

DRAFT WDC COUNCIL CONDITIONS (17 AUGUST 2023) NORTHPORT LTD: PORT EXPANSION – SH15, Marsden Point

Recommended Council amends to the Applicants proposed draft conditions (working draft dated 21.04.2023, provided as part of Applicants s92 response) are shown as underlined additions, or ~~strikethrough~~ deletions. This document is intended to be reproduced in colour.

[Placeholder for description of activities/buildings/land use consents]

Subject to the following conditions:

DEFINITIONS

“Building”	means a temporary or permanent moveable or immovable physical construction that: <ul style="list-style-type: none">(a) is partially or fully roofed, and(b) is fixed or located on or in land, but(c) excludes any motorised vehicle or other mode of transport that could be moved under its own power.
“Council”	means Whangārei District Council or its successor.
“Current Port Noise Contour Map”	means the map showing predicted incident port noise levels required to be prepared and updated pursuant to condition Error! Reference source not found.
“ Expansion Container Terminal Project”	means the Northport expansion to the east of the existing port <u>for the purpose of establishing a container terminal as</u> authorised by these consents (and associated district regional consents), including <u>the use of the</u> reclamation and wharf <u>for the storage and loading of containers construction</u> and all associated <u>construction</u> activities and works.
“ <u>Maritime Passenger Handling/Services</u> ”	<u>means the processing of maritime passengers and includes customs offices and water taxi, ferry, and cruise ship terminals, depots, or administration facilities.</u>
“Major Structure”	means any: <ul style="list-style-type: none">(a) vehicle used as residential activity, excluding temporary activities.(b) network system exceeding 1.5m in height above ground level or 3m² ground coverage.

- (c) fence or wall, or combination of either, greater than 2m in height above ground level. Where there is less than a 1m separation distance between any separate fence or wall, or combination of either then their height must be measured from the lowest ground level of either to the highest point of either.
- (d) tank or pool exceeding 35,000 litres.
- (e) structure greater than 2.2m in height above ground level or greater than 9m² ground coverage, including outdoor stockpiles or areas of storage, but excluding amateur radio configurations.

“Repair and Maintenance Services”

means servicing, testing or repairing vessels, vehicles or machinery, includes:

- (a) articles or goods by traders;
- (b) automotive mechanics;
- (c) panel beating; and
- (d) devanning, storage and testing of LPG cylinders.

“Pocket Park”

means the public park (recreational open space) area near the south-eastern corner of the **Expansion Container Terminal** Project site, as shown in Boffa Miskell “*Proposed Concept Plan*”, BM220519-201 (Revision B, 25.7.22); and

“Port Activities”

means the use of land and/or Buildings for port related activities, including but not limited to:

- (a) port and ancillary port activities;
- (b) cargo handling, including the loading, unloading, storage, processing and transit of cargo;
- (c) debarking;
- (d) fumigation;
- (e) transport, storage and goods handling activities;
- (f) maritime passenger handling/services;
- (g) construction, maintenance and repair of port operations and facilities;
- (h) port administration;
- (i) refuelling/fuel handling facilities;
- (j) activities associated with surface navigation, berthing;
- (k) maintenance or repair of a reclamation or drainage system;
- (l) marine and port accessory structures and services;
- (m) repair and maintenance services and facilities ancillary to port activities;

“Port Administration”

means the use of land or buildings within Berth 5, either as a primary

Commented [SS1]: General comment: plan references and cross-references to be confirmed throughout the conditions prior to hearing.

or ancillary activity, for administration purposes including but not limited to offices, staff rooms, reception areas, and any visitor and/or tourism-related administrative facilities.

For the avoidance of doubt, the definition includes any offices or administrative activities associated with Port operations, harbour control or Coastguard, biosecurity management, border control / customs, quarantine, and "Maritime Passenger Handling/Services".

"Practical Completion"

in relation to the reclamation, means the date that the completed reclamation (or any part thereof) is available for port activities;

"RMA"

means the Resource Management Act 1991,

Commented [SS2]: Or subsequent replacement legislation?

"Storage"

means activities involving:

- (a) facilities used for the receipt, storage, handling and distribution of materials, articles or goods destined for a retail outlet, trader or manufacturer;
- (b) business that provides facilities to the public for storing possessions;
- (c) facility used for receiving, despatching or consolidating goods in transit by road, rail, air or sea.

Includes:

- (a) direct collection of materials;
- (b) articles or goods by traders;
- (c) carriers' depots;
- (d) courier services;
- (e) mail distribution centres;
- (f) trucking depots; and
- (g) electronic data servers.

Excludes:

- (a) composting plants; and
- (b) waste management facilities and refuse transfer stations.

"Suitably qualified and experienced person"

Means...

Commented [SS3]: This term is used frequently – it there an industry accepted definition?

GENERAL

1. The consent holder must undertake all authorised activities in general accordance with the descriptions and plans referenced in Tables 1A and 1B below submitted with the application or as modified through the hearing/decision process. In the event of any inconsistency between this information and these conditions, the conditions prevail.

Table 1A

Report title and reference	Author	Rev	Dated

Table 1B

Drawing title and reference	Author	Rev	Dated

2. A copy of these consents and the most up-to-date certified versions of all management plans required by these consent conditions must be kept on site at all times and made available to persons undertaking activities authorised by these consents.
3. All monitoring/sampling required under these consents must be undertaken by a suitably qualified and experienced person(s) who has completed appropriate training.
4. At least sixty ten (160) working days in advance of the date of the commencement of works authorised by these consents, the consent holder must contact the Council to arrange for a site meeting between with the consent holder's contractor(s) and a Council compliance officer prior to commencement of construction works. The details to be provided at the meeting, and then in writing no more than five (5) working days after the meeting, must include:
 - a. The intended date of the commencement or works and a programme for the works;
 - b. The intended date of the CEMP and any other management plans being submitted for certification;
 - c. The intended date for providing the final design drawings to demonstrate how the works are in general accordance with the conditions of these consents;
 - d. The nominated consent holder contact and contractor representative (or equivalent) for the works; and

- e. Any intended staging of the CEMP and works.

Complaints

5. The consent holder must maintain a Complaints Register for the purpose of recording and dealing with any complaints that are received by the consent holder in relation to the exercise of these resource consents. The Complaints Register must record, where this information is available:
 - a. Name of complainant; (if they are provided to the consent holder) if offered;
 - b. The date and time of the complaint;
 - c. A description of the complaint ~~The issue raised;~~
 - d. The location of the issue raised;
 - e. Weather conditions at the time of complaint, including a description of wind speed and wind direction when the complaint occurred (if relevant);
 - f. Any possible cause of the issue raised; and
 - g. Any investigations that the consent holder undertook in response to the complaint;
 - h. Any corrective action taken to address the cause of the complaint, including the timing of that corrective action.
 - i. Any feedback provided to the complainant.
6. The consent holder shall provide a copy of the complaints register to the Council's Compliance Manager within five working days of receiving a request to do so from the Council. The record of complaints must be provided to the Council on request.

Certification

7. Where any condition requires the eConsent hHolder to submit a report or management plan to the Council for "certification" it must mean the process set out in the following paragraphs (a) to (d) and the terms "certify" and "certified" must have the equivalent meanings..
 - (a) The eConsent hHolder supplies a report or a management plan to the Council, and the Council assesses the documentation submitted. ~~(acting in a technical certification capacity)~~ The certification process for management plans and reports required by conditions of this consent must be confined to confirming that the plans or reports give effect to their purposes, consent condition requirements, and schedule requirements, and contain the required information to ensure that it achieves the requirements of the relevant condition(s) of consent (for management plans, this will include that the plan proposed for certification meets the objective(s) and content requirements set out in the condition(s));
 - (b) Should the Council determine that the documentation supplied in accordance with (a) above, ~~in the opinion of the Council;~~ achieves the requirements of the relevant condition(s), the

Commented [SS4]: Updated as per NRC conditions, following recent Environment Court proceedings

Council must issue a written confirmation of certification to the eConsent hHolder ~~that the requirements of the relevant condition(s) have been satisfied;~~

- (c) ~~If the Council's response is that it is not able to certify a management plan or report, it must provide the consent holder with reasons and recommendations for changes to the plan or report in writing. The consent holders must consider any reasons and recommendations of the Council and resubmit an amended management plan/report for certification; If the Council is not satisfied that the documentation supplied in accordance with (a) above achieves the requirements of the relevant condition(s), the Council must shall advise (in writing) the eConsent hHolder of the Council's concerns and ask that the report or management plan be modified so as to address the concerns, and then be resubmitted;~~
 - (d) ~~A management plan or report cannot be subject to a third-party approval. The Council in deciding whether to certify the management plan or report, however, may also obtain advice from other qualified person(s)~~
8. This process in Condition 7 must be repeated until the Council is able to certify ~~provide written confirmation~~ that the requirements of the applicable condition(s) have been satisfied. The consent holder must comply with the certified management plan or report at all times.
 9. ~~Where no written confirmation, pursuant to either conditions 7(b) or 7(c), is provided within twenty (20) working days of a management plan being provided to the Council, the management plan must be deemed to be certified for the purpose of the respective condition to which the document pertains.~~

Review

10. The Council may serve notice on the consent holder of its intention to review the conditions of these consents pursuant to Section 128 of the RMA for the purposes specified therein annually during the month of March, or, at any time, including for any one or more of the following purposes: to address significant unanticipated adverse effects:
 - a. To deal with any adverse effects on the environment which may arise from the exercise of the consents and which it is appropriate to deal with at a later stage, including effects identified in the consent holders monitoring results or reports from activities authorised by these consents and/or as a result of Council's state of the environment monitoring in the area; or
 - b. To require the adoption of the Best Practicable Option to remove or reduce any adverse effect on the environment; or
 - c. To deal with any change(s) to the materials handled through the Port Terminal (Notice may be served at any time for this reason); or
 - d. To deal with any material inaccuracies that may be found in the information made available with the application (Notice may be served at any time for this reason); or
 - e. To respond to any new technology, standards or monitoring parameters relevant to the environmental monitoring undertaken in accordance with these consents.

The consent holder shall meet all reasonable costs of any such review.

Advice Note: Notwithstanding (and in addition to) Condition 10, the council may also, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions any time for the following purposes:

- a. To provide for compliance with rules relating to minimum standards of water quality in any regional plan that has been made operative since the commencement of the consent; or
- b. To provide for compliance with any relevant national environmental standards that have been made; or
- c. Where there are inaccuracies in the information made available with the application that materially influenced the decision on the application and where the effects of the exercise of consent are such that it is necessary to apply more appropriate conditions.

Lapsing of Consents

- 11. Each of these resource consents [(insert consent refs)] lapses ten (10) years after the commencement of those resource consents that are subject to section 116(2)(b) of the RMA [(insert consent refs)].

Advice Note: Pursuant to section 116(2)(b) of the RMA any district resource consent relating to an area of the coastal marine area that is proposed to be reclaimed shall not commence until the proposed location of the activity has been reclaimed and a certificate has been issued under section 245(5) in respect of the reclamation.

Expiry

- 12. [DATE]

Consent Surrenders

- 13. [Placeholder – to be confirmed following review of Applicant’s further analysis of proposed consent surrenders]

DESIGN AND CONSTRUCTION OF RECREATIONAL FEATURES AND TRANSPORT INFRASTRUCTURE

Engineering Plan Approval

Commented [SS5]: WDC Development Engineer review continues and final comments to be provided prior to the hearing.

14. Prior to the commencement of construction authorised by these consents the consent holder shall provide a detailed set of engineering plans to the Development Engineer or their delegated representative for approval. The plans shall be prepared in accordance with Council's Engineering Standards (2020 Edition or most relevant version at the time) and are to include:
 - a. Design details for 100 additional staff car parks located within the site but outside the land within the area shown in the figure at **Appendix One**;
 - b. Earthworks plans showing the finished interface between proposed Berth 5 and the adjoining esplanade reserve. Plans should demonstrate how public access (which offers a maximum 1:12 gradient for people with all levels of mobility) has been facilitated to the residual beach area to the east;
 - c. Design details of the construction of a [placeholder – standard to be confirmed with WDC Development Engineer's input] at the end of Ralph Trimmer Drive in accordance with [placeholder – standards to be confirmed with WDC Development Engineer's input];
 - d. Design details of the construction of the Pocket Park private accessway from Ralph Trimmer Drive in accordance with [placeholder – standard to be confirmed with WDC Development Engineer's input] of Council's Engineering Standards (2020 Edition or most relevant version at the time) including a typical cross section, long section, culverts, drainage flow paths and overland flow;
 - e. Pocket Park and associated recreational features, including at least 26 car parks, street lighting, and a new public toilet as generally depicted on the Boffa Miskell "Proposed Concept Plan" BM220519-201 (Revision B, 25.7.22) at Appendix 1; and
 - f. Design details of sewer and water connections for the Pocket Park facilities (public toilet and water fountain) in accordance with Council's Environmental Engineering Standards (2020 Edition or most relevant version at the time).
15. All work on the approved engineering plans in Condition 14 is to be carried out to the satisfaction of the Development Engineer or their delegated representative. Compliance with this condition shall be determined by:
 - a. Site inspections undertaken as agreed in Council's engineering plan approval letter/ Inspection and Test Plan; and
 - b. [placeholder – certification standards (PS4/PS3 etc.) to be confirmed].
16. No construction works are to commence until the engineering plans required in Condition 14 have been approved.

- 17. The applicant shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the satisfaction of the Council's Development Engineer or delegated representative.
- 18. All damage to street footpaths, stormwater kerb and channels, road carriageway formation, street berm and services by the demolition and construction works associated with the consent holders activities shall be reinstated in accordance with Council's Engineering Standards (2020 Edition or most relevant version at the time). Any reinstatement works shall be undertaken at the expense of the consent holder and be completed to the approval of Council's Development Engineer or delegated representative.
- 19. The consent holder shall ensure the provision and maintenance of all assets listed in condition 14 above in good working order for the duration of these consents. Parking and manoeuvring areas are required to maintain an urban finish (all weathered surface).

Pocket Park – Maintenance

- 20. Prior to the commencement of construction authorised by these consents the consent holder shall prepare and submit a Pocket Park Maintenance Management Plan for certification by Council's Compliance Manager or delegated representative. The purpose of this plan is to detail ongoing maintenance requirements for the Pocket Park, which is to remain in private ownership, to ensure recreational value is maintained for the public for the duration of these consents.

The Pocket Park Maintenance Management Plan shall be prepared with input from Council's Infrastructure Planning and/or Parks Department.
- 21. The consent holder shall maintain the Pocket Park in accordance with the Maintenance Management Plan certified by condition X above for the duration of these consents.

Landscaping

- 22. Prior to the commencement of construction authorised by these consents the consent holder shall prepare a Landscape Planting Plan for the Container Terminal Project, including the Pocket Park, for certification by Council's Compliance Manager or delegated representative.

The Plan shall be prepared by a suitably qualified Landscape Architect and shall be for the purpose of detailing amenity planting associated with the construction of Berth 5 and associated public coastal structures (water taxi, fishing pontoon, and swimming steps) and the Pocket Park and shall reflect the coastal landscape and natural character values of the Whangārei Harbour entrance and Bream Bay area.

The plan shall be prepared in accordance with:
 - a. The Stephen Brown Landscape Architecture Plan dated December 1999 and as amended on the Boffa Miskell Plan dated 31/01/2002, but excluding the Pohutukawa planting on the eastern side of the reclamation which shall be removed and reinstated on the eastern side of the proposed reclamation; and
 - b. The Boffa Miskell "Proposed Concept Plan" for the Pocket Park BM220519-201 (Revision B, 25.7.22) at Appendix 1.

The Landscape Planting Plan shall include at a minimum:

- c. A schedule of the species to be planted, including the name, numbers, location, spacing and size of plant species at time of planting, planting density, details on the timing of plantings, and details of any existing vegetation to be retained;
- d. Proposed site preparation and plant establishment measures; and
- e. Ongoing maintenance and monitoring requirements, including any recommended ongoing pest and weed controls.

23. Prior to Practical Completion, all planting required by the certified Landscape Planting Plan in condition 22 above shall be implemented in accordance with the details of that Plan. Such planting shall be undertaken to the satisfaction of the Council Compliance Manager or delegated representative.

Wherever practicable, all specimens shall be eco-sourced from within the Waipu Ecological District, as identified by the Department of Conservation's Protected Natural Areas Programme.

24. The consent holder must maintain the landscape planting in accordance with the approved Landscape Planting Plan in condition 22 above in perpetuity. If any plants fail or are removed, they shall be replaced as soon as practicable and prior to the end of the following planting season (April – October) with an equivalent specimen.

Off-Site Recreational Features

25. [Placeholder – pending expert conferencing]

CONSTRUCTION MANAGEMENT

Construction Management Plan

27. At least three (3) months prior to the commencement of construction authorised by these consents, the consent holder must submit a Construction and Environmental Management Plan (CEMP) to the Council for certification. The objectives of the CEMP are:
- a. to detail the environmental monitoring and management procedures to be implemented during the Container Terminal Project's construction phase to ensure that appropriate environmental management practices are followed and adverse construction effects are minimised to the extent practicable; and
 - b. to ensure construction effects of the Container Terminal Project are in accordance with the assessments accompanying the resource consent applications.
28. The CEMP must include the following sections:
- a. Construction phase roles and responsibilities protocols;
 - b. Environmental Risk Assessment;
 - c. Dust;
 - d. Noise and Vibration, including to demonstrate how the conditional requirements of X – X are to be satisfied;
 - e. Traffic, including to demonstrate how the conditional requirements of X – X are to be satisfied;
 - f. Archaeology, including to demonstrate how the conditional requirements of X – X are to be satisfied;
 - g. Hazardous Substances;
 - h. Erosion and Sediment Control; and
 - i. Communications Protocols, including Complaints Procedures as detailed within conditions X - X.
29. The CEMP must be prepared by a suitably qualified and experienced person, with advice from relevant technical experts, and be in general accordance with the draft CEMP provided as part of the resource consent application (Enviser, Draft Construction and Environmental Management Plan, October 2022) except where varied by conditions X – X.
30. The CEMP must be certified in writing by the Council's Compliance Manager prior to construction works authorised by these consents first commencing, and the consent holder must undertake all activities authorised by these consents in accordance with the certified CEMP (including any certified variation).

31. The CEMP may be submitted in stages to reflect the design and construction programme. If staging is proposed and matters in c - i of condition 27 are not relevant, a statement shall be provided of why management of these effects are not relevant to the particular stage of works.
32. Any variation to the CEMP must be subject to certification by Council's Compliance Manager.
33. Specific requirements for certain sections of the CEMP are set out in the conditions below.

Construction Noise and Vibration

34. A Construction Noise and Vibration Management Plan (CNVMP) shall be prepared by a suitably qualified and experienced person and submitted to the Council Compliance Manager for certification. The CNVMP is to set out the management procedures and methods to be undertaken in order to avoid, remedy or mitigate potential noise and vibration effects arising from construction activities on sensitive receivers and users of nearby public spaces.
35. The CNNMP shall include the relevant noise and vibration limits as set out in **Table One** and **Table X** below (conditions X - X) and identify controls to ensure compliance with these limits.
36. The CNVMP shall be implemented and maintained throughout the entire construction period.

Construction Noise and Vibration Limits

37. Expansion Container Terminal Project construction noise from activities on land must not exceed the noise limits in **Table One**:

Table One: construction noise limits

RESIDENTIAL ZONES AND DWELLINGS IN RURAL AREAS:

Upper limits for construction noise received in residential zones and dwellings in rural areas

Time of week	Time period	Noise limits (dB)	
		L _{Aeq}	L _{AFmax}
Weekdays	0630-0730	55	75
	0730-1800	70	85
	1800-2000	65	80
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	70	85
	1800-2000	45	75
	2000-0630	45	75
Sundays and public holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

INDUSTRIAL OR COMMERCIAL AREAS:**Upper limits for construction noise received in industrial or commercial areas on all days**

Time period	Noise limits (dB L _{Aeq})
0730-1800	70
1800-0730	75

Advice Note: The limits in **Table One** are reproduced from New Zealand Standard NZS 6803:1999 "Acoustics -Construction Noise"

38. Construction noise must be measured and assessed in accordance with New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise".

Advice Note: Northland Regional Council resource consents for the **Expansion Container Terminal** Project include noise limits for construction noise from activities within the coastal marine area.

39. Container Terminal Project construction vibration must not exceed the noise limits in **Table X:**

Effect	Affected occupied building	Activity	Time period	Maximum vibration level (mm/s ppv)
Annoyance	Occupied noise sensitive activity or visitor accommodation in any Zone	General construction activity	2200 – 0700	0.3
			0700 – 2200	1
	Occupied commercial or industrial activity in any Zone	General construction activity	2200 – 0700	5
			0700 – 2200	1
Building Damage	Unclassified structures of great intrinsic value such as historic buildings	All activity	All times	2.5
	Non-occupied dwellings and buildings of similar design	All activity	All times	5
	Non-occupied commercial and industrial buildings	All activity	All times	10

Advice Note: The limits in **Table Two** are reproduced from the Whangārei District Plan – Operative in Part (NAV 6.15).

Construction transport Traffic Management Plan

40. At least ~~three one~~ (13) months prior to the commencement of ~~Expansion Container Terminal~~ Project construction works, the consent holder must submit a Construction Traffic Management Plan (CTMP) to the Council for certification. The objective of the CTMP is detail the procedures, requirements and standards necessary for managing traffic effects during construction of the ~~Expansion Container Terminal~~ Project so that safe facilities for local movements by all relevant transport modes are maintained throughout the construction period. The CTMP must include:
- a. The estimated numbers, frequencies, routes and timing of construction traffic movements;
 - b. ~~Any restrictions on construction traffic routes, including Marsden Point Road;~~
 - c. Methods required to manage vehicular traffic and/or to manage traffic congestion;
 - d. Methods to manage the effects of temporary traffic management activities on general traffic;
 - e. Measures to manage the safety of all transport users;
 - f. Site access routes and access points for heavy vehicles,
 - g. The size and location of parking areas for plant, construction vehicles and the vehicles of workers and visitors;
 - h. Identification of detour routes and other methods for the safe management and maintenance of ~~traffic flows~~ all users on existing roads;
 - i. Methods to maintain vehicle access to property where practicable, or to provide alternative access arrangements when it will not be;
 - j. ~~Methods to maintain public access to Marsden Bay beach following reclamation activities, and signage to to inform the public about beach access;~~
 - k. The management approach to loads on heavy vehicles, including covering loads of fine material, the use of wheel-wash facilities at site exit points and the timely removal of any material deposited or spilled on public roads;
 - l. Methods that will be undertaken to communicate traffic management measures to affected road users such as residents/public/emergency services; ~~and~~
 - m. ~~CTMP measures to manage the safe operation of cruise ships during construction including identifying construction routes through the site and safe pedestrian routes between the ships and transport.~~
41. ~~The CTMP must be prepared by a suitably qualified and experienced person and in accordance with Council's requirements for CTMPs (as applicable) and New Zealand Transport Authority's Code of Practice for Temporary Traffic Management (or equivalent at the time). The CTMP shall be prepared in consultation with Waka Kotahi and Northland Transportation Alliance, or the equivalent entities at the time.~~

- 42. The CTMP must be certified in writing by the Council prior to construction works authorised commencing, and the consent holder must undertake all activities authorised by these consents in accordance with the certified CTMP (including any certified variation).
- 43. Any variation to the CTMP must be subject to certification by Council.

Accidental Discovery Protocol

- 44. ~~If subsurface archaeological evidence is unearthed~~ In the event of any discovery of archaeological material during construction (e.g. intact shell midden, hangi, or storage pits relating to Māori occupation; or cobbled floors, brick or stone foundations, or rubbish pits relating to 19th century European occupation), work in the immediate vicinity must cease. Heritage NZ Pouhere Taonga, [tangata whenua representatives – details to be confirmed], and the Council's Compliance Manager must be notified as soon as reasonably practicable.
- 45. Work must not recommence in the immediate vicinity of the discovery until either: it has been determined that no Heritage New Zealand Pouhere Taonga approval(s) are required; or that any necessary Heritage New Zealand Pouhere Taonga approval(s) have been obtained.
- 46. In the event of koiwi tangata (human remains) being uncovered, work in the immediate vicinity of the remains must cease. Mana Whenua, Heritage NZ Pouhere Taonga, NZ Police and the Council must be contacted so that appropriate arrangements can be made.

Advice Note: *The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga.*

PORT OPERATIONS

47. Port Activities, as enabled by these consents, must not commence on the land shown in **Figure X** of **Appendix 1** until written confirmation is provided by Council's Compliance Manager to certify that all conditional requirements relating to the construction of the Pocket Park and associated land-based recreational features (conditions X – X) have been satisfied.

Advice Note: Similar consent conditions are imposed on the NRC consents relating to the construction of the public water taxi, fishing pontoon, and any associated coastal recreational features. For the avoidance of doubt, the intent of these conditions is to require that all mitigation measures associated with the loss of public coastal space are implemented prior to Port Activities commencing on Berth 5.

Operational Management Plan

48. At least three (3) months prior to Practical Completion, the consent holder must submit an Operational Management Plan (OMP) to the Council for certification. The objectives of the OMP are:
- a. to detail the environmental monitoring and management procedures required by these consents to be implemented during the operational phase of the Container Terminal Project so that appropriate environmental management practices are followed and adverse operational effects are minimised to the extent practicable; and
 - b. to ensure operational effects of the Container Terminal Project are in accordance with the assessments accompanying the resource consent applications.
49. The OMP must include the following sections:
- a. Key operational roles and responsibilities, including contact details for key personnel;
 - b. Port Noise, including to demonstrate how the conditional requirements of X – X are to be satisfied;
 - c. Traffic, including to demonstrate how the conditional requirements of X – X are to be satisfied;
 - d. Lighting, including to demonstrate how the conditional requirements of X – X are to be satisfied; and
 - e. Communications Protocols, including Complaints Procedures, including Complaints Procedures as detailed within conditions X - X.
50. The OMP must be prepared by a suitably qualified and experienced person, with advice from relevant technical experts, and be in general accordance with the following documents, except where varied by conditions X – X below:
- a. [placeholder for final application document references].

- 51. The OMP must be certified in writing by the Council's Compliance Manager prior to commencement of Port Activities as authorised by these consents, and the consent holder must undertake all activities authorised by these consents in accordance with the certified OMP (including any certified variation).
- 52. Any variation to the OMP must be subject to certification by Council's Compliance Manager.
- 53. Specific requirements for certain sections of the OMP are set out in the conditions below.

Port Noise Management Plan

- 54. A Port Noise Management Plan must be prepared in accordance with the requirements in Section 8 of NZS 6809:1999 Acoustics – Port Noise Management and Land Use Planning and submitted to the Council for certification at least three (3) months before the commencement of any Expansion Container Terminal Project Port Activities (excluding Expansion Container Terminal Project construction). The Port Noise Management Plan must contain the following information:
 - a. The Port Noise Management Plan objectives and methods to achieve the objectives, including:
 - i. To ensure the consent holder complies with the noise limits in Condition ~~72~~ XX;
 - ii. To provide a framework for the measurement, monitoring, assessment, and management of port noise levels;
 - iii. To identify and adopt the best practicable options for the management of noise effects;
 - iv. To engage with the community and manage noise complaints in a timely manner, including through participation in a Port Noise Liaison Committee to be established as a sub-committee of the existing Community Liaison Group;
 - b. Noise modelling, noise monitoring, auditing, and reporting procedures to be undertaken and funded by the consent holder;
 - c. Practices that will be used to manage noise effects, including procedures for achieving noise reduction through port operational procedures and staff and contractor training;
 - d. Consistent with Condition X, pProcedures to receive and respond to complaints, and to maintain a register of all complaints received, the details of the complaints, and any action taken to investigate and/or resolve the complaints;
 - e. ~~The Current~~ An updated (within three months) Port Noise Contour Map;
 - f. Identification of all properties where Condition ~~73~~ XX applies;
 - g. Details of the Port Noise Liaison Committee required under condition **Error! Reference source not found.**(a)(iv) XX including:

Commented [SS6]: TBC if this group continues.

- i. The functions and processes of the Committee, including to consider all noise issues arising from the port and to ensure that mitigation functions identified in the Port Noise Mitigation Plan are carried out;
 - ii. The members for the Committee and their roles, with Committee seat invitations being required to be made as follows:
 1. Two representatives of the port operator;
 2. Two port user representatives (with invitations to be made to two different port users);
 3. One representative of Northland Regional Council;
 4. One representative of Whangārei District Council;
 5. One community representative for Reotahi;
 6. One community representative for Albany Road;
 7. One representative of the Ruakākā Parish Residents & Ratepayers Association;
 8. One representative of the Whangārei Heads Citizens Association;
 9. One representative of Patuharakeke Te Iwi Trust Board; and
 10. One representative of Ngātiwai Trust Board;
 11. One representative of Te Parawhau Hapu.
 - iii. Details of the secretarial and logistical support to the Committee which must be provided and fully funded by the consent holder;
 - iv. The frequency of Committee meetings, which must be annually at a minimum, and procedures for calling an emergency meeting of the Committee;
 - v. Procedures for recording minutes of the Committee, which must be made publicly available [on the website detailed in Conditions XX](#);
 - vi. Procedures for consideration by the consent holder of any recommendations by the Committee; and
 - h. Where applicable, any recommendations made by the Port Noise Liaison Committee, and any actions by the consent holder to implement those recommendations (this requirement must not apply to the first Port Noise Management Plan produced).
55. The Port Noise Management Plan, including the appended Current Port Noise Contour Map, must be revised annually (at a minimum). An annual report must be prepared for the Port Noise Liaison Committee that:

Commented [SS7]: To be confirmed through expert conferencing

- a. Details any changes to the Port Noise Management Plan and Current Port Noise Contour Map resulting from the revision; and
 - b. Provides a record of:
 - i. All acoustic mitigation works undertaken in the preceding twelve (12) months, including records of offers of mitigation that have been refused or not responded to; and
 - ii. Any physical monitoring undertaken and the results of that monitoring.
56. The Port Noise Management Plan must be submitted to Whangarei District Council for certification at least two (2) months certified in writing by the Council prior to Expansion Container Terminal Project Port Activities (excluding Expansion Container Terminal Project construction) commencing. The consent holder must undertake all Port Activities in accordance with the certified Port Noise Management Plan.
57. Any material variation to the Port Noise Management Plan, including as a result of a revision under condition **Error! Reference source not found: XX**, must be subject to certification by Council.
58. The Port Noise Management Plan must be in general accordance with the draft Port Noise Management Plan provided as part of the resource consent application (*Marshall Day Acoustics: Northport Port Noise Management Plan, Rp 001 20170776, 3 August 2022*).
59. Additional conditional requirements relating to Operational Port Noise are set out within conditions X – X below.

Port Traffic and Site Travel

60. At least three (3) months prior to Practical Completion, the consent holder shall prepare a Site Travel Management Plan ("STMP") for the Container Terminal Project for Council certification. The objective of the STMP is to set out measures to reduce traffic volumes to and from the Port and to minimise the impacts of Port traffic coinciding with network peaks.

The STMP, at a minimum, must include the following matters:

- a. Measures to further encourage vehicle (car and van) carpooling for staff transport to and from work rather than single occupancy;
- b. How scheduling or vehicle booking systems (whether existing or new) will be utilised to distribute Port traffic over the Port's operating hours (24 hours a day) to the extent practicable;
- c. How the consent holder will encourage Port users, particularly road-based freight carriers, to operate seven (7) days a week to the extent practicable to reduce truck movements during weekday periods when the network experiences the greatest volumes;
- d. Measures of encouraging mode sharing for staff transport to and from work.

- e. How future connections to rail links are secured in terminal layout and design, and how these connections are protected for future uptake when/if rail becomes available;
- f. Measures for ensuring Port traffic, particularly road-based heavy freight carriers, use SH15 to access the Northport site from SH1 as opposed to the local roading network (including Marsden Point Road); and
- g. Details of how ongoing and regular liaisons with Waka Kotahi and NTA are undertaken to discuss the Container Terminal Project and associated impacts on the roading network.

Cruise Ship Traffic Management

- 61. Following Practical Completion, at least twenty (20) working days prior to the first berthing of a cruise ship, the consent holder shall prepare a Cruise Ship Traffic Management Plan (“CSTMP”) for certification by Council’s Compliance Manager or delegated representative.
- 62. The objectives of the CSTMP are to:
 - a. Ensure that the transport effects of large numbers of cruise passengers associated with the Port are adequately managed both on and off site;
 - b. Ensure that transport and servicing provisions associated with the Container Terminal Project are adequately maintained during cruise ship visits;
 - c. Minimise vehicle numbers and trip generation associated with cruise ships, particularly when in conjunction with Port traffic;
 - d. Ensure a safe and positive visitor experience for cruise passengers and ensure the safe and unimpeded operations of Port operators, and users of the local and State Highway roading network.
- 63. The CSTMP shall include:
 - a. Measures to manage the departure or arrival of cruise ship buses, coaches, mini-vans and/or taxis so to avoid Port or network peak periods and to avoid queuing at the gated entry system;
 - b. Identification of temporary private bus and coach pick-up/drop-off locations, as well as temporary pick-up/drop-off locations for taxis, private hire vehicles and other private vehicles, including the likely routes of cruise vehicle movements within and beyond the Northport facility;
 - c. Identification of any temporary traffic marshalling measures required for safe movement and manoeuvring of all vehicles at Northport during cruise ship loading and disembarkment;
 - d. Appropriate facilities for the processing of passengers that is accessible and identification of cruise ship facility staff parking areas exclusive of those required for Port staff (refer conditions X – X above); and

- e. Measures for encouraging cruise ship traffic to use SH15 to access the Northport site from SH1 as opposed to the local roading network (including Marsden Point Road).

64. Additional conditional requirements relating to Operational Port Traffic are set out within conditions X – X below.

Operational Lighting Management Plan

65. At least three (3) months prior to Practical Completion, the consent holder shall prepare an Operational Lighting Management Plan (“OLMP”) for certification by Council’s Compliance Manager or delegated representative. The objectives of the OLMP is to minimise visual impacts and impacts on avifauna from the use artificial lighting during night-time Port operations authorised by this consent, having regard to the requirements of the Avifauna Management Plan required by the regional consent conditions. The OLMP shall:

- a. Detail the positions and technical specifications of all exterior light sources and indicate the means by which compliance with the relevant Whangārei District Plan artificial lighting standards are to be achieved; and
- b. Include comments of the Community Liaison Group on the plan and the consent holder’s response to these.

66. Additional conditional requirements relating to operational lighting are set out within conditions X – X below.

Operational Requirements

Port Activities - Locations

67. Following the satisfaction of condition X, From the first commencement of any of these resource consents, "Port Activities" associated with the operation of a Container Terminal may occur on any land within the area shown in the figure at Appendix One.

The following activities are not authorised to be undertaken below the line of Mean High Water Springs (as shown on Figure XX at Appendix One):

- a. Breakbulk storage or loading;
- b. Debarking and fumigation;
- c. "Port Administration"; and
- d. Buildings and Major Structures used for "Maritime Passenger Handling/Services" and "Repair and Maintenance Services".

***Advice Note:** The definitions of "Port Activities", "Buildings", and "Repair and Maintenance Services" is are based on the current definitions in the Whangārei District Plan (Operative in Part 2022). Definitions for "Port Administration" and "Maritime Passenger Handling/Services" are included in this consent to enable the efficient administration of these consents.*

***Advice Note:** These resource consents authorise the use of a reclamation for the purpose to enabling the construction and operation of a container terminal. The conditions of these consents seek to restrict activities undertaken within or on the reclamation to those a) associated with container terminal activities and b) those which demonstrate a functional need to occupy the CMA as required to satisfy the tests of the coastal policy framework.*

Buildings and Major Height of Structures and stockpiles

68. Upon Practical Completion of the Expansion Container Terminal Project reclamation, within the area shown in the Figure X at Appendix One:
- a. Building height and Major Structure height (excluding public utilities, light towers, silos, aerials, tanks, cargo handling equipment, cranes, and shipping containers) must not exceed 20m above ground level.
 - b. The height of public utilities, light towers, silos, aerials, tanks, and cargo handling equipment (excluding cranes and shipping containers) must not exceed 60m above ground level.
 - c. The operational height for cranes must not exceed 85m above ground level.
 - d. The height of shipping container stacks must not exceed 30m above ground level.
 - e. ~~The height of stockpiles must not exceed 30m above ground level.~~

Commented [SS8]: Amends proposed to reflect the Applicant's specialist assessments, including the Air Quality Assessment, which does not assess the potential effects of outdoor stockpiles on proposed Berth 5.

Should the condition remain, the WDP restricts the height of stockpiles to 20m above ground level - recommend any condition aligns with permitted standards (PORTZ-R8).

Advice Note: The definitions of “Building” and “Major Structure” in these resource consents are based on the current corresponding definitions in the Whangārei District Plan (Operative in Part 2022).

69. Upon Practical Completion of the Expansion Container Terminal Project reclamation, within the area shown in the Figure X at Appendix One, buildings and major structures, including stacked containers, do not exceed a height equal to 3m above ground level plus the shortest horizontal distance between that part of the building or major structure and any Open Space and Recreation Zone boundary.

Operational Noise

Application

70. Upon Practical Completion of the Expansion Container Terminal Project reclamation, conditions 71 to Error! Reference source not found. apply to all Port Activities within the area shown in the figure at **Appendix One**.

Commented [SS9]: All subsequent cross references to be updated

Advice Note: In accordance with condition 70, it is intended that the consent holder will (concurrently with, or prior to, the commencement of the application of conditions 71 to **Error! Reference source not found.**) surrender and/or vary other existing resource consent(s) authorising Northport operational port noise. This will consolidate, including for monitoring and enforcement purposes, the operational port noise resource consents and conditions applying to the expanded Northport, meaning that a single resource consent and single set of conditions will apply to all Northport operational port noise.

Port noise limits

71. Noise from Port Activities within the area shown in the figure at **Appendix One** must be measured in accordance with NZS 6801: 2008 and assessed in accordance with NZS 6809:1999 Acoustics – Port Noise Management and Land Use Planning.
72. Noise from Port Activities within the area shown in the figure at **Appendix One**, as measured within any residential or Settlement Zone land must not exceed the following limits:
- (a) Day-night (Long Term):
 - 58 dB L_{dn} (5-day)
 - 61 dB L_{dn} (1-day)
 - (b) Night-time (Short term):
 - ~~513~~ 513 dB L_{night} (10pm - 7am)
 - ~~528~~ 528 dB L_{Aeq} (15 min)
 - 75 dB L_{AFmax}

Port noise mitigation

73. Where the measured or predicted incident port noise level shown on the Current Port Noise Contour Map exceeds 50~~5~~ dB L_{dn} (5-day) at the external façade of a habitable space in a residential unit the consent holder must investigate, and if identified as required offer to the landowner, the option to install (at the consent holder's cost) mechanical ventilation, mechanical cooling, and/or other noise mitigatory works. The Current Port Noise Map is informed by a periodic review as part of the Port Noise Management Plan detailed in Condition **Error! Reference source not found.** Any ~~mitigatory~~ works must:
- Achieve an indoor design noise level no greater than 40 dB L_{dn} (5-day) in all habitable rooms of the residential unit when the windows and doors are closed;
 - Satisfy clause G4 of the New Zealand Building Code;
 - Provide occupant controlled ventilation that provides at least six (6) air changes per hour, or occupant controlled cooling that can maintain the inside temperature of the habitable room below 25°C;
 - Provide relief for equivalent volumes of spill air; ~~and~~
 - Locate any outdoor heat pump condenser unit at least 5m from the direct external entrance to a living area; and
 - Document how the dwellings have been identified and the specific mitigation designed to meet the requirements of this condition. A copy of this documentation shall be made available to Council upon request.

Advice note: The external level at which mitigatory works may be required will depend on the existing sound insulation performance of individual dwellings. This may be required at external levels of 50 dB L_{dn} for some dwellings with lightweight uninsulated facades and not until 55 dB L_{dn} or higher for other dwellings.

74. Mechanical ventilation noise within mitigated dwellings identified under Condition 20 must be measured in accordance with AS/NZS 2107:2016 "Acoustics- Recommended design sound levels and reverberation times for building interiors". The mechanical ventilation noise levels in habitable spaces must not exceed the following:
- 35 dB L_{Aeq} in bedrooms, and
 - 40 dB L_{Aeq} in all other habitable spaces.

75. If the offer under condition 73 is accepted by the landowner, the mechanical ventilation, cooling, and/or other noise mitigatory works must be installed at the expense of the consent holder within one (1) year of the offer being accepted, ~~except that the Consent Holder shall not be responsible for more than [10] such installations in any calendar year.~~

Advice Note: *The consent holder's obligations extend only to installation of the mechanical ventilation or cooling. To avoid doubt, the consent holder is not responsible for ongoing maintenance.*

76. Acceptance of the offer under condition 73 may be made by the landowner at any time during which this consent is operative.

Operational Lighting

77. From the first commencement of any of these resource consents, within the area shown in the figure at **Appendix One**:
- a. Artificial lighting required for health and safety purposes will ~~comply not exceed with the relevant standards or legislation~~ following standards:
 - i. 15 Lux at the boundary of a road reserve
 - ii. 10 Lux at the boundary of other allotments.
 - b. Subject in each case to (a) above, the consent holder shall ensure that:
 - i. new flood lighting luminaires installed use LED (Light Emitting Diode) or LEP (Light Emitting Plasma) lamps or any other advanced technology lamps;
 - ii. All lighting poles will have recessive colour finishes;
 - iii. Lighting is directed below the horizontal plane and shielded to prevent light projecting horizontally towards coastal waters or vertically to birds;
 - iv. the colour temperature of lamps used for new flood lighting are no more 4000°K; and
 - v. new flood lighting luminaires are designed so that the principal output is, as far as practicable, directed to within the container terminal and adjoining wharfs or to land that is zoned Port Zone.

Operational Transport

78. Conditions 83-91 apply upon the commencement of ~~Expansion Container Terminal~~ Project Port Activities (excluding ~~Expansion Container Terminal~~ Project construction).
79. Not later than 12 months following commencement of Expansion Container Terminal Project Port Activities, the consent holder must engage an independent suitably qualified safety engineer to undertake a "Crash Monitoring Report", utilising Waka Kotahi's Crash Analysis System (CAS). The purpose of the Crash Monitoring Report is to determine a trend in accidents to identify any safety concerns as a result of Port Activities (based on a 7-day (Monday-Sunday), measured over a 12-month period) at the following critical intersections:
- a. SH15/Marsden Bay Drive;
 - b. SH15/Marsden Point Road;
 - c. SH15/One Tree Point Road; and
 - d. SH15/SH1.

Thereafter, the consent holder must undertake a "Crash Monitoring report annually for three years.

- 80. The "Crash Monitoring Report" shall include details of:
 - a. The number of crashes involving speed, such as loss of control and turning crashes, including where sight lines are only just met, with a focus on fatal and serious crashes;
 - b. Any mitigation recommended to address safety concerns attributable to Port traffic.
- 81. The consent holder must provide a copy of the "Crash Monitoring Report" required by subparagraph (a) to Council's Compliance Manager, Waka Kotahi NZ Transport Agency, and other responsible road controlling authority within one month of its completion.
- 82. Within three (3) months of satisfying condition X above, provide written evidence to Council's Compliance Manager to demonstrate how any recommendations of the Crash Monitoring Report have been, or are in the process of being implemented.
- 83. The consent holder must:
 - a. Not later than 18 months following commencement of Expansion Container Terminal Project Port Activities, undertake a traffic monitoring report, utilising the telemetry traffic data collected continuously on SH15 by Waka Kotahi, if available. The purpose of the traffic monitoring report is to determine total traffic volume from all sources (based on a 5-day (Monday-Friday) weekly average peak hour volume, measured over a six-month period) at the following critical intersections listed below:
 - i. SH15/Marsden Bay Drive;
 - ii. SH15/Marsden Point Road; ~~and~~
 - iii. SH15/One Tree Point Road;
 - iv. SH15/SH1 Roundabout.

Monitoring must include Level of Service ("LOS") criteria and traffic volumes.
 - b. Thereafter, undertake a traffic monitoring report either:
 - i. Annually for the duration of these consents, if the telemetry traffic data collected continuously on SH15 by Waka Kotahi is available to the consent holder; or
 - ii. Once every three years for the duration of these consents, if the consent holder is required to collect traffic data.

Advice note: *The different timing requirements in paragraph (b) recognise the time and cost required for the consent holder to undertake traffic surveys, in the event that the Waka Kotahi traffic data is not available for any reason.*

- c. Provide a copy of the traffic monitoring report required by subparagraphs (a) and (b) to Council's Compliance Manager or delegated representative, Waka Kotahi NZ Transport Agency, and/or other responsible road controlling authority within one month of its completion.
- d. If total traffic volume determined in any traffic monitoring report exceeds 1,215 vehicles per hour (being 90% of the nominal capacity of 1,350 vehicles per hour) at any of the critical intersections listed in subparagraph (a), the consent holder must engage a suitably qualified and experienced person to conduct a survey of port traffic contributions to the total traffic volumes at the relevant intersection.
- e. Within one (1) month of receipt of the traffic survey results, the consent holder must provide a copy of the traffic survey report required by subparagraphs (d) to Council's Compliance Manager or delegated representative, Waka Kotahi NZ Transport Agency, and/or other responsible road controlling authority with written notice of its intended actions to satisfy condition 81 below.

84. If the survey of port traffic contributions required by condition 83(c) demonstrates that:

- a. One or more of the Port Traffic Trigger Volumes in **Table Two** (relating to port traffic only) is exceeded (based on a 5-day (Monday-Friday) weekly average peak hour volume, measured over a six-month period); or
- b. That a LOS D is not achieved;

the consent holder must:

- c. Immediately take steps to reduce port traffic so that the Port Traffic Trigger Volumes in Table Two (relating to port traffic only) are not exceeded, or that a minimum LOS of LOS-D is achieved; or
- d. Be responsible for contributing to funding transport upgrades for the corresponding intersection(s) in accordance with conditions 85 to 91.

Table Two: Port Traffic Trigger Volumes

Critical intersection	Northport Inbound AM Peak Hour Trigger Volumes	Northport Outbound AM Peak Hour Trigger Volumes
SH15/Marsden Bay Drive	700	200
SH15/Marsden Point Road	700	200
SH15/One Tree Point Road	300	200

SH15/SH1	[TBC pending expert conferencing]	[TBC pending expert conferencing]
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Advice note: For the purpose of these consents, the AM peak is between the hours of 0800 – 0900.

Advice note: A range of options may be available to the consent holder to ensure that the traffic trigger volumes in condition 84 are not exceeded. These may include:

- *Avoiding the port peak coinciding with the network peak by, for example:*
 - *Implementing a vehicle booking system for container trucks to distribute the traffic load over the port's operating hours (24 hours a day) to the extent practicable;*
 - *Encouraging the supply chain to operate seven days a week to reduce truck movements during the weekdays when the network is busy.*
- *Reducing traffic volumes to and from the port by, for example:*
 - *Encouraging mode sharing for staff transport to and from work.*
 - *Moving freight to rail when available;*
 - *Transporting cruise ship passengers by buses and disembarking outside peak periods.*

85. Methods to prevent exceedance of trigger volumes in Table Two shall be enacted by the consent holder. These methods include, but are not limited to, the following:
- a. Implementing a vehicle booking system for container trucks to distribute the traffic load over the port's operating hours (24 hours);
 - b. Operating the supply chain seven days a week to reduce truck movements during the weekday;
 - c. Encouraging mode sharing for staff transport to and from work;
 - d. Moving freight via rail; and
 - e. Transporting cruise ship passengers by buses and disembarking outside peak traffic periods.
86. If the consent holder is required to provide a contribution to intersection upgrade funding under condition 84, it must within three calendar months of receiving results from the survey required by condition 84 provide written notice to Waka Kotahi NZ Transport Agency and/or other responsible road controlling authority of its requirement to provide a contribution to intersection upgrade funding under these conditions.
87. The consent holder shall be responsible for a contribution to upgrade funding only, and must consult with Waka Kotahi NZ Transport Agency and/or other road controlling authority regarding the application of such funding to intersection upgrades.

Advice note: Waka Kotahi NZ Transport Agency and/or other road controlling authorities are responsible for intersection upgrade design and delivery.

88. If the consent holder is required to fund a contribution to intersection upgrades, it shall be responsible for funding upgrades to a standard that ensures that turning movements at the intersection can be made safely. Funding for upgrades beyond this standard are not the responsibility of the consent holder.

Advice note: To assess intersection safety with respect to proposed upgrades, the proposed improvements shall undergo a detailed design road safety audit in accordance with the procedure set out in the Waka Kotahi NZ Transport Agency Guideline "Road Safety Audit Procedures for Projects" (May 2013 or as superseded by another Waka Kotahi NZ Transport Agency publication). The audit shall consider the safe operation of the intersection ten years after completion of the upgrades.

89. Conditions 78-88 shall not apply with respect to an intersection identified in condition 78 if at the time the trigger volume in **Table Two** is exceeded the corresponding intersection has already been subject to material upgrade following commencement of these resource consents.

90. If the consent holder elects to implement condition 81(c) and take immediate steps to reduce Port traffic, within three (3) months of providing written notice under condition 80(e), the consent holder shall engage a suitably qualified and experienced person to resurvey port traffic contributions to the total traffic volumes at the relevant intersection. The survey results should either conclude that:

- a. Traffic volumes and LOS are compliant with the limits specified within Table Two; or
- b. Traffic volumes and LOS remain in excess of the limits specified within Table Two.

Within one (1) month of receipt of the traffic survey results, the consent holder must provide a copy of the traffic survey report required by subparagraph (d) of condition X to Council's Compliance Manager or delegated representative, Waka Kotahi NZ Transport Agency, and/or other responsible road controlling authority with written notice of its intended actions to satisfy condition 81 above.

91. ~~The consent holder shall not be required to provide a contribution to intersection upgrade funding under condition 84 if:~~

92. ~~Waka Kotahi NZ Transport Agency or any other responsible road controlling authority confirms it has no intention of delivering upgrades to the relevant intersection(s) within five years from the consent holder's notice under condition 85; or~~

93. ~~Five years has elapsed since the consent holder's notice under condition 85 and the relevant intersection upgrade(s) have not been constructed.~~

94. [Placeholder conditions for speed monitoring along SH15].

Public Access

95. The consent holder must provide public recreational access to and across the Pocket Park, except as required to ensure operational or public safety, or in an emergency response scenario.

Advice note: Revocation of the esplanade reserve for the Pocket Park must have Council resolution prior to construction.

96. Prior to Practical Completion, provide written evidence to Council's Compliance Manager to demonstrate that public access to and along the Pocket Park has been formalised by legal mechanism (via right of way easement).
97. Restricted access from Ralph Trimmer Drive to Marsden Bay must occur for no longer than 9 months total.
98. The consent holder must continue to provide public access to the existing fishing jetty on the western edge of the reclamation from Papich Road.

Off-Site Recreational Features

99. [Placeholder – pending expert conferencing]

CULTURAL

100. [\[Placeholder – pending expert conferencing/hearing evidence\]](#)

Appendix 1 – Plans

Commented [SS10]: To be updated