

**BEFORE THE WHANGAREI 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 1991 for a port expansion project
at Marsden Point

APPLICATION NO. APP.005055.38.01

LU 2200107

REBUTTAL STATEMENT OF EVIDENCE OF DEE PAEPAE ISAACS

(CULTURAL)

3 October 2023

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INTRODUCTION

Qualifications and Experience

1. My name is Dee Paepae Isaacs. My qualifications and experience are set out in my evidence in chief dated 24 August 2023.
2. This rebuttal statement addresses matters raised in the evidence of:
 - (a) Juliane Chetham and Makarena Dalton on behalf of Patuharakeke Te Iwi Trust Board (“Patuharakeke”); and
 - (b) Mere Kepa.
3. This rebuttal statement does not respond to every matter of detail raised in the evidence of submitters that is within my area of expertise. Rather, I have focussed this rebuttal statement on the key issues that have been raised on which I consider a response to be warranted.

Code of Conduct

4. I confirm that this rebuttal statement has been prepared in accordance with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (2023). In that regard, I confirm that this evidence is written within my expertise, except where I state that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

EVIDENCE OF PATUHARAKEKE

5. I respond to the following matters raised in the evidence of Ms Chetham and Ms Dalton:
 - (a) Relationship between mātauranga Māori and mātauranga Pākehā;
 - (b) Adequacy of cultural engagement and consultation;
 - (c) Cultural effects assessment; and
 - (d) Appropriateness of Northport’s proposed cultural mitigation.

Relationship Between Mātauranga Māori and Mātauranga Pākehā

6. The relationship between, and alignment of, mātauranga Māori (tikanga values) and mātauranga pākehā (western science and systems) is an issue that underpins the cultural concerns raised by Patuharakeke. In my assessment, Northport has taken an

approach that seeks to integrate/merge these concepts, and this approach has provided the foundation for its consideration of cultural effects and development of appropriate cultural mitigation.

7. It is clear to me that Northport knows that cultural effects are only able to be properly assessed by mana whenua. It has not purported to undertake its own assessment of cultural effects, or to address them in isolation. Rather, it has, in my opinion, genuinely advanced an engagement process with iwi/hapū in order for it to gain an understanding of these matters so that it can meaningfully attempt to address concerns in an appropriate way.
8. The cultural effects have been clearly stated by mana whenua, including with regards to the interrelationship between those effects and other disciplines/matters (and vice versa) and noting that evidence is likely to be adduced to further particularise cultural effects. I have reviewed Northport's expert (western science) evidence, and am satisfied it informs appropriate means to avoid, remedy or mitigate effects associated with the Project, including by addressing cultural matters, insofar as that is practicable/appropriate. It is accepted in situations such as this, where there is conflict between value systems and the outcomes they support, that western science value systems be balanced with mātauranga Māori/ tikanga values to achieve the most appropriate resolution.
9. In this regard, based on my experience with such matters, mātauranga Māori and mātauranga Pākehā will not always be in a position to align fully. The challenge, in my view, is to identify cultural effects which are understood from a Māori worldview, and then offer a mātauranga Pākehā (science and planning) approach to attempt to understand and resolve these issues. As these two concepts are sometimes in agreement and other times diametrically opposed, it is essential to continue building long-term and meaningful relationships through ongoing engagement. It is only from engagement and relationship building that resolution is possible; and this may take time. At the outset, when relationships may be strained due to historic or present circumstances, or misunderstanding, it is commitment to meaningful relationships that is the critical quality required of those whose aspirations may be perceived as being in conflict with the Māori worldview.
10. In my assessment, Northport's approach to engagement with mana whenua exemplifies its commitment to these relationships. This is demonstrated in the approach it has taken to cultural mitigation in the proposed conditions, of which a key element is continued engagement with and involvement of mana whenua. In this way, mātauranga Pākehā

and mātauranga Māori can come together to investigate and develop appropriate tikanga processes to create a pathway to resolve and address cultural issues.

Cultural Engagement and Consultation

11. Ms Chetham and Ms Dalton acknowledge that:¹
 - (a) Northport and Patuharakeke had a prior existing relationship which included regular meetings; and
 - (b) There has been consultation/engagement with Patuharakeke in relation to the Project.
12. Despite this, the evidence asserts that there has been an unwillingness by Northport to fully and genuinely engage with Patuharakeke. In particular, both Ms Chetham and Ms Dalton raise concerns that Northport's proposed cultural mitigation proposals have been put forward at a very late state and without input from, or consultation with, Patuharakeke.²
13. Based on my appraisal of the approach to engagement followed by Northport, and my direct involvement in it, I consider it wrong to conflate the timing of the preparation and publication of the cultural mitigation conditions with an unwillingness on the part of Northport to engage with iwi/hapū in a meaningful and genuine way. My evidence in chief details the comprehensive engagement and consultation process undertaken by Northport over several years in the lead up to lodgement of its resource consent and since.³ I do not repeat that here except to reiterate that the early and meaningful consultation has been undertaken by Northport.
14. As I have detailed in my evidence in chief,⁴ my view is that the engagement process undertaken by Northport aligns with best practice and clearly demonstrates commitment to this important component of its Project. Northport made a number of attempts to engage more frequently with iwi/hapū, but more frequent engagement proved difficult for all parties for the reasons I have outlined in my evidence in chief.⁵ Nevertheless, Northport has achieved proactive and meaningful engagement with iwi/hapū groups, including Patuharakeke.

¹ See for example the evidence of Makarena Dalton, at [6.3]-[6.4] and [6.9(a)] and the evidence of Juliane Chetham, at [3.1]-[3.2], [5.3]-[5.4].

² See for example the evidence of Juliane Chetham, at [5.5] and evidence of Makarena Dalton at [8.3].

³ At [26]-[89].

⁴ At [79].

⁵ At [83]-[84] and [87].

15. With regards to Northport's proposed cultural mitigation conditions, I confirm that Northport's preference, based on my advice, was to develop the cultural conditions in consultation with iwi/hapū and it went to considerable lengths, in accordance with best practice, to seek iwi/hapū (including Patuharakeke) input into the conditions before they were provided to the Council in advance of the hearing. However, meaningful input was not obtained prior to Northport filing evidence. This meant Northport was faced with either having to put its proposals in evidence and risk criticism for not incorporating mana whenua input before doing so; or proceeding to the hearing with no proposals in relation to such matters and being criticised for that. In other words, it was somewhere between the metaphorical "rock and a hard place". In the end, it chose the former approach, believing that to be the most appropriate and consistent with its commitment to addressing these issues as best as it can.
16. The proposed cultural mitigation conditions have been developed by Northport based on engagement with iwi/hapū and its understanding of the cultural issues arising from the Project, as well as by drawing on the experience of its advisers and their extensive knowledge of modern cultural mitigation conditions developed in the context of other resource development projects throughout Aotearoa. In my view, the concepts behind the proposed cultural mitigation conditions are appropriate and 'best in class'. They have been put forward by Northport in order to form the basis for a conversation with iwi/ hapū about cultural mitigation. As I have emphasised throughout my evidence in chief, Northport is committed to continuing its engagement and that extends to working with iwi/hapū on the proposed cultural mitigation conditions.

Cultural Effects Assessment

17. Ms Chetham criticises the manner in which Northport has undertaken its assessment of cultural effects, on the basis that such assessment can only be properly undertaken by mana whenua. It is clear to me that Northport has acknowledged the important role that mana whenua have in identifying and assessing cultural effects.
18. In my assessment, Northport's understanding of the cultural effects of the Project have been informed by:
 - (a) Early and comprehensive ongoing engagement with iwi/hapū (namely, Patuharakeke, Te Parawhau, and Ngatiwai);
 - (b) The Cultural Values Assessment ("CVA") and Cultural Effects Assessment ("CEA") prepared by Patuharakeke in relation to the Project; and

- (c) Utilising my knowledge of mātauranga Māori to assist in facilitating consultation with iwi/hapū, interpreting cultural matters and advising on the approach to addressing cultural effects.
19. Having taken these steps, Northport has formed a position on the cultural issues, which provides the basis of its proposed cultural mitigation conditions. The conditions seek to address the cultural effects as Northport understands them to be. As noted above, Northport remains willing and open to continue engagement with iwi/hapū to develop these conditions further. I further understand that Northport representatives have advanced a number of suggested initiatives outside the framework of RMA conditions. To my knowledge, those initiatives have not yet resulted in agreed/recorded outcomes.
20. Ms Chetham and Ms Dalton raise concerns that Northport has not determined the scale of cultural effects. This is correct, as like the cultural effects themselves, their scale is only known to mana whenua. Despite this I reiterate my view that the proposed cultural mitigation conditions are an appropriate and best practice basis to address the cultural effects of the Project as expressed by mana whenua.

Adequacy Of Northport's Proposed Cultural Mitigation

21. Ms Chetham has raised concerns about the effectiveness of the proposed cultural mitigation conditions and, in particular, the Kaitiaki Group to appropriately address the cultural effects and concerns that have been identified.⁶
22. I consider the Kaitiaki Group represents an opportunity for iwi/hapū to actively participate and engage with Northport in relation to all aspects of the Project that interact with te ao Māori. The Kaitiaki Group is intended to be led by iwi/hapū, with the support of Northport, to ensure that iwi/hapū are in a position to exercise kaitiakitanga.
23. I confirm that it is my view, which Northport acknowledges, that there may be aspects of the proposed cultural mitigation proposals that would benefit from refinement through further engagement and discussions with iwi/hapū. Northport has repeatedly expressed its willingness and commitment to engage with iwi/hapū (including Patuharakeke) in relation to these matters. As I have said above, Northport has made it clear that it is committed to ongoing engagement as an important part of managing cultural effects. It has therefore sought to provide for ongoing consultation and engagement opportunities in relation to the conditions and the Project generally.

⁶ Evidence of Juliane Chetham at [5.6]-[5.10].

EVIDENCE OF MERE KEPA

24. I have read the evidence of Mere Kepa.
25. Ms Kepa raises the issue of the relationship between the Māori worldview/mātauranga Māori and mātauranga Pākehā. I have commented on the integration and competing priorities of these two concepts above.
26. I do not consider there are any other issues raised by Ms Kepa that challenge the matters raised in my evidence such that a response is required.

CONCLUSION

27. For the reasons set out above and in my evidence in chief, I consider that the cultural effects of the Project can be appropriately addressed if the cultural mitigation conditions are incorporated into any approval granted.
28. There are no matters arising from the evidence of Ms Chetham, Ms Dalton, and Ms Kepa that change my position on the level of cultural effects and how they might be appropriately mitigated.

Dee Isaacs
3 October 2023