

**BEFORE THE WHANGĀREI DISTRICT COUNCIL AND NORTHLAND REGIONAL
COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a resource consent application by Northport Limited under section 88 of the Resource Management Act 1991 for a port expansion project at Marsden Point

APPLICATION NO. APP.005055.38.01

LU 2200107

**MEMORANDUM OF COUNSEL FOR NORTHPORT LIMITED FOLLOWING ADJOURNMENT
OF HEARING**

22 November 2023

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MAY IT PLEASE THE PANEL

1. This memorandum of counsel addresses matters discussed during the hearing of Northport's application on 20 November.¹
2. The Panel has adjourned the hearing. We discuss below the reasons for that adjournment, and the next steps proposed by Northport, including directions sought.

Adjournment and reasons

Feedback by iwi/hapū submitters on updated draft cultural conditions

3. The matter is adjourned to allow a further opportunity for iwi/hapū submitters to consider and provide feedback on the updated draft cultural conditions; and for Northport and iwi/hapū submitters to engage further around the cultural concerns raised and alternative responses to those concerns.
4. As set out in Northport's interim closing legal submissions² and described by counsel, Northport has heard from iwi/hapū submitters that continued discussions around proposed conditions would assist, including to further explore opportunities for agreement on proposed cultural mitigations more widely.
5. Northport has engaged with representatives of, and counsel for, Patuharakeke Te Iwi Trust Board ("PTITB") and understands that PTITB supports this proposed process.

Further consideration of matters raised in s42A Addendum

6. The Council Officers s42A Report Addendum³ ("s42A Addendum") makes various recommendations, including on the draft conditions of consent advanced by Northport. Because the s42A Addendum was circulated one working day prior to the presentation of Northport's interim closing submissions,⁴ insufficient time was available for Northport to appropriately consider and fully respond to those recommendations.
7. The adjournment of Northport's application therefore enables an opportunity for Northport to further consider the recommendations in the s42A Addendum, and to update/refine its proposed draft conditions accordingly.

¹ Hearing Day 9.

² Refer paragraphs 4.43-4.46.

³ Dated 16 November 2023.

⁴ The Council Officers s42A Report Addendum was circulated on 17 November 2023.

Directions sought

8. For the reasons set out above, Northport requests that the Panel directs that:
- (a) The hearing be adjourned for a period of three months.
 - (b) The Applicant (i.e. Northport) and PTITB be encouraged to engage in direct discussions on the updated draft cultural conditions, and that:
 - (i) the Applicant be responsible for monthly reporting to the Panel on the progress of those discussions; and
 - (ii) at the conclusion of the three-month adjournment, i.e. on or before 29 February 2024, the Applicant be responsible for a final report to the Panel on progress of discussions, including a request for either:
 - a date for reconvening the hearing to hear the further/final closing submissions for the Applicant;⁵ or
 - seeking any further directions as may be required.
 - (c) At or before the reconvened hearing, the Applicant provides to the Panel a final set of draft proposed conditions incorporating any updates in response to feedback and/or the s42A Addendum.

Additional procedural issues

Interim written closing legal submissions

9. Northport has provided to the Panel a copy of its written closing legal submissions dated 20 November 2023. These submissions comprehensively respond to issues raised during the hearing and set out Northport's principal submission.
10. While not marked as such, for the reasons set out above, the 20 November 2023 closing legal submissions should be treated as interim closing legal submissions for Northport.

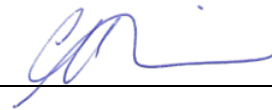
⁵ Noting that the Panel Chairperson expressed the view that the Panel would likely prefer to hear further from the Applicant in person at a reconvened hearing, as opposed to receiving further/final written closing submissions.

11. It may be necessary and appropriate, and of material assistance to the Panel in reaching its decision, for counsel for Northport to provide further/final closing submissions to the Panel in due course.

Clarification regarding draft proposed conditions

12. The Panel may have questions or matters of clarification regarding the draft proposed conditions. Counsel suggests that it would be an efficient process for the Panel to utilise the adjournment period to put those questions or matters to Northport.

Dated: 22 November 2023



Chris Simmons
Counsel for Northport Limited