access. Preferably, outdoor living space is located behind the dwelling unit (except when the allotment and unit face north)
- Building bulk and massing achieves privacy and good sunlight access to adjoining integrated residential development and/or retirement facility dwellings
- A variety of house types and size should be created. These may include detached houses, apartment buildings, duplex houses, and terraced housing

- Buildings massing should be modulated by techniques including -bays, balconies and variation in roof profiles. Particular attention should be given to minimising the impression of unrelieved building bulk for larger scale three or four storey buildings by these techniques, including by setting parts of the building back and the contribution of landscaping within the front yard.
- Buildings massing should be modulated by techniques including bays, balconies to avoid uniformity of appearance.
- Residential buildings should be located at the front of sites overlooking the street.
- Car parking and vehicle access areas should not dominate the street and the appearance of the development. Where an allotment frontage width is less than 9m, a rear access lane should be used
- Garages and parking for all [dwellings residential units](#) should be set further back from the street than the front of any residential building or alternatively, within or at the rear of residential units to maintain safe and easy pedestrian access into any residential unit. Parking should be sufficient (as required by the Plan provisions) to avoid householders vehicles needing to be parked on the street.

**16.16.4 [DELETED]**

**16.16.5 [DELETED]**

**16.16.6 [DELETED]**

**16.17.2 Buildings within the Coastal Environment Overlay**

- Landscape enhancements, with a focus on coastal native vegetation, should be proposed with a landscape plan to soften the visual appearance of buildings adjoining the coastal marine area.
- Recessive, generally dark colours and low reflectivity finishes should be utilised for roofs and walls.

**Appendix 16.2 Table: Road Function and Required Design Elements**

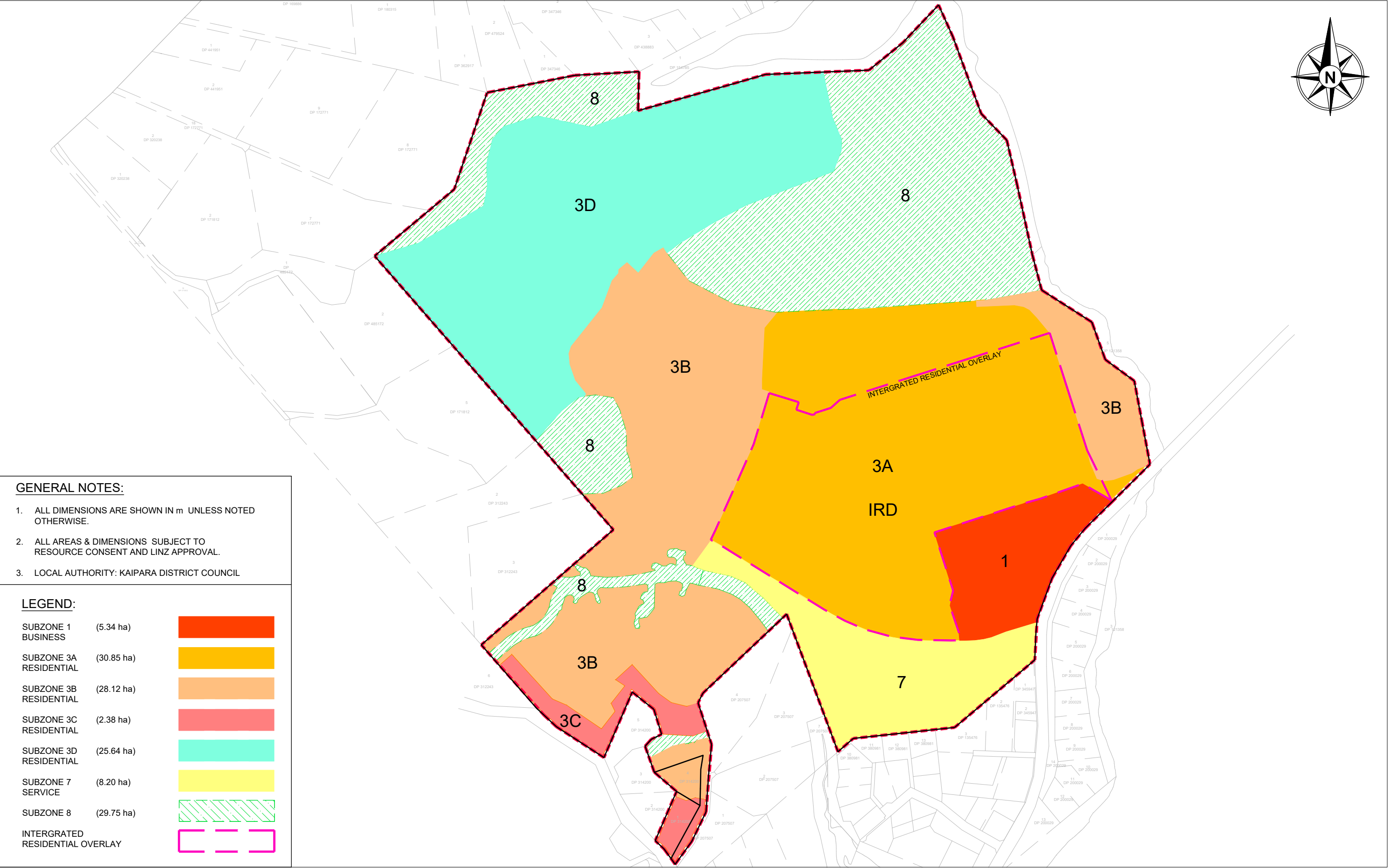
Road Name (refer to Estuary Estates Structure Plan)	Proposed Role and Function of Road	Minimum Road Reserve width	Total number of lanes	Speed Limit (Design)	On Street Parking	Pedestrian and cycle provision	Treatment of stormwater runoff from carriageway
Molesworth Drive Upgrade	Arterial	Varies	4 lane	50	No	3m shared path both sides	Yes
Ring Road	Collector	24m	2 lane	40	Yes	2.5m shared path both sides	Yes
Collector Road	Collector	24m	2 lane	40	Yes	2.5m shared path both sides	Yes
Mainstreet	Local	24m	2 lane	30	Yes	4m footpath both sides	Yes
Local	Local	Minimum 16m	2 lane	30	Yes	1.4m footpath both sides	Yes



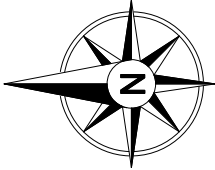
**Insert the following to Chapter 10 Network Utilities**

10.10 Network Utilities Rules

In any instance where network utility activities are proposed or where works are within the road (road reserve), and the Rules in Chapter 10 and 11 (respectively) overlap (or duplicate) with a Rule in the other Part B Chapters with the exception of Rule 16.11A, the Rules in Chapters 10 and 11 (respectively) will take precedence. Note 1: These rules do not apply if the activity is provided for by way of designation in the District Plan.



				ORIGINATOR: JKLM	DATE: 22/05/19	SIGNED:	PLOT BY:	THIS DRAWING AND DESIGN REMAINS THE PROPERTY OF, AND MAY NOT BE REWORKED OR ALTERED, WITHOUT THE WRITTEN PERMISSION OF MCKENZIE AND COMPANY CONSULTANTS LIMITED. NO LIABILITY SHALL BE ACCEPTED FOR THE UNAUTHORISED USE OF THIS DRAWING.	PROJECT:  MANGAWHAI CENTRAL LIMITED  83 MOLESWORTH DRIVE  MANGAWHAI	TITLE:  PLAN CHANGE PC78 ZONE MAP	<div><div>MCK &amp; CO</div><div>MCKENZIE &amp; CO CONSULTANTS LTD</div></div>	ISSUE STATUS: FOR DISCUSSION		
				DRAWN: PP	DATE: 06/11/20	SIGNED:	PLOT DATE:					PROJECT NO: 1450	SCALES: 1:3,333 @ A1 1:6,667 @ A3	A1
				CHECKED:	DATE:	SIGNED:	SURVEY BY:					DRAWING NO: 1450-PC-007		REV: A
A	FIRST ISSUE	PP	06/11/20	APPROVED:	DATE:	SIGNED:	SURVEY DATE:							
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