

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 2 (7 AUGUST 2023) FROM THE HEARING PANEL

EXPERT CONFERENCING (FACILITATED)

1. In accordance with the Resource Management Act 1991 (RMA) - sections 34 and 34A, the Northland Regional Council and Whangarei District Council (the Councils) have appointed a Hearing Panel consisting of Greg Hill (as chair), Jade Wikaira and Hugh Leersnyder, to hear and make decisions on the applications. Its delegations include addressing any procedural matters.
2. This Direction sets out the process to establish and undertake Expert Conferencing. An earlier Direction has been issued setting out the dates for the hearing and expert evidence exchange (and a request for the filing of legal submissions and non-expert evidence).
3. Clause 8AA – Resolution of Disputes of the First Schedule of the RMA enables a process to clarify and resolve disputes between parties. Accordingly, in terms of these resource consent applications the Hearing Panel directs expert conferencing as set out below.
4. The purpose of the conferencing process is for the parties’ experts to identify, discuss and potentially resolve (or not) the issues in contention between them. This will enable the hearing to focus on those matters that remain in contention between the experts.
5. At this stage the Hearing Panel directs expert conferencing of the following topics (current indication) noting that the parties, in conjunction with the independent facilitator, may decide that conferencing is or is not required for particular topics. All topics will be joint with Planning - meaning that planning experts are able to participate in all expert conferencing sessions.
 - Marine Ecology;
 - Avifauna;
 - Landscape;
 - Recreation;
 - Cultural;

- Transport;
 - Navigation;
 - Terrestrial noise;
 - Coastal processes;
 - Planning; and
 - Any other topic or sub topic as identified by the Independent Facilitator in accordance with paragraph 10 below of this Direction.
6. The conferencing sessions shall occur after the filing of the submitters' expert evidence (14 September 2023) and preferably before the date for filing any rebuttal evidence (3 October 2023), however the Hearing Panel is prepared to be flexible if good progress is being made on any topic. The Hearing Panel delegates the organisation of the conferencing sessions to the Independent Facilitator in accordance with paragraph 10 below of this Direction.
7. Further conferencing, or other alternative dispute resolution processes, may also occur at later stages.
8. Parties are to inform the Regional Council's Consents and Hearing Administrator by email (see below) of the expert witnesses (**name, expertise, topic and contact details**) who will attend the conferencing sessions. This is to be provided to Ms Sluys no later than **22 August 2023**¹. The dates, times and format (in-person or on-line) of the expert conferencing sessions will be provided as soon as possible, noting that it is anticipated that the sessions will be held online using MS Teams.
9. The Hearing Panel directs that conferencing is undertaken in accordance with the Environment Court Practice Note 2023 and in particular – Section 9 - Code of conduct for expert witnesses. Also, those experts participating in the conferencing are to make themselves available to appear at the hearing if required to do so by the Hearing Panel.
10. Ms Marlene Oliver is appointed as the independent facilitator for the expert conferencing. Ms Oliver is authorised to:
- Act as independent facilitator;
 - In conjunction with the Regional Council (as administrator) invite the applicant, all submitters and the Councils as regulators (in their reporting function) to advise whether their expert witnesses in the relevant fields will attend the expert conferencing sessions;
 - In conjunction with the Regional Council (as administrator) organise the sessions (including format, topics, agendas, attendance and Joint Witness Statement (JWS)/reports), times and venues – in person or on-line as appropriate;
 - Liaise with the applicant, submitters, Councils and experts; and;
 - Report to the Chair of the Hearing Panel on an as required basis on progress with the conferencing sessions and progress on any JWS setting out the outcomes, including matters agreed and not agreed.

¹ This date has been set so that the conferencing sessions can be arranged well in advance of the hearing commencing - given the time available for conferencing is limited.

11. While this Direction cannot compel the parties to agree to take part in the conferencing sessions or compel expert witnesses to attend and participate, we strongly recommend that they do so. These sessions will provide a degree of formality for those parties and witnesses who attend in an effort to clarify and narrow the issues in contention. This should ensure that the hearing is more efficient than if the conferencing sessions were not held.
12. Any enquiries regarding this Direction, or related matters, should be directed to Alissa Sluys - Consents and Hearing Administrator at alissas@nrc.govt.nz



Greg Hill Chairperson

7 August 2023