

**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**

**JOINT WITNESS STATEMENT (JWS) IN RELATION TO:**

**PLANNING**

**28 September 2023**

Expert Conferencing Held on: 26, 27 and 28 September 2023

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Emma Cairncross

**1 Attendance:**

1.1 The list of participants is included in the schedule at the end of this Statement.

Note: Not all participants attended for all agenda items – refer to the schedule.

**2 Basis of Attendance and Environment Court Practice Note 2023**

2.1 All participants agree to the following:

- (a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
- (b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
- (c) They will make themselves available to appear before the Panel;
- (d) This statement is to be filed with the Panel and posted on the Council's website.

### 3 Matters considered at Conferencing – Agenda and Outcomes

#### 3.1 District Plan activity status

##### Overview

A description of the proposal is set out within Section 3 of the AEE. A summary of the consents sought under the Whangārei District Plan (WDP) is set out within section 4, table 5 (page 46-47) of the s42A report.

NB: Defined terms under the WDP are shown as *italicised text* below. Key WDP definitions, the definition nesting tables, and rules referred to in Section 3.1 below are appended to this JWS as **Attachment 1**.

##### Submitter Expert Opinion

Linda Kirk considers that WDP Rule NOSZ-R35 *General Commercial* is applicable. This rule is a Non-Complying Activity. Linda Kirk considers the WDP consent requires consideration as a Non-Complying Activity overall.

##### Applicant Expert Opinion

Brett Hood considers that consent has been sought for a port (including the ancillary pocket park) and not individual components. Brett Hood considers that the proposal is not an *Industrial* or *General Commercial* activity and is innominate under NOSZ-R1 and hence Discretionary.

Phil Mitchell agrees with Brett Hood, noting also that ports are within the definition of *Infrastructure* in the WDP which mirrors the RMA definition, meaning that the activity is innominate and hence Discretionary.

##### Council Reporting Officers Expert Opinion

##### *Activity Status*

Stacey Sharp considers that the WDP definition of *Port Activities* does not apply to activities undertaken within the Natural Open Space Zone (NOSZ) as it is limited to Port Zoned land.

In her opinion, the Port Activities component of the proposal meets the WDP definition of *Industrial Activity*, as an activity that distributes and stores materials and goods, which warrants a Non-Complying Activity status under Rule NOSZ-R23.

For clarity, Stacey Sharp agrees with Phil Mitchell and Brett Hood that the proposed Port Activities would also meet the WDP definition of *Infrastructure*. As opposed to a fundamental disagreement on this point, it is her understanding of how the WDP activity-based land use rules are applied that results in a different position being reached on this matter. This is detailed further below.

##### *Plan Implementation*

Stacey Sharp considers that when a proposed activity meets the definition of the activities listed in Rules NOSZ-R10 – R35, those rules are engaged in the first instance. She considers that the proposed Port Activities do meet the definition of *Industrial Activity* (Rule NOSZ-R23) and on that basis, recourse back to Rule NOSZ-R1 (activities not otherwise listed) is not required.

Stacey Sharp agrees that, if the proposed activity were deemed not to meet the definition of the activities listed in Rules NOSZ-R10 – R35, recourse to Rule NOSZ-R1 would be appropriate.

The following WDP background is noted:

- The WDP Zone Chapters, including the NOSZ, contain activity-based rules.

- These activity-based land use rules, used consistently across the WDP Zones, reference the specified land use activities listed in the definition nesting tables (refer **Attachment 1**). Each of these specified land use activities are defined in the WDP.
- In some instances, additional bespoke activities (such as *Port Activities* within the Port Zone) are also referenced in Zone rules.
- *Infrastructure* is defined in the WDP but is not an activity listed in the nesting tables, either directly or indirectly as a result of being captured by the definitions of the specified land use activities listed in the nesting tables.
- *Industrial Activity* is a defined activity listed within the nesting tables.
- Across the WDP Zone Chapters, including the NOSZ, Rule R1 applies where an activity is not otherwise listed in the Zone chapter.
- Rule NOSZ-R1 deems an activity not otherwise listed in the Zone chapter as a permitted activity where resource consent is not required under any rule of the WDP and the activity is not prohibited under any rule of the WDP.

Key WDP definitions, the definition nesting tables, and key NOSZ rules are included in **Attachment 1**.

Christine Niblock and Linda Kirk agree with Stacey Sharp’s interpretation and analysis set out above.

Blair Masefield does not consider the activity status of the WDP consents influences the activity status of the regional consents which in his opinion remain Discretionary.

### 3.2 **Regional Plan activity status**

Blair Masefield considers that:

- Appeals against the Proposed Regional Plan for Northland have been resolved, but the Council is still working through the final steps to make it fully operative (Ministerial approval of the Coastal Plan and then Council approval / notification of the entire plan).
- Because the Proposed Plan is not fully operative, the existing “legacy” plans are still operative and their objectives and policies are relevant considerations under section 104(1)(b)(vi).
- If a different conclusion would be reached under the Proposed Plan or legacy plans, a weighting exercise will need to be undertaken. Because it is essentially finalised, the Proposed Plan should be afforded greater weight.

Linda Kirk agrees with Blair Masefield’s position as is consistent with her evidence (Paragraph 96).

Makarena Dalton agrees with Blair Masefield’s position.

Phil Mitchell and Brett Hood also agree with Blair Masefield’s position as a matter of principle, but with the addition of the following context. Because all appeals have been resolved, the rules of the legacy regional plans no longer have any effect (s86F of the RMA). Furthermore, while the objectives and policies of the legacy plans are theoretically relevant, they should be given minimal, if any, weight.

### 3.3 **Regional plan – weighting**

Blair Masefield, Linda Kirk, Makarena Dalton, Brett Hood and Phil Mitchell consider that there is no policy tension between operative and proposed regional provisions that requires weighting to be undertaken.

### 3.4 Regional plan – promulgation

Linda Kirk raises this matter in her evidence and in paragraph 78 states as follows:

*“I consider that most of the NZCPS objectives and policies have been given effect to in the PRP-AV. The exceptions to this are Objective 7 which has not been given effect to at all, and Policy 11 which I consider has substantially been given effect to in the PRP-AV, apart from the allowance for “minor or transitory effects”, and the direction that a “system-wide approach” be taken in Policy D.2.18”.*

Phil Mitchell and Brett Hood do not agree with Linda Kirk’s evidence, but because it refers to case law, they consider it to be a matter for legal submission.

Blair Masefield does not agree with Linda Kirk’s evidence. He has considered the proposal on the basis of the proposed regional provisions as they are promulgated and agreed through consent orders (refer to Paragraph 3.2 above).

In response to the comments above from other planning experts, Linda Kirk clarified that her concern relates to whether or not the NZCPS Objective 7 has been given effect to and is a relevant provision of the NZCPS to have regard to in the consideration of the application. She confirms that she is satisfied that the outcome of this objective, being recognition of the significance of the lesser knot bird species, has been satisfied through this plan and reinforced through the NPS IB. She confirms that she is not challenging the wider PRP plan-making process.

Regarding NZCPS Policy 11, Linda Kirk considers that this is relevant in addition to the PRP provisions. It provides additional guidance for consideration of indigenous biodiversity. Linda Kirk confirms that she is not challenging the PRP plan-making process, but it is necessary to consider Policy 11 in addition to the PRP provisions.

### 3.5 Identification of planning provisions

The planning experts discussed compiling a full list of planning provisions referred to by all of the planning evidence but concluded that such a listing was not particularly useful, noting that some of the identified provisions are only of peripheral relevance to assessing the proposal. To date, the most comprehensive list of objectives and policies is attached to the AEE (Appendix 28) and the reasons for consent (and rules) are included in section 4 of the s42A report. Individual experts evidence contains reference to some additional provisions. The planning experts have sought to identify key provisions in their evidence and in agenda item 3.6 below.

### 3.6 Key policy matters arising out of (other) expert conferencing and related effects on policy provisions.

#### 3.6.1 Tangata whenua

Introduction – matters related to this topic were discussed at some length in expert conferencing. The experts reiterate that their evidence addresses matters relevant to the topic. In addition to their evidence, the experts note the following positions:

Phil Mitchell and Brett Hood consider that:

1. The PRP and WDP give effect to the higher order planning documents such that referral back to them is not necessary, except in limited circumstances where it may be useful to refer to the RPS for context;
2. The proposal is consistent with those PRP and WDP objectives and policies which set out the engagement expectations between consent applicants and mana whenua;

3. The effects assessments undertaken and the proposed consent conditions, while acknowledging Ms Chetham’s evidence, appropriately respond to the mana whenua outcomes contemplated by the PRP and WDP; and
4. If further engagement is able to occur with mana whenua before the conclusion of the hearing, it may be possible to further enhance the proposed conditions.

Blair Masefield and Stacey Sharp:

1. Are satisfied that the NZCPS is given effect to in lower order documents, however given the complexity of this proposal, reference to the RPS assists with interpreting the PRP and WDP provisions.
2. Agree with Phil Mitchell and Brett Hood’s point 2. above.
3. Consider the proposed conditions seek to achieve the relevant policy outcomes and through further engagement it may be possible to adequately mitigate identified adverse cultural effects such that the proposal is not contrary to policies relating to cultural values. The PRP section D1 contains policy provisions in relation to tangata whenua, many of which are process-related. Other policies addressing tangata whenua values are to be found throughout other topic-specific sections of the PRP.
4. Consider the relevant policies have been identified in the s42A report and planning evidence.

Makarena Dalton, Christine Niblock and Linda Kirk consider that:

1. The PRP is consistent with higher order documents, and agrees with Blair Masefield and Stacey Sharp that reference back to the RPS and NZCPS assists with interpreting the PRP provisions (point 1 above).
2. The PRP section D.1 provisions provide direction on how engagement should be undertaken between an applicant and mana whenua, how Māori cultural values and their effects should be identified, and where practicable how effects can be avoided, remedied or mitigated. They consider that engagement expectations have been met, and acknowledging the late production of cultural conditions, consider the application generally satisfies these provisions with the exception of policy D.1.4.
3. Appropriate weight has not been given to the identified places of significance to mana whenua (relying on the evidence of Juliane Chetham) and therefore policy D.1.4 has not been satisfied.
4. Cultural effects are also reflected throughout the PRP under other topic-specific sections. Taking account of this whole of plan approach, these other policy provisions are also not satisfied.
5. Based on the engagement process so far, there has been insufficient time to establish an adequate cultural mitigation package that reflects the scale and magnitude of effect concluded by mana whenua groups. Relying on the evidence of Juliane Chetham, the adequacy and appropriateness of the proposed conditions has not been established.

### **3.6.2 Indigenous biodiversity (marine benthic ecology, terrestrial ecology, avifauna)**

#### **3.6.2.1 National Policy Statement for Indigenous Biodiversity 2023 (NPS IB)**

The planning experts agree:

- That the National Policy Statement for Indigenous Biodiversity 2023 came into effect on 4 August 2023 after the applications for this proposal were lodged with the Councils. In considering this application, the Hearing Panel “must have regard to” to consider the NPS IB (section 104(1)(b)(iii)).

- Section 1.3(1) of the NPS IB states that *“This National Policy Statement applies to indigenous biodiversity in the terrestrial environment throughout Aotearoa New Zealand”*. As defined by the NPS IB: *“terrestrial environment means land and associated natural and physical resources above mean high-water springs, excluding land covered by water, water bodies and freshwater ecosystems (as those terms are used in the National Policy Statement for Freshwater Management 2020) and the coastal marine area”*.
- Section 1.3(2)(b) of the NPS IB states that *“However ... specified highly mobile fauna are covered by this National Policy Statement, whether or not they use areas outside the terrestrial environment (such as the coastal marine area or water bodies) for part of their life cycle (see clause 3.20)”*.
- The NPS IB defines: *“specified highly mobile fauna means the Threatened or At Risk species of highly mobile fauna that are identified in Appendix 2”*. Appendix 2 contains reference to the variable oystercatcher, New Zealand dotterel and lesser knot, the three bird species that the expert evidence (including JWSs) in relation to this proposal focusses on.
- The RPS, PRP and WDP provisions are consistent with the provisions of the NPS IB. The NPS IB does not introduce any new matters for this application.

### **3.6.2.2 Terrestrial ecology – area of agreement between the planning experts**

With regard to the terrestrial ecology components of the proposal (i.e. removal of the dune system and esplanade reserve vegetation), the planning experts agree that as per clause 3.10 of the NPS-IB, the NPS-IB applies to mapped terrestrial Significant Natural Areas (SNAs). The planning experts agree that there are no mapped SNAs within the WDP or PRP. Clause 3.16 of the NPS-IB applies to areas outside of mapped SNAs, where significant adverse effects on indigenous biodiversity are anticipated. The planning experts agree that effects on terrestrial ecology identified by the relevant ecological experts have been determined to be less than significant. Absent any expert disagreement regarding terrestrial ecology, the planning experts agree that there are no planning issues arising from the proposal.

### **3.6.2.3 Marine benthic ecology and avifauna**

The planning experts acknowledge that there are differences of opinion between the specialist experts for these two topics. Therefore, at this time, these issues remain to be addressed through evidence and during the hearing. The planning experts note that the relevant planning provisions are identified in the application, s42A report and evidence.

#### **Bird roost/sandbank**

In respect of the bird roost/sandbank and avifauna matters, Linda Kirk considers that under s104(1)(ab) it should be considered as a positive effect and not an avoidance measure. Linda Kirk considers the proposed bird roost/sandbank is not avoidance or mitigation as it does not prevent the effects from happening (avoid) and it does not mitigate the effects (mitigate) because it does not address the effects at the point of impact (based on the evidence of Tony Beauchamp, who considers the effects on avifauna to be significant).

#### **Wider planning assessment of proposed bird roost/sandbank**

The planning experts agree that PRP rule C.1.5.11 is relevant and provides a framework for assessing the range of potential effects of the bird roost/sandbank (refer to s42A report section 4.1, table 2 and footnote 20 (s92 request) (Page 43)). The planning experts agree the bird roost/sandbank has been considered and assessed against this rule.

Phil Mitchell and Brett Hood consider that the bird roost/sandbank has been proposed in order to avoid adverse effects on variable oystercatcher and New Zealand dotterel (based on the evidence of Leigh Bull, who also confirms that the adverse effects on avifauna will be low to very low). In relation

to the potential effects of sand dispersal from the bird roost/sandbank, they note that there are not similarly directive planning provisions (compared to NZCPS Policy 11), and based on the evidence of the Applicant's experts, they are satisfied that the proposed bird roost/sandbank is appropriate.

Blair Masfield considers the bird roost/sandbank is intended to be mitigation for habitat loss sufficient to avoid effects on variable oyster catcher and NZ dotterel species (to achieve NZCPS Policy 11 requirements). He notes that the proposed conditions do not require the crest height of the bird roost/sandbank to remain above high tide at all times and that the consequential effects of the bird roost/sandbank on foraging habitat (direct loss and sedimentation causing potential mangrove colonisation) contributes to the cumulative effect concerns identified by avifauna expert Claire Webb. Associated coastal process effects can be addressed by conditions, noting those experts and relevant submitters are concurrently inputting into conditions, although the scope of which is generally agreed (refer also to agenda item 3.8 below).

#### **3.6.2.4 Marine mammals**

Makarena Dalton noted that evidence from Tom Brough, marine mammal expert for Patuharakeke Iwi Trust Board, raises concerns with the adequacy of information that informs the assessment on marine mammals. Section 4 of Tom Brough's evidence outlines, in his opinion, information and assessment of effect gaps, including in-situ acoustic monitoring data, potential effects of increased shipping, and noise pollution generated by increased port activities. Tom Brough's evidence states that he does not consider that the mitigation options recommended can confidently avoid, remedy or mitigate adverse effects. As such, relying on Tom Brough's evidence, Makarena Dalton cannot conclude that the proposal is consistent with the relevant PRP policy provisions (in particular, D.2.18 and D.5.27).

Phil Mitchell and Brett Hood consider, based on the evidence of Deanna Clement, that the measures included in the proposed conditions (62-75 – Brett Hood version 25 August 2023) adequately and appropriately address the relevant policy provisions.

Blair Masfield considers, based on the s42A memo of Helen McConnell, that the measures included in the proposed conditions (62-75 – Brett Hood version 25 August 2023), plus modifications to conditions originally proposed in the s42A report, adequately and appropriately address the relevant policy provisions.

#### **3.6.3 Landscape**

The planning experts agree that the RPS and the WDP mapped ONLs of relevance to this proposal are the Bream Head Manaia Sequence (in particular Mt Aubrey and Motukaroro Island), across the harbour to the northeast of the existing port. The proposal does not directly impinge physically on the mapped landscapes.

The planning experts agree the relevant planning provisions include NZCPS Policy 15, RPS Objective 3.14 and Policy 4.6.1(1), PRP Objective F.1.12 and Policy D.2.17, and WDP Objectives NFL-O2 and NFL-O3 and Policies NFL-P2 and NFL-P3.

The planning experts understand that the difference of opinion between the landscape experts is that Mike Farrow considers that the effects of the STS cranes and container stacks (maximum height 30 metres) on the experiential values of Motukaroro Island and Mount Aubrey portion of the ONL (Bream Head Manaia Sequence) would be more than minor (JWS Landscape dated 21 September, paragraph 3.1). Stephen Brown considers that the proposed expansion's effects on those ONLs would be very low to low (EIC, paragraph 65).

Having regard to the hierarchy of the relevant policy documents, Mike Farrow’s conclusion indicates a conflict with the direction set out in the above referenced provisions in that effects on the ONLs will be more than minor. Stephen Brown’s position indicates no such conflict.

Phil Mitchell and Brett Hood see no conflicts with the policy provisions and note how the Port Otago Supreme Court decision deals with policy conflict in the event it should arise.

If this conflict is material to informing the Panel’s decision, Stacey Sharp and Blair Masefield have formed a preliminary position. Relying on the recent Port Otago Supreme Court decision and the narrow and subjective more than minor effect (as described in Mike Farrow’s s42A memo), the balance between directive NZCPS Policies 9 (safe and efficient operation of ports) and 15 (avoid effects from inappropriate development on outstanding natural landscapes in the coastal environment) is tipped in favour of Policy 9, as the STS cranes are understood to be needed for efficient port operations and a port is not considered to be inappropriate development in the Marsden Point Port Zone. This is based on the number of cranes being restricted to two STS and two MHC as set out in the applicants’ evidence of Mr Khanna and Mr Blomfield.

Makarena Dalton and Linda Kirk consider that their comment in paragraph 3 in agenda item 3.6.1 is applicable, and appropriate weight needs to be given to the identified places of significance to mana whenua (PRP Policy D.1.4) (relying on the evidence of Juliane Chetham and the cultural landscape plan attached to that evidence), in accordance with PRP Objective F.1.12(3).

#### **3.6.4 Recreation**

Phil Mitchell, Stacey Sharp and Brett Hood acknowledge that the recreation experts have concluded that there are significant residual recreation effects.

Phil Mitchell, Stacey Sharp and Brett Hood understand that (following the recreation conferencing the associated JWS and supplementary memo) the recreation experts have identified and costed a range of off-site mitigation measures, although it is unclear whether these are illustrative examples, or are intended to fully offset all the residual recreational effects.

Phil Mitchell and Brett Hood have reviewed the relevant objectives and policies in the WDP and consider that there are no provisions that direct that there be no net adverse effects on recreation.

Phil Mitchell and Brett Hood note that the applicant is already proposing mitigation in the form of the pocket park and its constituent facilities, and the proposed cycleway from Mair Road to Northport, and that they are also investigating the possibility of relocating the Te Araroa Trail water taxi berth to Marsden Cove.

Stacey Sharp considers the costings are helpful if offsite mitigation is to be monetised rather than specific projects identified in conditions.

These matters will be addressed at the hearing.

#### **3.6.5 Allocation of coastal space (CMA)**

Blair Masefield, Brett Hood and Phil Mitchell agree that the size of reclamation is required for the safe and efficient operation of a 500,000 TEU container terminal (see Policy 9 of the NZCPS).

Blair Masefield contends that (refer to paragraphs 466-477 of the s42A report) there is insufficient evidence to demonstrate the need for a 500,000 TEU container terminal at the location in the coastal space. Blair Masefield considers this to be inconsistent with RPS policy 4.8.1(d) which states “*The area occupied is necessary to provide for or undertake the intended use*”. This policy relates to a series of related provisions being RPS Objective 3.10, Policies 4.8.1 and 4.8.3, and PRP Objective F.1.8.



Brett Hood considers that there is nothing in the aforementioned provisions that points to needing to establish demand for the reasons set out in his evidence (Paragraphs 13.12-13.21). He considers that the intended use (refer to RPS Policy 4.8.1(d)) is a 500,000 TEU container terminal. Phil Mitchell agrees with Brett Hood for the reasons set out in paragraphs 4.1 – 4.9 of his evidence.

On the basis of this intended use, Blair Masefield considers the definition of the project in the conditions to be a “container terminal”, rather than “expansion project”. Brett Hood and Phil Mitchell disagree.

### **3.6.6 Regionally Significant Infrastructure (RSI)**

Linda Kirk, in her evidence (refer to paragraphs 1.23-1.27), with reference to PRP Policies D.2.7 to D.2.9, considers that while Policy D.2.7 is enabling, it contains provisos under sub-paragraphs (1)-(3) that require the proposal to have no more than minor effects.

Blair Masefield disagrees that D.2.7 sets a bottom line that effects from all RSI must be no more than minor. In his opinion D.2.7 supports enabling minor works and maintenance of RSI that does not result in more than minor effects, and D.2.9 provides policy guidance to considering more substantial RSI proposal that do generate greater than a minor level of effect.

Brett Hood and Phil Mitchell do not agree with Linda Kirk’s interpretation, which if adopted would, amongst other things, have the perverse outcome of requiring RSI to meet a higher effects threshold than other infrastructure or activities.

### **3.7 Transport conditions**

After further discussion at expert conferencing, the experts have agreed to hold further discussions outside of expert conferencing to endeavour to agree on further amendments to the proposed conditions.

### **3.8 Marsden Cove coastal conditions**

Dave Lamason will provide suggested track changes to Conditions 42-46 and 189-195 to reflect the relief sought by the submitters Marsden Cove Limited and Marsden Cove Canals Management Limited and the JWSs Coastal Processes and Marine Ecology to Phil Mitchell and Brett Hood as soon as possible. Following this, further engagement will occur between their clients and advisors. The Panel will be updated as to progress in Northport’s rebuttal evidence, and, to the extent necessary, at the hearing.

### **3.9 Seafuel Limited (submitter) related conditions**

Mark Arbuthnot has circulated his comments on conditions with direct relevance to Seafuels Limited submission and relief sought. Mark Arbuthnot, Phil Mitchell, Brett Hood and Blair Masefield agree that direct discussion between the experts (including planning, navigation and port operations), and the Parties’ representatives, is the most appropriate way to further review the wording of these proposed conditions. The planning experts consider that it is likely that agreement can be reached on the wording of these conditions.

#### 4 PARTICIPANTS TO JOINT WITNESS STATEMENT

- 4.1 The participants to this Joint Witness Statement, as listed below, confirm that:
- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
  - (b) They agree to the introduction of the attached information – Refer to agenda item 3.1 above; and
  - (c) They have read the Environment Court’s Practice Note 2023 and agree to comply with it; and
  - (d) The matters addressed in this statement are within their area of expertise; and
  - (e) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position in relation to this para 4.1 to the Independent Facilitator and the other experts and this is recorded in the schedule below.

**Confirmed online: 26, 27 and 28 September 2023**

<b>EXPERT’S NAME &amp; EXPERTISE</b>	<b>PARTY</b>	<b>EXPERT’S CONFIRMATION REFER PARA 4.1</b>
Stacey Sharp – Reporting Officer (Planner)	Whangārei District Council	Yes – for items 3.1, 3.5, 3.6 and 3.7
Blair Masefield – Reporting Officer (Planner)	Northland Regional Council	Yes – for items 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, 3.9
Christine Niblock – Planner and Landscape Architect	Whangārei District Council Infrastructure	Yes – for items 3.1, 3.5 and 3.6
Linda Kirk – Planner	Department of Conservation	Yes – for items 3.1 - 3.6
Makarena Dalton – Planner	Patuharakeke Iwi Trust Board	Yes – for items 3.2, 3.3, 3.5, 3.6
Phil Mitchell – Planner	Northport	Yes – for all items
Brett Hood – Planner	Northport	Yes – for all items
Mark Arbuthnot – Planner	Seafuels Limited	Yes – attended for item 3.9 only
David Lamason – Planner	Marsden Cove Limited and Marsden Cove Canals Management Limited	Yes – attended for item 3.8 only
Hannah Thompson – Planner	Waka Kotahi NZ Transport Agency	Yes – attended for item 3.7 only

Cath Heppelthwaite – Planner	Waka Kotahi NZ Transport Agency	Yes – attended for item 3.7 only
Robert Inman – Transport Specialist	Whangārei District Council	Yes – attended for item 3.7 only
Nick Marshall – Transport Specialist	Whangārei District Council – Northern Transport Alliance	Yes – attended for item 3.7 only
Angie Crafer – Transport Specialist	Waka Kotahi NZ Transport Agency	Yes – attended for item 3.7 only
Nerissa Harrison – Transport Specialist	Northport	Yes – attended for item 3.7 only

**JWS Planning 28 September 2023 Attachment 1 – Defined WDP terms, nesting tables, and rules, as referenced within Section 3.1**

Definitions

NB: Defined WDP terms are shown as *italicised text* below.

**General Commercial** means any *commercial activity* which is not a *commercial service, entertainment facility, food and beverage activity, funeral home, retail activity, service station or visitor accommodation*.

This definition is included within the *commercial activities* definition grouping.

**Industrial Activity** means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or good. It includes any *ancillary activity* to the *industrial activity*.

**Infrastructure** means:

- a. pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy;
- b. a network for the purpose of *telecommunication* as defined in section 5 of the Telecommunications Act 2001;
- c. a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989;
- d. facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support *structures* for lines used or intended to be used to convey electricity, excluding facilities, lines, and support *structures* if a person—
  - i. uses them in connection with the generation of electricity for the person’s use; and
  - ii. does not use them to generate any electricity for supply to any other person:
- e. a *water* supply distribution system, including a system for irrigation;
- f. a drainage or sewerage system;
- g. *structures* for transport on *land* by cycleways, rail, *roads*, walkways, or any other means;
- h. facilities for the loading or unloading of cargo or passengers transported on *land* by any means:
- i. an airport as defined in section 2 of the Airport Authorities Act 1966;
- j. a navigation installation as defined in section 2 of the Civil Aviation Act 1990;
- k. facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988;
- l. anything described as a network utility operation in regulations made for the purposes of the definition of *network utility operator* in section 166.

**Port Activities** means the use of *land* and/or *building* within the Port Zone for port related activities, including but not limited to:

- a. port and ancillary *port activities*;
- b. cargo handling, including the loading, unloading, *storage*, processing and transit of cargo;
- c. debarking;
- d. fumigation;
- e. transport, *storage* and goods handling activities;
- f. maritime passenger handling/services;

- g. construction, maintenance and repair of port operations and facilities;
- h. port administration;
- i. refuelling/fuel handling facilities;
- j. activities associated with surface navigation, berthing;
- k. maintenance or repair of a reclamation or drainage system;
- l. marine and port accessory *structures* and services.
- m. *repair and maintenance services* and facilities ancillary to *port activities*.

Definition Nesting Tables (pages 1 – 2, [Definitions Chapter](#))

## General Rules of Interpretation

- a. Any term which is not defined in this section takes its common meaning from the Concise Oxford Dictionary (Ninth Edition) or the Williams Māori Dictionary (Seventh Edition).
- b. Lists of items (for example, conditions, standards and terms in rules) and sub-paragraphs within paragraphs are to be read conjunctively, unless expressed as alternatives.
- c. Singular includes plural and vice versa.
- d. Cross references are for the assistance of the reader and are not necessarily exhaustive.
- e. Definitions of Māori terms are necessarily a brief approximation of meaning and have to be expanded and understood in the context of the specific usage and local language differences.
- f. Where a definition contains the word “includes” or “including” and is followed by a specific item or activity, or a list of specific items or activities, these shall be interpreted as falling within that definition.
- g. There are five “definition groupings” which gather specific **land** use activities into similar categories. These include: **Rural Production Activities**, **Industrial Activities**, **Residential Activities**, **Commercial Activities** and **Community Activities**. Within each grouping, activities are listed with the more general term on the left and the more specific term on the right. Where a District Plan rule manages a general activity, that general activity includes all of the specific activities listed in the definition grouping unless otherwise specified in the rules. Each definition grouping activity must also comply with any **building** and **built form** rules that are relevant to the activity. The five definition groupings are listed below:

<b><u>Rural Production Activities</u></b> .....	<b><u>Farming</u></b>
	<b><u>Plantation Forestry</u></b>
	<b><u>Intensive Livestock Farming</u></b>
	<b><u>Farm Quarrying</u></b>
<b><u>Industrial Activities</u></b>	<b><u>General Industry</u></b>
	<b><u>Manufacturing</u></b>
	<b><u>Repair and Maintenance Services</u></b>
	<b><u>Artisan Industrial Activities</u></b>

	<u>Marine Industry</u>		
	<u>Waste Management Facility</u>		
	<u>Landfill</u>		
	<u>Storage</u>		
<u>Residential Activities</u>	<u>Supported Residential Care</u>		
	<u>Retirement Village</u>		
	<u>Residential Unit</u>	<u>Principal Residential Unit</u>	
		<u>Minor Residential Unit</u>	
<u>Commercial Activities</u>	<u>Retail Activity</u>	<u>Drive-Through-Facilities</u>	
		<u>General Retail</u>	
		<u>Grocery Store</u>	
		<u>Trade Retail</u>	<u>Marine Retail</u>
			<u>Hire Premise</u>
			<u>Motor Vehicle Sales</u>
			<u>Trade Suppliers</u>
	<u>Commercial Services</u>		
	<u>Food and Beverage Activity</u>		
	<u>Entertainment Facilities</u>		
	<u>Visitor Accommodation</u>		
	<u>Service Stations</u>		
	<u>Funeral Home</u>		
	<u>General Commercial</u>		
<u>Community Activities</u>	<u>Place of Assembly</u>	<u>Community Corrections Activity</u>	
	<u>Recreational Facilities</u>		
	<u>Emergency Services</u>		
	<u>Care Centre</u>		
	<u>Educational Facilities</u>		
	<u>Hospital</u>		
	<u>General Community</u>		

[NOSZ Rules](#)

## Rules

### **NOSZ-R1 Any Activity Not Otherwise Listed in This Chapter**

Activity Status: Permitted

Where:

1. Resource consent is not required under any rule of the District Plan.
2. The activity is not prohibited under any rule of the District Plan.

### **NOSZ-R23 Industrial Activities**

Activity Status: Non-Complying

Where:

1. The activity is a primary activity or ancillary activity.

### **NOSZ-R35 General Commercial**

Activity Status: Non-Complying

Where:

1. The activity is a primary activity or ancillary activity.