

**IN THE MATTER** of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** **Resource Consent Applications by Northport Ltd - Port Expansion project at Marsden Point**

Application numbers:

- Whangarei District Council: LU2200107
- Northland Regional Council: APP.040976.01.01

**DIRECTION 16 (8 MARCH 2024) FROM THE HEARING PANEL**

**FURTHER ADJOURNING THE HEARING UNTIL 28 MARCH 2024 AT THE APPLICANT'S REQUEST – AND AN ALTERNATIVE DISPUTE RESOLUTION PROCESS FOR STORMWATER MATTERS**

1. The Hearing Panel has received the Applicant's Memorandum - *Memorandum of Counsel for Northport Limited: Third Monthly Report of Engagement on Updated Draft Cultural Conditions*<sup>1</sup>.
2. This Direction responds to that Memorandum which requests a further extension the hearing adjournment (until the 28 March 2024). It also seeks the Applicant's and Regional Council's agreement to an Alternative Dispute Resolution (ADR) process (including the potential for a meeting(s) and expert conferencing) in relation to stormwater matters.

**Further Adjournment**

3. Paragraph 6 of the Memoranda states:

*Northport seeks that the adjournment of the hearing be extended for a further month, until Thursday 28 March.*

*On or before that date, Northport will:*

- (a) *provide a final report to the Hearing Panel on progress of discussions with Patuharakeke Te Iwi Trust Board, and*
- (b) *seek the next available date for reconvening the hearing to hear the further/final closing submissions for the Applicant.*

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<sup>1</sup> Dated 7 March 2024

4. The Hearing Panel agrees with the Applicant's request for the adjournment request until the 28 March 2024. The reasons for this are those set out in Counsel's Memorandum. Accordingly, we direct this.
5. With respect to a reconvened hearing date (and location - acknowledging "*Northport's preference is for the hearing to be reconvened in person, in Whangarei or potentially in Auckland if that is more convenient for the Panel*") this can be addressed at a later date. Prior to setting a reconvened hearing date we will need to understand any agreement or otherwise with Patuharakeke Te Iwi Trust Board, review any final set of offered consent conditions, and complete the ADR process for stormwater if agreed (see below).

### **Stormwater**

6. The Hearing Panel in its Direction 15 requested, among other things, information/clarification on stormwater matters.
7. The Applicant responded to this request by way of a Memorandum<sup>2</sup>, attaching a letter from Reyburn & Bryant which included a technical memorandum from Mr Poynter, a draft Stormwater Operation and Maintenance Plan prepared by SLR Consulting New Zealand, and a report from Mr Williamson Principal Hydrogeologist from Williamson Water & Land Advisory.
8. The Hearing Panel has reviewed that additional information. While it has been helpful, there are still a number of outstanding issues that the Hearing Panel needs to understand prior to being satisfied it has sufficient information to make a decision on this aspect of the applications.
9. This matter is an important one; not only as the Applicant seeking stormwater consents for both riparian earthworks and associated stormwater diversions and discharges and Operational stormwater discharges from use of the reclamation area, they are also seeking to surrender the existing stormwater discharge consent (CON20090505532) upon completion of the expanded port (Berth 5) pursuant to Section 138 of the RMA. If granted, the stormwater consent will cover both the existing and expanded port.
10. It is the Hearing Panel's view that to better and fully understand the stormwater matters, and ensure an efficient process (e.g. having a report and/or Joint Witness Statement from the relevant experts, rather than an additional evidence exchange programme), is to direct an Alternative Dispute Resolution (ADR) process between the Regional Council and the Applicant. This may be in the form of a meeting(s) and/or expert conferencing which can be determined by the parties in conjunction with the facilitator. The Hearing Panel is proposing Ms Oliver be the facilitator (if she is available) given she facilitated the earlier expert conferencing sessions for these applications.

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<sup>2</sup> Dated 22 February 2024

11. Prior to formally directing stormwater ADR, the Hearing Panel seeks the Applicant's and Regional Council's agreement to this process. We acknowledge that those two parties may wish to confer on this matter before responding.
12. If agreed the Hearing Panel will issue a detailed Direction setting out what it considers to be the outstanding matters, as well as some specific questions to be addressed. We request the Applicant and the Regional Council respond to this request as soon as possible; the Hearing Panel is keen to advance this process as quickly as it can.
13. Any enquiries regarding this Direction, or related matters, should be directed to Alissa Sluys - Consents and Hearing Administrator at [alissas@nrc.govt.nz](mailto:alissas@nrc.govt.nz)



Greg Hill Chairperson  
8 March 2024