

Decision #17 - Whangarei District Council : Land Use Consent No. 3

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Unlimited

Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: The use of land for port and port related activities as shown on Development Plan Ref.96055-1 Revision E dated 9 April 1997, and as described in the accompanying Assessment of Effects on the Environment [AEE] and associated plans and drawings and as set out in paragraph 5 of the Consent Holder's amended application for resource consents dated 14 August 1996 including wharves, terminals, associated loading and unloading structures, cargo sheds, port storage and transport operating areas, port related buildings (including storage sheds, stevedoring facilities, berth operations shed, gatehouse) and all ancillary activities.

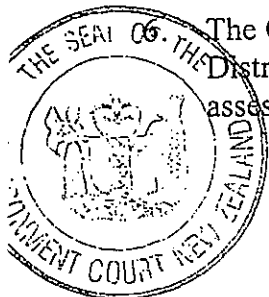
Legal Description of Land: The land described in paragraph 3 of the Consent Holder's amended application for resource consents dated 14 August 1996, a copy of which is attached, including those parts of all roads to be stopped which adjoin the Consent Holder's property, and as shown on the Development Plan 96055-1 Revision E dated 9 April 1997.

STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with any approved Construction/Management Plan.
2. The Consent Holder shall submit to the Whangarei District Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Whangarei District Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.
4. The Consent Holder shall pay all administration charges associated with this consent prior to work commencing.
5. The Whangarei District Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at twelve (12) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

The Consent Holder shall pay a reserves contribution of \$NZ375,000 to the Whangarei District Council [or such sum as may otherwise be determined as representing 0.5% of the assessed value of the development], within twelve [12] months of using land for the



purpose of this consent.

7. Until such time as the new District Plan is operative and formal zoning provisions are made, and except where otherwise indicated in conditions granted with respect to this consent, the rules relating to :

- (i) bulk and location requirements
- (ii) maximum height of buildings
- (iii) location of buildings (yards)
- (iv) minimum distance from the sea

and the performance standards relating to:

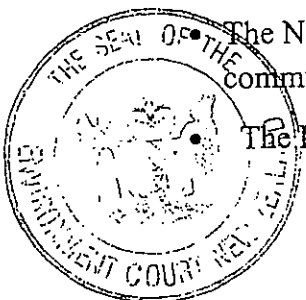
- (i) landscaping and appearance
- (ii) air pollution
- (iii) glare
- (iv) noise
- (v) vibration
- (vi) dust
- (vi) soil and water protection
- (vii) use of hazardous substances

as contained under the Marsden Point Special Industrial Zone provisions of the operative district plan shall apply.

8. For the purposes of this consent, permitted activities on the reclamation shall only be those activities for which application has been made and consent granted and which are shown on the Development Plan Ref.96055-1 Revision E dated 9 April 1997, the associated drawings, and evidence provided.
9. In consultation with the Whangarei District Council, the Consent Holder shall make provision for bus shelters along Marsden Point Road north of the McCathie Road intersection, and at McLeod's Bay.
10. (i) The Consent Holder shall establish, convene and provide reasonable administrative support for a Community Liaison Group [CLG]. The CLG shall be convened at least three months prior to the commencement of port construction work. At least the following parties shall be invited each to nominate one representative to the Group:
- Patuharakeke
 - Resident or Ratepayers Groups and Citizens Associations representing the communities at:
 - Ruakaka
 - Reotahi
 - Rangiora (sea side of Takahiwai hills including One Tree Point)
 - Whangarei Heads
 - Bream Bay College

The Northland Regional Council and the Whangarei District Council representing their communities of interest

The Department of Conservation

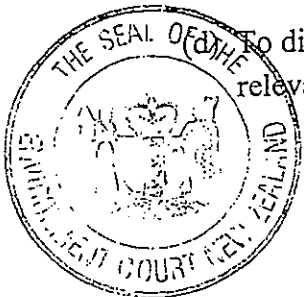


- Any other directly affected party that the CLG identifies and recommends for inclusion with the agreement of the Consent Holder.

As the project moves through its various stages there will be the potential to affect different parties and accordingly it is expected that membership of the Community Liaison Group may change.

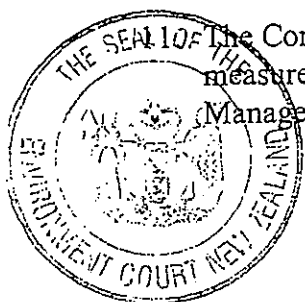
- ii. The Consent Holder shall confirm in writing with the Northland Regional Council and Whangarei District Council that the Community Liaison Group has been established.
- iii. The Community Liaison Group shall be chaired by an independent person appointed by the Consent Holder from a list of agreed candidates confirmed by the CLG at its inaugural meeting. The Chairman's role shall be to facilitate communication between the Consent Holder and the Community Liaison Group. The appointment shall be reviewed annually by the appointing parties or earlier if any party has reason to require such review.
- iv. The Consent Holder shall appoint two senior officers, either one of whom will represent the Consent Holder at all meetings of the Community Liaison Group.
- v. The Consent Holder shall ensure that where the Chair considers it necessary, appropriate technical experts attend meetings.
- vi. The Consent Holder shall provide the venue and administrative support [including secretarial services] for all meetings of the Community Liaison Group. Meetings are to be held at a time and place convenient for the majority of the group members.
- vii. The Consent Holder shall arrange regular site inspections for the Community Liaison Group to ensure they are kept informed of all aspects of the project.
- viii. The purpose of the Community Liaison Group is to provide a forum to address relevant community concerns and needs arising from the exercising of resource consents for the development and operation of a port at Marsden Point. The role shall include the following:
 - (a) To receive reports from the Consent Holder on progress on the port development;
 - (b) To facilitate ongoing communication and consultation with the local community [including directly affected parties] and the diligent resolution of any observations, concerns or complaints that members of that community may have about the construction or operation of the port at Marsden Point, its effects on the environment, the exercise of its resource consents, and ways of alleviating those concerns and dealing with complaints;
 - (c) Through the Chair, to alert and provide information to the Northland Regional Council and Whangarei District Council about any matters remaining unresolved between the Consent Holder and the Community Liaison Group which may need to be addressed by those Councils;

To discuss management plans [including draft management plans] to ensure that relevant community concerns and needs are taken into account in their preparation;



- (e) To receive the results of monitoring undertaken by the Consent Holder in relation to the port development and operation, to be advised of its implications, and to make this information available to the above-mentioned communities;
 - (f) To recommend suitable studies or projects designed to find ways of improving water quality, environmental ecological, and cultural health of the Whangarei Harbour [including its shores] to the Northland Regional Council [and where appropriate other consent authorities] for action; and
 - (g) To receive copies of any reports on environmental incidents requested by the consent authorities, where these are related to resource consents held by NPC for the Marsden Point Port.
- ix. The Consent Holder shall take all reasonable steps to investigate, in a prompt manner, any complaint [including any incident] forwarded to the Consent Holder by a member of the Community Liaison Group and to advise the complainant and the CLG member of any action taken. A register is to be kept of all complaints received and actions taken and is to be available to the Community Liaison Group at its regular meetings. This role does not replace any statutory obligation of the Consent Holder and consent authorities.
- x. Through the Chair, the Consent Holder shall use its best endeavours to ensure that regular meetings of the Community Liaison Group are held at intervals not exceeding three months for a period of at least five years after the commencement of port construction unless the Group dissolves itself by unanimous decision. The Chair may, if it is considered appropriate, call a special meeting of the Community Liaison Group.
- xi. Through the Chair, the Consent Holder shall send the meeting agenda and relevant papers [including Management Plans] to group members not less than 5 working days before any meeting of the CLG for the purpose of enabling group members to obtain input from others prior to the meeting. It would be expected that minor matters involving amendments to plans, recent monitoring results, or updated progress reports could be tabled at the meeting.
- xii. Through the Chair, the Consent Holder shall, as far as practicable, ensure that Minutes of all Community Liaison Group meetings are forwarded to members of the group as well as to the Northland Regional Council and Whangarei District Council within two weeks of any meeting being held.
- xiii. The Community Liaison Group may regulate its own procedures and, if considered appropriate for the better functioning of the Group, may prepare a Protocol Manual detailing such procedural and administrative matters as are deemed necessary.
- 10A The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review the progress and operation of the project and to review monitoring results.

The Consent Holder shall ensure that the spill of light onto any residentially zoned land or measured at any rural dwelling shall not exceed 10 lux and shall submit a Lighting Management Plan to the Whangarei District Council for approval at least twenty [20]



working days prior to any night-time work commencing. The Lighting Management Plan shall detail the positions and technical specifications of all exterior light sources and indicate the means by which this standard is to be achieved. The Lighting Management Plan shall include comments of the Community Liaison Group on the plan and the Consent Holder's response to these.

12. The noise level (L10) as measured within any residentially zoned boundary or the notional boundary of any existing rural dwelling shall not exceed the following limits:

All Days:

0700am - 1000pm 55dBA L10

10.00pm - 0700 am 45dBA L10

10.00pm - 0700am 65 dBA Lmax

The noise levels shall be measured and assessed in accordance with the requirements of NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environmental Sound

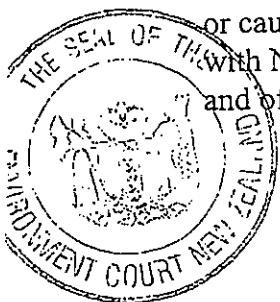
13. The Consent Holder shall not exceed the recommended upper noise limits described in *NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in *NZS6802:1991 Assessment of Environmental Sound*, then these noise limits shall apply.

14. The Consent Holder shall submit to the Whangarei District Council and Northland Regional Council for their approval, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person. This report shall, among other things, detail:

- (i) the reasonable potential for cumulative noise emissions from the site;
- (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
- (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase noise levels at the locations under consideration;
- (iv) any comments of the Community Liaison Group and the responses to these.

15. At least twenty [20] working days prior to the commencement of earthworks, and following appropriate consultation with the Community Liaison Group, the Consent Holder shall submit to the Whangarei District Council for its approval a Monitoring Programme for noise. This Programme shall include the proposed times, duration and location of the measurements, and the mechanism and procedure for complaints.

16. The Consent Holder shall provide to Council after the construction and within three [3] months of the commencement of the operation of the port, a Compliance Certificate, prepared by a suitably qualified and experienced person. This Certificate shall advise whether activities on the site(s) exceed noise performance standards at locations determined by the Monitoring Programme. The Consent Holder shall then further monitor or cause to have monitored the long term average sound emission levels in accordance with NZS6801:1991 Measurement of Sound and shall provide reports of this monitoring and of compliance on a three [3] monthly basis until Condition 17 to this consent applies.



17. If the operation of the port is found to have consistently complied with the required noise performance standards at the end of the first year of operation, then the monitoring shall be reported annually thenceforth on the anniversary of the commencement of operations.
18. All costs associated with noise monitoring shall be paid for by the Consent Holder.
19. The Consent Holder shall provide, construct and maintain public access from One Tree Point Road to the western edge of the reclamation, including vehicular access to a carpark, and walking access. The design and construction is to be approved by the Whangarei District Council. The car park shall be formed at a suitable point within 400 metres of One Tree Point Road, and the road and the walking access shall be constructed to a standard that conforms with the requirements of the Council's draft Environmental Engineering Standards 1998 ie Class F Service Lane for the road and Clause 5.3 Pedestrian Access and Cycle Tracks for the walking access.

A 10m wide right-of-way easement shall be granted to the Whangarei District Council over the vehicular access and walkway and an easement shall be granted over the carpark.

The Consent Holder shall provide construct and maintain an access strip of not less than 6 metres width for public recreational and access purposes along the western rock wall (edge of the reclamation) to a point 70m from the northern wharf face.

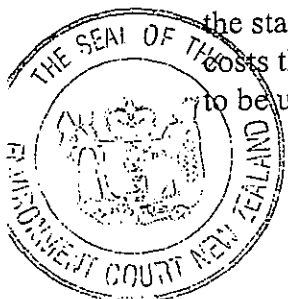
20. The Consent Holder shall provide, construct and maintain an access strip of not less than 10m width for public vehicular access to the eastern side of the reclamation. This access strip shall be constructed to a standard that conforms with the Council's Class F Service Lane, Urban Roads requirement as specified in its draft Environment Engineering Standards 1998.

The Consent Holder shall provide, construct and maintain a restricted access strip of not less than 6m useable width along the eastern side of the reclamation to the water taxi landing with provision for restricting access in accordance with s.237B of the RMA. This access strip shall be constructed to a standard that conforms with the Council's Category B (Urban Privateway Cross Sections) access requirement as specified in its draft Environmental Engineering Standards 1998.

21. Subject to gaining any additional necessary resource consents, and following consultation with the Whangarei District Council, the Consent Holder shall pay the Council a sum not to exceed \$30,000 for upgrading the McLeod's Bay public wharf.
22. Following consultation with the Community Liaison Group, the Consent Holder shall submit to the Whangarei District Council for approval, at least twenty [20] working days prior to the commencement of any site works, a Comprehensive Landscape Plan generally in accordance with the landscape proposal submitted by the Consent Holder in support of its application for resource consents, for the whole area, including:
 - (i) Public access to the harbour edge
 - (ii) Recreational area on waterfront
 - (ii) Buffer strip to Blacksmiths Creek
 - (iii) Stormwater and silt detention systems
 - (iv) Shelter planting to road corridor



- (v) A planted amenity strip of 5m width (in order to achieve a continuous, dense vegetative screening effect) along the eastern side of the transport corridor (adjoining the western side of Marsden Point Road) from where it will meet the Consent Holder's land, south to the intersection of Marsden Point and One Tree Point Roads. Such landscape plantings are to be implemented either concurrently with the development of the transport corridor, or prior to the development of the industrial zoned land adjoining the western side of the proposed transport corridor, whichever is the sooner.
- (vi) A concept plan for the provision of an amenity planting strip along the northern side of One Tree Point Road between the intersection of that road with Marsden Point Road and Blacksmiths Creek. The concept plan shall outline the anticipated timeframes for planting, and species proposed, in order to achieve effective vegetative screening of the adjoining industrial zoned land while minimising the potential for conflict to arise with property access points, power lines, buildings and other services.
- (vii) Specimen trees along parts of the foreshore edge
23. The Consent Holder shall, as part of the Comprehensive Landscape Plan, provide for the planting of Pohutukawa trees *Metrosideros excelsa*, with a minimum specification of PB200/3m size on installation, on the eastern and western edges of the reclamation a minimum one per 50m perimeter length of the reclamation. All trees are to be installed and maintained in accordance with good horticultural practice and replaced, if damaged, with another of similar size to that destroyed.
24. The Consent Holder shall implement the approved Comprehensive Landscape Plan at least twelve [12] months prior to the commencement of operation of the facility.
25. The Consent Holder shall provide the Whangarei District Council with details of building form and colour prior to any application for building consent being lodged. The visual impact of buildings is to be minimised by the appropriate use of colour, building form, roof lines, and structure compatible with its setting.
26. The Consent Holder shall supply the Whangarei District Council with a copy of the Dust Management Plan prepared for the Northland Regional Council, and copies of all air quality monitoring reports forwarded to the Northland Regional Council.
27. The Consent Holder shall not undertake any discharges of dust to air which have objectionable or offensive effects beyond the boundary of the Consent Holder's premises.
28. Prior to any port construction traffic using the approach roads from State Highway 1 to the Port, the Consent Holder shall, in consultation with the Whangarei District Council, commission an independent assessment of the state of the relevant roads. Thenceforth the Consent Holder shall contribute to the maintenance of Whangarei District Council roads, used by construction traffic which were the subject of the independent assessment, during the port construction period. The amount of the contribution shall be determined by assessing the difference between the normal expected maintenance costs prior to the commencement of construction works and the actual maintenance costs over the construction period, and allocating to the project that proportion of the difference reasonably attributable to wear and tear caused by its construction traffic having regard to the state of the roads as determined by the independent assessment. In assessing such costs the fact that the roads and intersections specified in Condition 29 of this consent are to be upgraded following construction of the Port shall be taken into account.

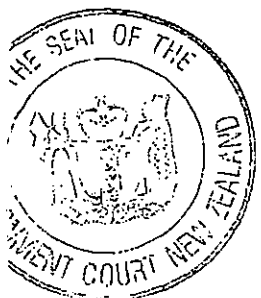


29. The Consent Holder shall pay a contribution of \$1,5m plus gst to the Whangarei District Council towards the costs of upgrading the Ruakaka Bypass route from State Highway 1 to the proposed port, including relevant parts of One Tree Point Road, McCathie Road, Marsden Point Road, and intersections. Payments shall be made progressively as the upgrading work is undertaken
30. The Consent Holder shall ensure that heavy vehicle access shall only be permitted through that part of the heavy vehicle transport corridor on the northern side of One Tree Point Road until agreement is reached and implemented with the Whangarei District Council on a suitable design for the intersection of One Tree Point Road and the heavy vehicle transport corridor.
31. The Consent Holder shall, at least twenty [20] working days prior to commencing construction work on the Marsden Point deepwater port submit to the Whangarei District Council an overall project management plan which shall provide the following information:
 - description of main elements of the project
 - a construction programme including a timetable, sequence of events and expected duration of the proposed works
 - a breakdown of the project into work packages for later submission by way of construction management plans and further information
 - community liaison arrangements
 - contingency response plan.

Subject to submitting a copy of any change to the Whangarei District Council, the overall project management plan may be updated or varied by the Consent Holder from time to time.

ADVICE NOTE:

1. The Whangarei District Council will consider the merits of implementing a Bylaw under the Local Government Act to restrict the use of Marsden Point Road south of McEwen Road by port destination heavy vehicles.
2. Until such time as the determination of the application to Stop Papich Road and a portion of Marsden Point Road is made, and disposal, if appropriate, agreed, the Consent Holder must gain the agreement of the Whangarei District Council, as landowner, prior to any work commencing that affects those existing roads [including any road reserve].



- (c) Northland Port Corporation (NZ) Limited as lessee of part of the coastal marine area.
- (d) Whangarei District Council (Private Bag, Whangarei) in respect of Papich Road and that part of Marsden Point Road adjoining the applicant's land at Marsden Point.
- (e) Electricity Farm Land Holdings No 1 Limited in respect of Section 39 Block VII Ruakaka Survey District and Section 1 Survey Office Plan 44270.
- (f) Wartelboer Motors Limited in respect of Lot 1 DP 57552.

Occupier

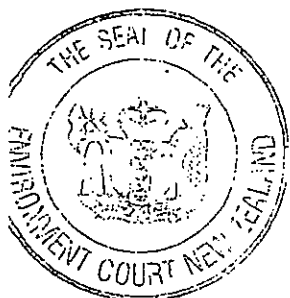
- (a) Northland Port Corporation (NZ) Limited.
- (b) Mission to Seamen in respect of Mission to Seamen facility.
- (c) Electricity Farm Land Holdings No 1 Limited in respect of Section 39 Block VII Ruakaka Survey District and Section 1 Survey Office Plan 44270.
- (d) Wartelboer Motors Limited in respect of Lot 1 DP 57552.

3. Location

The location to which this application relates is:

- (a) On Land

Property at Marsden Point and One Tree Point Roads, the legal descriptions of which are given below, including those areas shown as designations 380 and 381 in the Whangarei District Council Transitional District Plan - Whangarei County Section, Map 28 and including Papich Road and Marsden Point Road so far as it adjoins the applicant's property. The land area is shown on the plan



attached to this application being a plan prepared by Simpson Shaw & Co reference no 96055-1 ("the development plan") and on the plans in the Assessment of Effects on the Environment accompanying this application.

(b) In the Coastal Marine Area

Marsden Point below Mean High Water Springs adjacent to Papich Road and extending eastwards up to and slightly beyond the existing Northland Port Corporation jetty. The area is shown on the development plan and on the plans in the Assessment of Effects on the Environment accompanying this application.

Legal Description

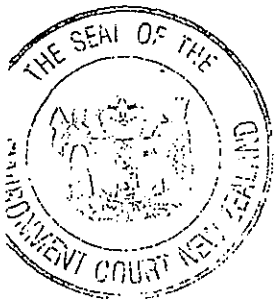
The legal descriptions of the areas subject of these applications are as follows:

Coastal Marine Area

Except for approximately 80m² in the vicinity of the proposed barge terminal, the area is covered by a deemed coastal permit derived from Designation 493 in the Whangarei District Council Transitional District Plan Whangarei County Section 1987, Map 28 and Map 1, sheet 14

Land

	<u>Title</u>	<u>Description</u>	<u>Area(ha)</u>
1	31B/968	Pt lot 5 DP 51845	55.707
2	7C/228	Lot 1, 2, Pt 4 DP 51845	5.3620
3	1825/15	Lot 1 DP 47603	0.0824
4	1825/16	Lot 2 DP 47603	0.0812
5	5D/1475	Lot 3 & 4 DP 47603 & Allot 291 Ruakaka Parish	0.2881
6	2042/48	Lot 5 DP 47603	0.0812
7	1851/11	Lot 6 DP 47603	0.0812



8	1B/857	Lot 6 DP 43643 & Lot 7 DP 47603	0.1621
9	64D/523	Lot 8 DP 47603	0.0812
10	1837/43	Lot 9 DP 47603	0.0812
11	1871/19	Lot 11 DP 47603	0.0812
12	1920/99	Lot 12 DP 47603	0.0812
13	2032/82	Lot 13 DP 47603	0.0812
14	3B/388	Lot 6 DP 51845	0.0920
15	1837/44	Lot 16 DP 47603	0.0812
16	1931/89	Lots 2, 3, 4, 5 DP 43643	0.3238
17	31C/50	Lot 3 DP 51845	0.4755
18	3B/10	Lot 1 DP 52380	4.0478
19	5C/446	Lot 1 DP 53892	8.0937
20	10B/670	Sec 1 Blk VIII Ruakaka SD	5.7136
21	1620/23	Lot 1 DP 43643	0.0809
22	1825/18	Lot 10 DP 47603	0.0812
23	1825/17	Lot 15 DP 47603	0.0812
24	16A/57	Sect 63 Blk VII Ruakaka SD	59.9794
25	95C/994	Lot 1 DP 168926	41.7886
26	22D/1444	Lot 1 DP 65603	0.4046
27	7B/1104	Lot 1 DP 54490	0.8096
28	13B/922	Lot 1 DP 57552	0.3726
29	88C/755	Section 39 Block VII Ruakaka SD Sect 1 SO Plan 44270	<u>37.0379</u>
<u>Total area of land titles</u>			<u>221.7148 ha</u>

the roads to be stopped as shown on the application plan have no present legal description.

4. Types of Resource Consents Sought

Land Use Consents

