

NOTIFICATION DECISION REPORT

1.0 Application Details

Applicant: Northport Limited

Application Numbers: Northland Regional Council: APP.005055.38.01
Whangārei District Council: LU2200107.

2.0 Proposal Description

2.1 Overview

Northport Limited (Northport) have applied to the Northland Regional Council (NRC) and Whangārei District Council (WDC) for resource consent to construct, operate, and maintain an expansion of the existing Northport facility located at Ralph Trimmer Drive, Marsden Point.

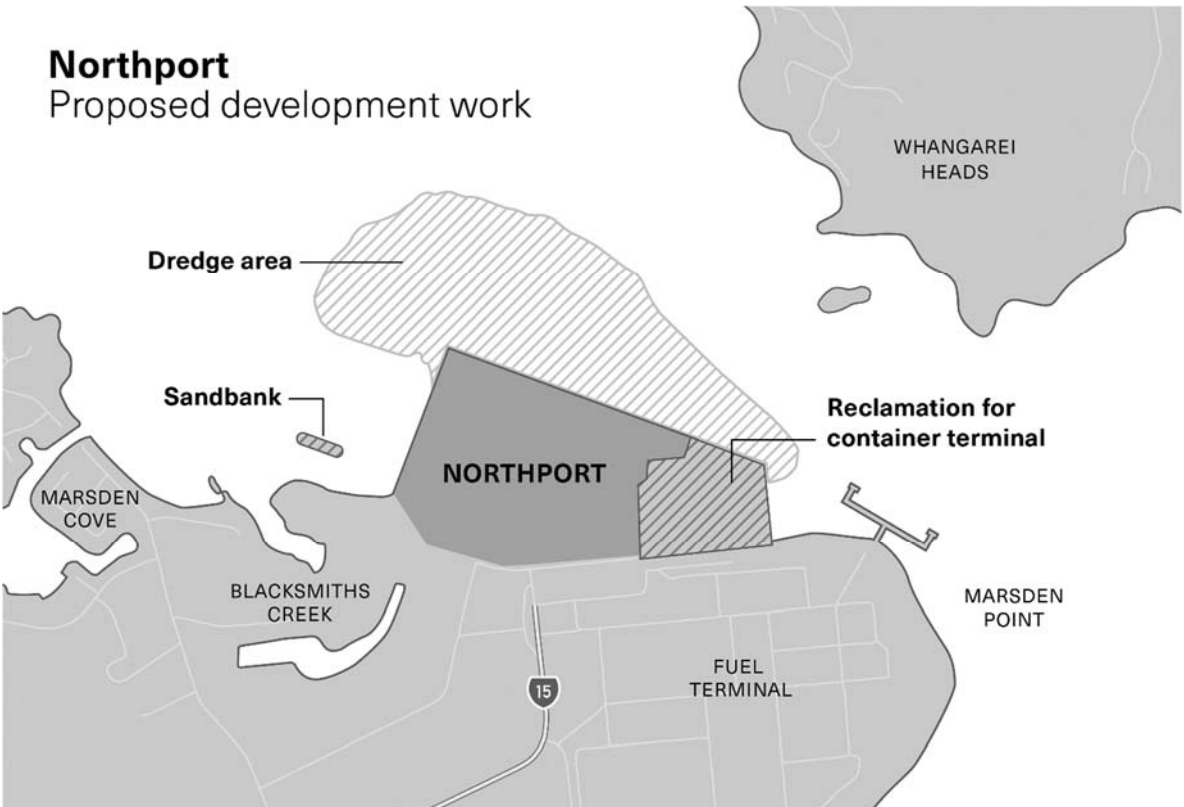


Figure 1: Plan showing the location and basics of the proposal (source: Northport).

The application states that the proposal seeks to enable the expansion of Northport’s existing facilities to increase freight storage and handling capacity. Specifically, to support Northport’s transition into a high-density container terminal.

It also includes amending existing consent conditions for Landscaping and Noise controls on the existing port, and some of the consents sought apply to the existing port area and operations as well as the proposed reclamation area.

A detailed description of the proposal is set out within Section 3 of the Assessment of Environmental Effects (AEE) entitled “Application for resource consents for the expansion of Northport”, prepared by Reyburn and Bryant, dated 6 October 2022 and within the below-referenced accompanying plans and technical assessments prepared in support of the application.

Appendix Number	Topic
1	Schedule 4 RMA Checklist
2	Issues and Options report
3	Design Drawings
4	Noise Assessment (Terrestrial)
5	Draft Management Plans
6	Pocket Park Concept Plan
7	Certificates of Title
8	MACA Act Correspondence
9	Supplementary Dredge Plume modelling scenarios
10	Coastal Process Assessment
11	Assessment of Marine Ecological Effects
12	Peer review of Assessment of Ecological Effects
13	Coastal Avifauna Assessment
14	Potential Effects on Marine Mammals
15	Landscape Natural Character and Amenity Effects
16	Archaeology Assessment
17	Northland Marine Oil Spill Contingency Plan
18	Design Report
19	Recreation Effects Assessment
20	Stormwater Assessment
21	Air Quality Assessment
22	Economic Assessment
23	RNZ Crude Shipping Project resource consent
24	Cultural Effects and Values Assessments
25	Assessment of Underwater Noise Effects
26	Navigation Safety Report
27	Traffic Impact Assessment
28	Planning Policy Analysis
29	Marine Ecology Fieldwork and Stormwater Monitoring Report

3.0 Resource Consents Sought

A list of resource consents sought as part of the proposal is contained within Section 1.5 of the AEE, and are summarised below based on the sections of the RMA under which consent is sought.

Additional or different reasons for consent may be identified through the processing of the applications, and this table will be finalised in the section 42A report prepared for a hearing.

2.2 Northland Regional Council

Section 88 – New Resource Consents		
RMA Section	Relevant Planning Document	Proposed Activity
Section 9(2) - Restrictions on Land	Operative Regional Water and Soil Plan	Earthworks within the Riparian Margin Zone
Section 12(1) - Restrictions on the use of the Coastal Marine Area (Damage and Disturbance)	Operative Regional Coastal Plan Proposed Regional Plan for Northland – Appeals Version National Environmental Standards for Freshwater 2020	Reclamation and any associated destruction, damage or disturbance of the foreshore or seabed, and deposition of material on to the foreshore or seabed associated with the proposed: <ul style="list-style-type: none"> • Reclamation and dredging activities • Alterations to existing authorised wharf structures • Construction of new coastal structures (tug berthing facility and water taxi/fishing pontoon) • Creation of new high-tide seabird roosting habitat
Section 12(2) - Restrictions on the use of the Coastal Marine Area (Occupation)	Operative Regional Coastal Plan Proposed Regional Plan for Northland – Appeals Version National Environmental Standards for Freshwater 2020	Occupation and removal of natural material from the common marine and coastal area associated with the proposed: <ul style="list-style-type: none"> • Construction of the reclamation and coastal structures • Alterations to existing authorised wharf structures • New coastal structures (tug berthing facility and water taxi/fishing pontoon) • Creation of new high-tide seabird roosting habitat
Section 12(3) - Restrictions on the use of the Coastal Marine Area (Use)	Operative Regional Coastal Plan Proposed Regional Plan for Northland – Appeals Version National Environmental Standards for Freshwater 2020	Use of the coastal marine area associated with the proposed: <ul style="list-style-type: none"> • Reclamation and maintenance dredging • Alterations to existing authorised wharf structures • New coastal structures (tug berthing facility and water taxi/fishing pontoon)

		<ul style="list-style-type: none"> • Creation of new high-tide seabird roosting habitat
Section 14(2) - Restrictions relating to water	<p>Operative Regional Coastal Plan</p> <p>Proposed Regional Plan for Northland – Appeals Version</p> <p>National Environmental Standards for Freshwater 2020</p>	<p>Diversion and discharge of construction and operational stormwater.</p>
Section 15(1) and 15(2A) – Discharge of contaminants into environment	<p>Operative Regional Coastal Plan</p> <p>Proposed Regional Plan for Northland – Appeals Version</p>	<p>Discharge of sediment or water into water or onto land incidental to the proposed:</p> <ul style="list-style-type: none"> • Reclamation and dredging activities • Reconsenting of Northport’s stormwater management systems • Creation of new high-tide seabird roosting habitat

3.2 Whangārei District Council

Section 88 – New Resource Consents		
RMA Section	Relevant Planning Document	Proposed Activity
Section 87B – Innominate	Section 87B of the RMA	<p>Consent sought to authorise:</p> <ul style="list-style-type: none"> • Port operations to be carried on the reclamation, which is not currently zoned land and therefore subject to the rules of the WDP (innominate) • The use of cranes up to 85m in height (when in operation) on Berth 4 and proposed Berth 5 (the reclamation) • Port noise generated on Berths 4 and 5 to infringe the permitted standards of the Noise and Vibration chapter of the WDP.
Section 9(3) - Restrictions on Land	Whangārei District Plan – Operative in Part	<p>Consent sought to authorise:</p> <ul style="list-style-type: none"> • Port noise generated on Berths 1 – 3 (zoned Port Zone under the WDP) to infringe the permitted standards of the Noise and Vibration chapter of the WDP • The construction of a building within 27m of MHWS within the Open Space Zone (being the relocated public toilet to the east of the proposed reclamation)

		<ul style="list-style-type: none"> To undertake earthworks exceeding 500m³ within sand dunes and undertaken indigenous (dune) vegetation clearance within the Coastal Area.
Section 127 – Change and Cancellation of Conditions		
TP96/316 (TBC)	Section 127 of the RMA	<p>With regards to Berths 1 and 2, the proposal includes a request to:</p> <ul style="list-style-type: none"> Delete or vary conditions 12 – 18, which are proposed to be replaced by new conditions (imposed through this resource consent process). The requested change facilitates the removal of existing WDP noise-related controls, which are proposed to be replaced with the NZS Port Noise management measures. Delete condition 20, which relates to access to the eastern side of Berth 2. The application notes that this condition has already been superseded by the Berth 3 – 4 consents and will be replaced by a new condition associated with the consents issued for proposed Berth 5. Change condition 23 to remove reference to landscape planting on the eastern side of the port. The application notes that this condition has already been superseded by the Berth 3 – 4 consents.
RC37846 (TBC)		<p>With regards to Berths 3 and 4, the proposal includes a request to:</p> <ul style="list-style-type: none"> Delete or vary condition 7, which is proposed to be replaced by new conditions (imposed through this resource consent process). The requested change facilitates the removal of existing WDP noise-related controls, which are proposed to be replaced with the NZS Port Noise management measures. Delete conditions 9 – 12, which relate to landscaping on the eastern side of the port.

4.0 Process Matters

4.2 Pre-application Process

Approximately 18 months ago Northport began engaging with the Whangarei District and Northland Regional Councils (the Councils) planning and technical experts. This included technical reviews of final draft assessments prepared in support of resource consent applications for the eastern ‘container terminal’ reclamation (this proposal) and a western ‘drydock/shipyard’ reclamation (not part of this proposal).

Northport is no longer pursuing consents for the western reclamation. The Councils have largely retained the same planning and technical experts for this proposal. These experts reviewed the lodged application documents for completeness and three experts sought further clarifications to assist the public’s understanding of the proposal during public notification.

5.2 Notification information request

Landscape, Terrestrial Noise, and Stormwater experts sought clarifications. These have been responded to be Northport in a letter from Reyburn and Bryant dated 25 October 2022.

The Noise and Stormwater responses were confirmed by the Councils experts as sufficiently responding to the clarifications raised.

The Landscape clarification sought a copy of the visual simulations referenced in the Brown NZ Ltd assessment). Visual simulations often form part of applications for large infrastructure proposals and are a useful tool to assist the public and decision makers understanding of a proposal.

Northport provided visual simulations prepared for an earlier iteration of the proposal that included the eastern and western reclamations. These simulations show a drydock/shipyard and associated eastern reclamation, which does not form a part of this proposal.

The visuals simulations provided by Northport are helpful to landscape and visual experts when interpreting and assessing the effects of the proposal, it is agreed they are likely to cause confusion to the public when forming an understanding and view of the proposal and its effects.

While useful to support understanding of the proposal, they are not essential to that or required for notification to proceed. For this reason, these simulations have not been included in the package of information published for the public notification process.

5.0 Notification Assessment

STEP 1 Request for Public Notification

Has the applicant requested public notification?

- No → Go to **Step 2**.
- Yes → Go to **Step 20**. Tick the **Publicly Notified** box as the application must be publicly notified as required by Section 95A(2) of the Resource Management Act (RMA).

STEP 2 Has the Applicant Refused a Section 92 Request

- No → Go to **Step 3**.
- Yes → Go to **Step 20**. Tick the **Publicly Notified** box as the application must be publicly notified as required by Section 95A(2) of the RMA.

STEP 3 National Environmental Standard (NES)

Is there a NES that precludes public notification of each activity?

- No → Go to **Step 4**.

Yes → Name of NES: **INSERT NAME**. Go to **Step 9 – Special Circumstances**.

STEP 4 Plan Provisions Regarding Public Notification

Is there a rule or provision in a Regional Plan that precludes public notification of this type of application?

No → Go to **Step 5**.

Yes → Rule **INSERT RULE**. Go to **Step 9 – Special Circumstances**.

STEP 5 Classification of Activity

Are all the resource consents either:

(a) “controlled” activities; or

(b) “restricted discretionary” or “discretionary” activities for a residential activity only?

Note: Residential activity is defined in Section 95A(6) and relates to consents that are for the use of one or more dwelling houses solely for residential purposes and can include residential subdivisions.

No → Go to **Step 6**.

Yes → Go to **Step 9 – Special Circumstances**.

STEP 6 National Environmental Standard (NES)

Is there a NES that precludes public notification of each activity?

No → Go to **Step 7**.

Yes → Name of NES: **INSERT NAME**. Go to **Step 20**. Tick the **Publicly Notified** box as the application must be publicly notified as required by Section 95A(7) of the RMA.

STEP 7 Plan Provisions Regarding Public Notification

Is there a rule or provision in a Regional Plan that requires this type of application to be publicly notified?

No → Go to **Step 8**.

Yes → Rule **INSERT RULE**. Go to **Step 20**. Tick the **Publicly Notified** box as the application must be publicly notified as required by Section 95A(7) of the RMA.

STEP 8 Adverse Effects

What do the potential effects of the activity relate to? (tick as many as appropriate)

Downstream flows

Air quality

Aquifer levels

Human health

- | | |
|-------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Flooding | <input type="checkbox"/> Natural character |
| <input type="checkbox"/> Scouring | <input type="checkbox"/> Archaeological/historic sites |
| <input type="checkbox"/> Water quality | <input type="checkbox"/> Public/recreational access |
| <input type="checkbox"/> Cultural | <input type="checkbox"/> Navigation |
| <input type="checkbox"/> Ecological | <input type="checkbox"/> Structural security |
| <input type="checkbox"/> Habitat/wildlife | <input type="checkbox"/> Other _____ |

Is it considered that the activity will have, or is likely to have, adverse effects on the environment that are more than minor?

Note: *The requirements of Section 95D of the RMA shall be taken into account when determining whether the adverse effects of any activity will be more than minor.*

- No → State reasons below, then go to **Step 9**.
- Yes → State reasons below. Go to **Step 20**. Tick the **Publicly Notified** box as the application must be publicly notified as required by Section 95A(7) of the RMA.

Reasons:

STEP 9 Special Circumstances

Is it considered that special circumstances exist in relation to the application that would warrant the application being publicly notified?

Note: *“Special Circumstances” are those that are unusual or exceptional and those where there are indications that a case is out of the ordinary. If what is proposed is specifically envisaged by the Plan, it cannot be described as being out of the ordinary and giving rise to special circumstances. The fact that some persons have concerns about a proposal does not of itself give rise to “special circumstances” but may be a contributing factor.*

- No → Go to **Step 10**.
- Yes → State reasons below. Go to **Step 20**. Tick the **Publicly Notified** box as the application may be publicly notified as required by Section 95A(9) of the RMA.

Reasons:

STEP 10 Customary Rights and Customary Marine Title Groups

Note: *These are a right or groups which are recognised by the Crown by either an order or an agreement.*

Could the activity have adverse effects on a protected customary right or the exercise of the rights applying to a customary marine title group?

- No → State reasons below. Go to **Step 11**.
- Yes → State protected customary right and/or customary marine title group and reasons below. Go to **Step 11**.

Reasons:
 Not a coastal permit.

OR

There are no holders of Customary Marine Title (CMT) for the area. There are a number of CMT applicants which have identified the location as being within the area of their application. Prior to the receipt of the application by the council the applicant provided notice to the CMT applicant groups in accordance with Section 62 of the Marine and Coastal Area (Takutai Moana) Act 2011.

STEP 11 Statutory Acknowledgement Areas

Will the activity have a minor or more than minor adverse effect on the trustees of any statutory acknowledgement area?

- No → State reasons below. Go to **Step 14**.
- Yes → State statutory acknowledgement area, affected Iwi group(s) and reasons in table below. Go to **Step 12**.

Reasons:
 No Settlement Acts cover this area.

OR

Insert settlement acts and reasons why no statutory areas affected.

STEP 12 Written Approvals

Has the applicant provided the written approval of every person who is adversely affected in **Steps 10 and 11**?

- Yes → Complete the table below. Go to **Step 14**.
- No → Complete the table below. Go to **Step 13**.

The following are considered to be affected by this activity:

Name of Affected Group	Written Approval Provided? (Y/N)

STEP 13 Unreasonable to get Written Approvals

Is it considered unreasonable in the circumstances to require the applicant to obtain the written approval of the adversely affected group who has/have not provided written approval?

- No → Go to **Step 20**. Tick the **Limited Notified** box. Serve notice of the application only on those groups that have not provided written approval. Then go to **Step 14**.
- Yes → State reasons below. Go to **Step 14**.

Reasons:

STEP 14 National Environmental Standard (NES)

Is there a NES that precludes the limited notification for each activity to other persons?

- No → Go to **Step 15**.
- Yes → Name of NES: **INSERT NAME**. Go to **Step 19 – Special Circumstances**.

STEP 15 Plan Provisions Regarding Limited Notification

Is there a rule or provision in a Regional Plan that precludes the limited notification of this type of application to other persons?

- No → Go to **Step 16**.
- Yes → Rule **INSERT RULE**. Go to **Step 19 – Special Circumstances**.

STEP 16 Other Affected Persons

Will the activity have a minor or more than minor adverse effect on any other persons?

Note: *The requirements of Section 95E of the RMA shall be taken into account when determining affected persons.*

- Yes → List persons and reasons in table for Step 17. Go to **Step 17**.
- No → State reasons below then go to **Step 19 – Special Circumstances**.

Reasons:

Check the following:

- All persons we have protocols with have been sent a copy of the application for comment.

STEP 17 Written Approvals

Has the applicant provided the written approval of every other person who is adversely affected by the activity?

- Yes → Complete the table below, then go to **Step 19 – Special Circumstances**.

No → Complete the table below, then go to **Step 18**.

The following are considered to be affected by this activity:

Name of Affected Person	How are they Affected?	Written Approval Provided? (Y/N)

STEP 18 Unreasonable to get Written Approvals

Is it considered unreasonable in the circumstances to require the applicant to obtain the written approval of the adversely affected person(s) who has/have not provided written approval?

- No → Go to **Step 20**. Tick the **Limited Notified** box and serve notice of the application only on those persons that have not provided written approval. Then go to **Step 19 – Special Circumstances**.
- Yes → State reasons below, then go to **Step 19 – Special Circumstances**.

Reasons:	
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STEP 19 Special Circumstances

Is it considered that special circumstances exist in relation to the application that would warrant notification of this application to any other person not already determined to be eligible for limited notification?

Note: *“Special Circumstances” are those that are unusual or exceptional and those where there are indications that a case is out of the ordinary. If what is proposed is specifically envisaged by the Plan, it cannot be described as being out of the ordinary and giving rise to special circumstances. The fact that some persons have concerns about a proposal does not of itself give rise to “special circumstances” but may be a contributing factor.*


- No → Go to **Step 20**.
- Yes → State reasons below. Go to **Step 20**. Tick the **Limited Notified** box as the application may be limited notified as required by Section 95A(10) of the RMA.

Reasons:	
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STEP 20 Notification Decision

- Non-notified
- Limited Notified
- Publicly Notified

Recommendation prepared by:

Signed: 
Stacey Sharp
Senior Planner, Beca

Date: 1 November 2022

Recommendation reviewed by:


Signed: 
Blair Masefield
Technical Director – Planning, Beca

Date: 1 November 2022

Authorised under delegated authority by:

Signed: 
Stuart Savill
Consents Manager
Northland Regional Council

Date: 1 November 2022

Signed: 
Roger Quinton
Acting Manager RMA Consents
Whangārei District Council

Date: 1 November 2022