

**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 PROVIDING CLARIFICATION
IN RESPONSE TO LEGAL SUBMISSIONS FOR PATUHARKEKE TE IWĪ TRUST**

27 October 2023

Counsel instructed:

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MAY IT PLEASE THE PANEL

1. This memorandum of counsel responds to a factual assertion in the legal submissions for Patuharakeke Te Iwi Trust (“PTITB”) dated 26 October, which was appropriately brought to the attention of counsel. We therefore take the opportunity to respond now.
2. To avoid addressing substantive issues via memorandum, our response is narrowly framed and factual.
3. To the extent required Northport will, in closing, provide a wider response – including regarding the extensive consultation with iwi/hapū in respect of Northport’s application.

Assertion on behalf of PTITB

4. At paragraph 4.15(b) of the legal submissions, counsel for PTITB states: “...it is hard to understand why proposed conditions were only first provided to Patuharakeke as part of the applicant’s evidence”. Footnote 32 to that statement reads: “Contrary to what Mr Hood said in response to a direct question from the Hearing Panel, the conditions were not provided to Patuharakeke in advance of them being attached to the evidence filed in this proceeding”.

Northport response

5. Much of the consultation on Northport’s application with PTITB has been, at the express request of PTITB representatives, conducted on a without prejudice and confidential basis. Acknowledging that request, we record simply that draft proposed cultural conditions prepared by Northport were provided, in hard copy, by Northport representatives to attendees - including representatives of PTITB - at an informal meeting on 27 March 2023.¹ The day following that meeting, email correspondence from another meeting attendee was sent to both Northport and PTITB representatives, directly referencing² the content of the draft proposed cultural conditions that had been provided to the meeting attendees.
6. The assertions made by counsel for PTITB are therefore not factually correct. A copy of Northport’s proposed cultural conditions were provided to PTITB representatives several months prior to the filing of its evidence for this hearing. Further, we consider that the response of Mr Hood to questions from the Panel³ was accurate to the best of his

¹ Meeting hosted by Northport at 21 Ralph Trimmer Drive, from 9-10.30am.

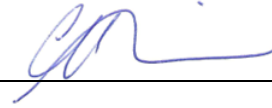
² While it is not appropriate for us to go into the substance of that email, it raised numerous questions regarding the draft proposed conditions provided by Northport.

³ Hearing Day 3, 11 October 2023.

understanding, acknowledging that he was not a participant of the meeting referenced above.

7. Counsel can provide further context to this matter should the Panel require, however notes the without prejudice nature of many of the relevant discussions.

Dated: 27 October 2023



Chris Simmons
Counsel for Northport Limited