

**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 Act 1991 for a port expansion
project at Marsden Point

APPLICATION NO. LU2200107 (WDC)

APP.040976.01.01 (NRC)

STATEMENT OF EVIDENCE OF BRETT LEWIS HOOD

(PLANNING)

25 August 2023

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1. INTRODUCTION

Qualifications and experience

- 1.1 My name is Brett Lewis Hood.
- 1.2 I am a planning consultant working for Reyburn and Bryant in Whangarei. I hold a Bachelor of Social Science (Geography) from the University of Waikato and a Master of Philosophy (Resources and Environmental Planning) from Massey University. I am a full member of the New Zealand Planning Institute (MNZPI).
- 1.3 I have 25 years of experience as a planning consultant in the Northland region. My role has typically been to lead project teams through various resource consent, notice of requirement, and plan change processes, and to provide environmental and strategic planning advice for these projects.
- 1.4 Most of my work has been in the Northland Region, and so I am very familiar with the history, content, and structure of the Operative Regional Coastal Plan ('RCP'), Operative Regional Water and Soil Plan ('RWSP'), Operative Regional Air Quality Plan ('RAQP'), Proposed Regional Plan ('PRP'), and the Regional Policy Statement ('RPS') for Northland.
- 1.5 I have been involved in Northport's proposed expansion project since its inception, assisting with the coordination of expert assessments and preparing the application AEE in conjunction with the core project team.
- 1.6 I am familiar with the application site and the surrounding locality. I have read the submissions and the s42A Report.

Code of Conduct

- 1.7 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (2023) and I agree to comply with it. 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.

2. SCOPE OF EVIDENCE

- 2.1 In my evidence I:

- (a) Provide an executive summary of my key conclusions.
- (b) Outline the Northport consenting context.
- (c) Briefly outline the proposal and resource consents required.
- (d) Summarise the assessment of effects.
- (e) Set out the relevant statutory framework and provide an evaluation of the proposal against that framework.
- (f) Respond to matters raised in the s42A Report;
- (g) Respond to submissions; and
- (h) Comment on draft proposed conditions advanced by Northport.

3. EXECUTIVE SUMMARY

- 3.1 This statement of planning evidence considers the evidence of other experts, including in relation to effects on the environment, and provides a detailed assessment of the proposal against the relevant statutory planning framework.

Relevant statutory plans

- 3.2 My evidence identifies the relevant statutory planning documents, being the New Zealand Coastal Policy Statement (NZCPS), Regional Policy Statement for Northland (RPS), Proposed Regional Plan for Northland for Northland (PRP), and the Whangarei District Plan (WDP), and clarifies that the PRP and WDP were both prepared under and give effect to the higher order NZCPS and RPS. As such, my evidence primarily focusses on the PRP and WDP, but with occasional reference to the NZCPS and RPS, where necessary.

District and Regional Plan zones

- 3.3 My evidence identifies that the proposed expansion area is located within the Marsden Point Port Zone (MPPZ)¹ as mapped in the PRP, the stated purpose of which is to:

... enable the development and operation of existing and authorised maritime-related commercial enterprises or industrial activities ...²

¹ The MPPZ is the only Port Zone in the PRP, and it was included specifically to accommodate existing and future Northport and CINZ infrastructure.

² Policy D.5.8.

and that the expansion area adjoins the existing Northport facility zoned Port Zone in the WDP, the stated purpose of which is:

- To enable the ongoing and future growth and development of the Port and any associated operational areas and facilities; and
- To provide for operations relating to the transportation of people and freight including within the Port Zone.
- To enable appropriate commercial and industrial development adjacent to Marsden Bay Drive, and to otherwise manage non-port related activities so as not to compromise or constrain the primary purpose of the zone.

3.4 In addition to the District and Regional plans identifying the site as appropriate for port development through the zonings applying to the adjoining land and CMA, my evidence is also informed by Northport having completed a thorough consideration of alternative designs and locations, and of potential effects management measures. As a result, the adverse effects of the proposal have been minimised or otherwise managed such that the proposal sits comfortably with the provisions of the PRP and WDP.

Key matters addressed in statutory planning documents

3.5 My evidence identifies and addresses a range of resource management matters covered in the various statutory planning documents, with those central to the proposal being:

- Regionally Significant Infrastructure
- Indigenous biodiversity
- Tangata Whenua
- Reclamation
- Dredging, disturbance, and deposition
- Natural character
- Amenity values (including port noise)

Regionally Significant Infrastructure

3.6 Northport is Regionally Significant Infrastructure (RSI) as defined in the RPS. In that regard, RSI has elevated importance through specific objectives and policies in both the RPS and PRP, including provisions that seek to recognise, promote, and enable it.

- 3.7 Objective 3.7 of the RPS is to recognise and promote the benefits of RSI to Northland's economic, cultural, environmental, and social well-being, and a similar Objective F.1.6 is included in the PRP to both *recognise* the benefits of RSI and to *enable* its effective development, operation, maintenance, repair, upgrading and removal. The explanation for Objective 3.7 of the RPS identifies the importance of RSI to the Northland Region, and the need to provide for it, albeit recognising that the constraints of infrastructure provision often mean that adverse effects cannot always be practicably avoided or internalised. The explanation also identifies the importance of recognising the long-term needs of infrastructure providers to operate, maintain and enhance assets.
- 3.8 The RPS and PRP RSI objectives are supported by a range of policies which provide further clarification on the matters that should be had regard to and given weight to when considering proposals for RSI, most of which are directly relevant to the proposal. In addition, the policies also provide direction for the management of effects arising from the establishment, operation, and upgrading of RSI. As outlined in this evidence, I consider the proposal aligns with these provisions.

Indigenous biodiversity

- 3.9 Policy 11 of the NZCPS is a directive policy to avoid adverse effects on certain threatened or at-risk indigenous flora and fauna,³ and significant effects on other indigenous biodiversity and related habitats. This policy has subsequently been given effect to in Policy 4.4.1 of the RPS and Policy D.2.18 of the PRP.
- 3.10 Policy D.2.18 of the PRP directs that a system-wide approach be adopted for large areas of indigenous biodiversity, with the system extent varying according to the species involved.
- 3.11 My evidence considers the technical assessments and evidence of Dr Kelly, Dr Bull, Mr Sneddon, Dr Clement, and Dr Flynn in respect to effects on indigenous biodiversity, concluding that the proposal aligns with D.2.18 due to the effects being identified – at the relevant system scale – as no more than minor on the basis of avoidance and mitigation measures identified by these experts and incorporated in the proposed conditions of consent.

³ Among other identified matters.

Tangata Whenua

- 3.12 Objective 3 and Policy 2 of the NZCPS relate to taking account of the principles of the Treaty of Waitangi and kaitiakitanga in relation to the coastal environment. These provisions have been given effect to by Objective 3.12 of the RPS, and subsequently by Objective F.1.9 and a range of supporting policies in the PRP. The PRP provisions reinforce the need to recognise and provide for kaitiakitanga through a range of means including early engagement, meaningful consultation, involvement throughout the resource consent process, and through appropriate responses to effects on tangata whenua.
- 3.13 My evidence, supported by the evidence of other Northport witnesses, details the consultation and involvement of tangata whenua throughout the initial design and resource consent process, and the conditions of consent proposed in response to the matters that are within the control of Northport. While it is acknowledged that not all concerns raised by tangata whenua are capable of resolution through conditions of consent, the proposed conditions nevertheless respond to the various provisions relating to tangata whenua issues, as outlined in the evidence of Mr Isaacs.

Reclamation

- 3.14 Policy 10 of the NZCPS addresses reclamations, generally stating that they should be avoided unless the requisites in Policy 10(1) are met. My evidence concludes that the proposal meets the requisites and aligns with the range of matters in Policy 10(2) in respect to the form and design of the proposed reclamation. My evidence also notes the specific relevance of Policy 3 of the NZCPS which is that particular regard be had to the efficient operation of infrastructure, including ports.
- 3.15 While the RPS does not contain any specific provisions in respect to reclamation, the PRP contains two specific policies (Policy D.5.20 and D.5.21). D.5.20 is essentially a précis of the NZCPS Policy 10, while Policy D.5.21 requires regard to be had to the extent to which the reclamation and its intended purpose provide for the efficient operation of infrastructure (including ports). My evidence concludes that the proposal is fully aligned with these provisions.

Dredging, disturbance and deposition

- 3.16 The PRP contains specific policy provisions relating to dredging, disturbance, and deposition activities in the CMA. From an effects perspective, the provisions are focused on avoiding long-term erosion in the CMA and on land, and related effects on structures

in the CMA. They also seek to recognise the benefits of dredging, disturbance, and deposition activities, especially where (relevantly) they are for the operation, maintenance, upgrade, or development of RSI and/or for beach re-nourishment and deposition for beneficial purposes. Having considered the benefits of the dredging, disturbance and deposition activities associated with the proposal, my evidence concludes that the proposal aligns with these provisions.

Natural character and natural features and landscapes

- 3.17 Objective 2 and Policies 13 and 15 of the NZCPS include direction to avoid adverse effects on outstanding natural character and landscape areas, and outstanding natural features, and to otherwise avoid significant effects on other natural character and natural features and landscapes in the coastal environment. This is reinforced by provisions in the RPS, and again by Objective F.1.12 and the supporting Policy D.2.17 of the PRP.
- 3.18 My evidence notes that there are no outstanding natural landscapes (ONLs), outstanding or high natural character areas (ONCs), outstanding natural features (ONFs), or outstanding natural seascapes within the proposed development footprint. Furthermore, having considered the evidence of Mr Brown, my evidence concludes that the effects of the proposal on ONLs, ONFs, ONCs, and natural character in general, when considered in the context of the existing environment, align with the relevant provisions of these plans.

Amenity values (including port noise)

- 3.19 Potential effects on amenity values is a matter that permeates through all of the relevant statutory planning documents, but it is particularly relevant under the provisions of the WDP.
- 3.20 Having considered the submissions, plan provisions and expert evidence, my evidence identifies increased port noise as having the greatest potential to adversely affect amenity values. Visual effects are also relevant, noting they were less prevalent in the submissions received.
- 3.21 My evidence contains a detailed consideration of amenity values, noting the differing expectations of the various District and Regional plan zones involved. Specifically, the Marsden Point Port Zone of the PRP and the Port Zone of the WDP anticipate and provide for port development, while residential zones in the surrounding area seek to achieve appropriate residential amenity.

- 3.22 My evidence concludes that the inherent tension between the expectations of the different zones is adequately and appropriately managed by the port noise management provisions proposed as conditions of consent. These provisions have been developed in accordance with NZS6809:1999 and tailored to fit the particular environment in which the proposal is located.

Summary

- 3.23 Overall, my evidence concludes that the proposal is located in District and Regional Plan zones created specifically for port establishment, operation, and upgrading/development. Furthermore, the proposal has a very high level of alignment with the objectives and policies pertinent to these zones, RSI, and economic development in general.
- 3.24 My evidence addresses the directive policies to avoid adverse effects on indigenous biodiversity, outstanding natural character and landscape areas, outstanding natural features, and other natural areas located within the coastal environment. Having considered the evidence of the various technical experts, and my understanding that a policy which directs that effects be avoided may be satisfied if the effects in question are minor or transitory⁴, my evidence concludes that the proposal aligns with these directive policies.
- 3.25 My evidence also traverses the various provisions relating to tangata whenua, and concludes that the process followed by Northport, coupled with the proposed conditions of consent align with these provisions to the greatest extent practicable, noting some residual matters are unable to be resolved through conditions of consent or are otherwise outside the scope of matters that can be addressed through this resource consent application.
- 3.26 Overall, my evidence concludes that the proposal aligns with the relevant provisions of the statutory planning documents.

4. EXISTING NORTHPORT CONSENTS

- 4.1 Northport began trading in 2002 following the granting of a bundle of resource consents in 2000 (known as the Berth 1 and 2 consents).⁵ In 2004 additional consents were granted to expand the existing port (known as the Berth 3 and 4 consents)⁶ (construction of Berth 3 was completed in 2007).

⁴ Environmental Defence Society Inc v New Zealand King Salmon Company Limited [2014] NZSC 38.

⁵ See **Attachment 1** – 'Existing Berth 1 and 2 consents held by Northport'.

⁶ See **Attachment 2** – 'Existing Berth 3 and 4 consents held by Northport'.

- 4.2 The Berth 1 and 2 consents include a reclamation of approximately 32ha, 390m of linear wharf, capital dredging of the swing basin⁷ in front of the wharf (RL -13m CD (Chart Datum)), stormwater discharge from operational areas, and a WDC land use consent for port operations.
- 4.3 The Berth 3 and 4 consents include a reclamation of approximately 5.2ha and 450m of additional linear wharf, additional capital dredging of the swing basin in front of the wharf (RL -14.5m CD), stormwater discharge from operations areas,⁸ and a WDC land use consent for port operations.
- 4.4 Notwithstanding that the Berth 1 and 2 consents and the Berth 3 and 4 consents have been given effect to, there are residual works (including reclamation) associated with both the Berth 1 and 2 and 3 and 4 consents that are yet to be completed. Specifically, there is approximately 0.85ha of residual reclamation associated with the Berth 1 and 2 consents, and 3.8ha of reclamation and 270m of additional linear wharf associated with the Berth 3 and 4 consents.
- 4.5 The existing Northport consents (including the unimplemented parts of these consents) form part of the existing environment, and it is my understanding that they have been considered as such in the various technical reports.

5. THE PROPOSAL

- 5.1 The proposal is to expand the existing Northport facility to increase container freight handling capacity, primarily by increasing the length of the existing berth and the associated freight handling area behind it.
- 5.2 The various components of the proposal are shown on the plans in **Attachment 3** of my evidence. They are described in detail in Section 3 of the AEE and summarised below.

Port activities and structures

Activities generally

- 5.3 The proposed container terminal incorporates a range of requisite activities including tug facilities, customs and quarantine facilities, and maintenance facilities – all typical and necessary components of a modern container terminal. It is expected that the terminal will transition from reach stackers (initially) to a high-density design based on the use of

⁷ Ship turning area.

⁸ Stormwater discharges from the Berth 1-4 operations area are now covered by a single stormwater discharge consent (CON20081072304) – included with the Berth 3 and 4 consents in **Attachment 2**.

Rubber Tire Gantry cranes (RTGs). The terminal design, and the process for that infrastructure transition to occur, is further described in the evidence of Mr Khanna.

Cranes

- 5.4 A combination of mobile harbour cranes and ship to shore gantry cranes are anticipated on the port. The proposed maximum operational⁹ height of cranes is 85m. This is consistent with the maximum permitted height for cranes in the Port Zone¹⁰ of the WDP (applicable to the existing constructed port area).

Other buildings and structures

- 5.5 The proposed maximum height for other buildings and structures are as follows:
- Containers: 30m
 - Public utilities, light towers, silos, aerals, and tanks: 60m
 - Other buildings: 20m
- 5.6 These proposed maximum heights are consistent with the maximum permitted heights in the adjoining Port Zone applicable to the existing port.¹¹

Marine Structures

- 5.7 Several marine structures are proposed. These include rock revetment and/or sheet piling on the eastern face of the reclamation, wharf structures (an additional 250m linear extension of the existing consented Northport berth face), a new tug berthing facility at the eastern end of the reclamation (likely a combination of floating pontoons, piles, and gangways), and a new water taxi pontoon near or in conjunction with the tug berthing facility.

Port noise

- 5.8 For the existing port, port noise is currently managed by conditions in the WDC land use consents. Port noise is otherwise managed by the Noise and Vibration (NAV) chapter of the WDP. As explained by Mr Fitzgerald, the expanded port will be unable to comply with the permitted limits in the NAV chapter. Therefore, the proposal is to manage both existing and proposed port noise through consolidated conditions of consent establishing a noise management framework developed in accordance with New Zealand Standard

⁹ There is no maximum height for cranes that are not in operation.

¹⁰ Port Operations Area 'A'.

¹¹ Port Operations Area 'A'.

6809:1999 Acoustics – Port noise management and land use planning (Port Noise Standard), the objective of which is to ensure the long-term compatibility of ports and their neighbours through the application of appropriate land use planning techniques.

- 5.9 In accordance with recommendations in the Port Noise Standard, Mr Fitzgerald has recommended the following key measures to be included as conditions of consent:
- Specified limits for the various noise metrics recommended in NZS 6809:1999.
 - Noise mitigation when monitored or predicted noise reaches a specified level at the façade of any residential unit.
 - Establishment and implementation of a port noise management plan designed to minimise port noise at the source through best practice and ongoing community liaison.

Reclamation

- 5.10 The proposed reclamation will have an area of approximately 11.7ha¹² and a finished deck height of at least 5m above CD.
- 5.11 The reclamation will be protected by hard protection structures (a combination of rock revetment and sheet piling).
- 5.12 The land will be built using dredge spoil (sands and silts) and imported material (sand, rock, and gravel).

Dredging

- 5.13 Capital dredging is proposed to increase the area and depth of the existing swing basin. Specifically, the existing swing basin is to be deepened to -14.5m CD at the western end, transitioning to -16m CD at the eastern end, which as explained by Mr Blomfield is necessary to accommodate the container vessels which are expected to utilise the proposal. Further, dredging is required at the eastern end of the reclamation to provide sufficient water depth for the tug berthing facility.
- 5.14 The anticipated volume of capital dredging is 1.72 million m³. All of this will be used in the reclamation or otherwise disposed of in approved land-based locations.

¹² The overall expanded port area will be approximately 13.7ha, 1.8ha of which is above MHWS (not reclamation).

- 5.15 It is anticipated that three types of dredging methods may be used, being Trailer Suction Hopper Dredger (TSHD), Cutter Suction Dredger (CSD) and a Backhoe dredger (BHD).¹³

Earthworks and terrestrial vegetation clearance

- 5.16 Earthworks and vegetation clearance is proposed to construct the part of the port inland of MHWS, and to construct the proposed walkway and pocket park. The proposed earthworks area is approximately 23,210m² and the approximate volume is 17,300m² (excluding pavement) and 28,200m³ (including pavement).

Stormwater discharges

- 5.17 Stormwater from the expanded port operations area will continue to be treated via the existing canal and pond-based collection and treatment system. Proprietary devices may also be utilised depending on the final design of the expanded port.
- 5.18 A new resource consent is sought for the stormwater treatment system covering the existing and expanded port. The existing consent will be surrendered when the expanded port reclamation is constructed.
- 5.19 New conditions of consent are proposed for the Northport discharges to better enable the monitoring and enforcement of those discharges, including the differentiation between Northport and MMH discharges as outlined in the evidence of Mr Blackburn.

Public access and recreation

- 5.20 As explained in the evidence of Mr Greenaway, the proposal includes a public park/reserve area at the eastern end of the expanded port. It is proposed that vehicle access to the park/reserve area be constructed between the expanded port area and the Channel Infrastructure NZ Ltd ("Channel Infrastructure") land to the south. In addition to public open space recreation areas, the park will include a car park and public toilet facility relocated from the end of Ralph Trimmer Drive, and a new pontoon for the Te Araroa Trail water taxi, which may also be used for fishing, swimming, and socialising.
- 5.21 I understand that Northport is also open to considering other options for potential offsite recreation mitigation which will be further explored prior to the hearing.

¹³ BHD used for construction dredging only (i.e. shaping of batter slopes, deepening close to existing berths, and for small volumes). The swing Basin dredging will be either TSHD or CSD.

High tide roosting habitat

- 5.22 As recommended by Dr Bull, additional roosting habitat for variable oystercatcher and New Zealand Dotterel is proposed to be created through deposition of sand in the intertidal area to the west of the existing port. This habitat will be created prior to construction of the proposed reclamation so that it is available for use ahead of the loss of habitat associated with the reclamation.¹⁴ The purpose of the additional roosting habitat is to avoid any adverse effects resulting from the removal of roosting habitat within the proposed expansion footprint.

Management plans

- 5.23 Construction and operation of the expanded port will be in accordance with several management plans required as conditions of consent.
- 5.24 The primary management plan in relation to construction is the Construction and Environmental Management Plan (*CEMP*) with chapters containing measures to manage effects on avifauna, marine mammals, lizards, and marine biosecurity, and additional chapters relating to dust management and erosion and sediment control. A draft *CEMP* is included with the evidence of Mr Pettersson. In addition, a Capital Dredging Management Plan (*Capital DMP*), Biosecurity Management Plan (*BMP*), Safety Management Plan (*SMP*), and Environmental Monitoring and Management Plan (*EMMP*) are also required for the dredging aspects of the port construction.
- 5.25 Proposed management plans relating to the ongoing operation of the port are a Port Noise Management Plan (*PNMP*), Air Quality Management Plan (*AQMP*), Operational Lighting Management Plan (*OLMP*), and Maintenance Dredging Management Plan (*Maintenance DMP*).
- 5.26 The overall approach is that the proposed conditions of consent specify the “standards” that the proposal will need to achieve, and the management plans contain the content and information required to be provided for satisfying those “standards” and managing identified potential effects on the environment.

¹⁴ The proposed high tide roosting habitat is described in further detail in the evidence of RRH and LB.

6. RESOURCE CONSENTS REQUIRED & ACTIVITY STATUS

Resource consents required

- 6.1 The s42A Report identifies the specific regional and district plan rules under which consent is required and the associated activity status¹⁵. I agree with the assessment, although I note that the application is for all resource consents necessary to enable the proposed expansion of Northport, rather than seeking consent to “breach” certain “rules” in the various plans.
- 6.2 The overall bundle of consents required under the various plans has discretionary activity status overall.

Surrender of WDC land use consents RC36355.1 (Berth 1 and 2) and Decision Number 1¹⁶ (Berth 3 and 4) (s138 RMA)

- 6.3 In order to have one integrated and consistent (i.e. consolidated) set of resource consents applicable to the overall port development, it is proposed to surrender the existing WDC land use consents RC36355.1 and Decision Number 1 for activities on the Berth 1-2 and 3-4 reclamations respectively when Berth 5 is constructed and operational – but they will remain in place in the interim. This will enable the comprehensive management of effects across the entire port development.
- 6.4 Some of the conditions from RC36355.1 remain relevant and are proposed as conditions of consent for the expanded port (discussed later in Section 12 of my evidence).

Surrender of existing regional stormwater consents (s138 RMA)

- 6.5 It is proposed that the existing stormwater discharge consent CON20090505532 will eventually be surrendered and replaced with a new consent covering stormwater from the overall port area when Berth 5 is constructed and operational – but it remains in place in the interim.

7. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT (Section 104(1)(a), RMA)

General

- 7.1 Actual and potential effects on the environment are assessed comprehensively in the application AEE and the evidence of a number of technical witnesses. I have read the

¹⁵ At paragraphs 167-172.

¹⁶ There is no known WDC reference number for this consent.

various statements of expert evidence filed on behalf of Northport and consider the conclusions in respect to effects on the environment to be consistent with the conclusions contained in the relevant technical reports submitted with the application AEE. I do not intend to repeat the assessments of the various experts, other than to briefly summarise their conclusions to the extent that they are relevant to my planning assessment.

Existing environment

- 7.2 The application AEE contains a detailed description of the existing environment, including existing unimplemented resource consents.¹⁷ I understand that the various Northport experts have considered the possibility that these consents could be implemented when determining the overall level of actual and potential effects on the environment resulting from the proposed expansion.

Positive effects

- 7.3 The identification of Northport as 'Regionally Significant Infrastructure' in the RPS and PRP recognises that ports are essential economic assets that are a vital part of the transport network, and the role Northport has in facilitating the export and import of goods for the benefit of the community. More specifically, the proposal's positive effects include:
- Both direct and indirect economic benefits described in the evidence of Mr Akehurst and in the Polis report commissioned by Northland Inc.¹⁸
 - Improving the efficiency and resilience of the national port network (including by providing improved services for Northland exporters) and acting as a catalyst for a range of supporting business activity in Marsden Point and the region.
 - Improved national level role under the Civil Defence Emergency Management Act 2002 where ports are defined as lifeline utilities. Specifically, when in a state of regional or national emergency, ports are often crucial to the response efforts associated with that emergency, as evident in recent events including Covid-19, Cyclone Gabriel, and the Auckland flooding.

¹⁷ For example the Channel Infrastructure channel optimisation consent.

¹⁸ Northland Inc. Submitter number 147.

Coastal processes

- 7.4 The effects of the proposal on coastal processes are considered in the expert evidence of Mr Reinen-Hamil. He considers the cumulative effects of the proposed expansion on coastal processes (tidal current and sediment transport) adjacent to the area of occupation to be moderate, and minor elsewhere in the harbour, inlet, and Bream Bay.¹⁹

Landscape values and natural character

- 7.5 The effects of the proposal on landscape values and natural character are assessed in the evidence of Mr Brown. He has considered effects on landscape values and natural character from various viewpoints/receiving environments and concludes that the proposal's effects range from very low to high depending on the viewpoint. Effects on ONLs are minor or less and therefore consistent with Policy 15(a) and (b) of the NZCPS,²⁰ and effects on natural character are not 'significant' in the context of Policy 13(1)(b) of the NZCPS.²¹

Noise and vibration

- 7.6 Noise and vibration resulting from both construction and expanded port operations is considered in the evidence of Mr Fitzgerald. His evidence concludes that construction noise will fall within the permitted activity limits for construction noise specified in the District Plan.^{22 23}
- 7.7 Regarding the effects of noise arising from expanded port operations, I note both Mr Fitzgerald²⁴ and Mr Runcie²⁵ consider these to be reasonable, subject to the implementation of port funded mitigation for eligible dwellings if specified noise triggers are exceeded, and implementation of measures contained in a Port Noise Management Plan (PNMP) including measures to reduce noise at the source and community liaison requirements. I understand that similar noise management frameworks are in place for most of the other commercial ports in New Zealand.²⁶

¹⁹ Reinen-Hamil EIC, paragraphs 10, 58(i).

²⁰ Brown EIC, paragraph 103

²¹ Brown EIC, paragraph 103.

²² NAV.6.2 Whangarei District Plan.

²³ Fitzgerald EIC, paragraph 92.

²⁴ Fitzgerald EIC, paragraph 93(e).

²⁵ S42A report paragraph 367, and Appendix C7 Sections 5.2 and 7.1

²⁶ Port of Tauranga (Mt Maunganui), Napier Port (Napier), Eastland Port (Gisborne), Port Taranaki (New Plymouth), CentrePort (Wellington), Port Marlborough (Picton), Nelson Port (Nelson), Lyttelton Port (Christchurch), Port Otago (Dunedin), and South Port (Invercargill).

Amenity values (incorporating noise effects)

7.8 There are many elements that contribute to amenity values. However, based on the submissions received and my own observations, the main potential amenity impacts in this instance are increased noise from port operations, visual effects (including lighting), and effects on recreation values.

7.9 In assessing effects on amenity values, I set out below:²⁷

(1) The views/opinions of residents.²⁸

(2) Relevant expectations in the context of the Regional and District plans.

(3) Objective testing of values established under (1) and (2) by relevant experts.

7.10 I address these considerations sequentially as follows:

The views/opinions of residents

7.11 The views/opinions of residents in the surrounding environment are influenced by their personal experiences and expectations. In many cases they are inherently subjective as they are influenced by personal feelings or opinions, including the strength of their attachment to the place. However, they are important because the residents live with the port on a daily basis, and fundamentally it is the residents' appreciation of pleasantness, aesthetic coherence, and cultural and recreational attributes that is being considered.

7.12 Feedback received from residents through consultation and submissions identified a range of amenity-based concerns including:

- The ability to sleep at night without being awoken by port related noise (although very few submitters specifically raised this as an existing issue or future concern).
- Loss of property values.
- The impacts of port noise on outdoor living spaces.
- Visual impact of an expanded port.
- Loss of recreation values from removal of the eastern beach.

7.13 Port noise was a key concern raised in submissions. While some noise-related submissions raised concerns about existing port noise, most expressed concern about a

²⁷ The below structure is intended to assist in summarising the analysis. It is not intended to set out a rigid approach for the assessment of amenity effects or to purport to constrain the expert assessments in any way.

²⁸ As expressed through consultation and submissions.

potential increase in noise resulting from the proposal (i.e. additional noise relative to the status quo).

- 7.14 I have spent time at Reotahi at night during shipping operations, including when a log boat was being loaded. While I do not purport to have specialist acoustic training, I have experienced the general “hum” of the port, and the bangs and crashes that can result from freight handling on the port (including logs). I can readily understand how this noise, and the potential for additional noise, is a source of concern for some residents, notwithstanding that experiences and perceptions vary, including according to individual sensitivities to noise.
- 7.15 In addition to noise, some submissions raised concerns over potential visual impacts, particularly in respect to cranes and containers.
- 7.16 In regard to recreational values, I note that concerns raised by submitters were mostly in relation to the loss of values for the general public rather than personal loss of recreation values.

Relevant expectations in the context of the District and Regional Plans

- 7.17 The District and Regional Plans provide an objective record of the amenity expectations for each zone, although this is more complicated in this case due to there being multiple zones involved with materially different expectations.
- 7.18 Dealing firstly with the PRP, the proposed expansion is located in the Marsden Point Port Zone (MPPZ), the stated purpose of which is “*to enable the development and operation of existing and authorised maritime-related commercial enterprises or industrial activities ...*”.²⁹ This is further reinforced by Policy D.5.9 (which confirms the appropriateness of the MPPZ for port development), and the adjoining Port Zone applicable to the existing port.
- 7.19 In summary, both the MPPZ and Port Zone provisions anticipate and enable port development and operation, with effects on amenity values (including specifically visual, noise and lighting effects) to be managed cognisant of the operational requirements of the port.

²⁹ Policy D.5.8 PRP

- 7.20 The residential areas in the vicinity of the port, being those at Marsden Bay and Reotahi, are zoned General Residential Zone and Settlement Zone respectively. These zones have different amenity expectations to the Port Zone and MPPZ.
- 7.21 In considering the different amenity outcomes for the various zones, some guidance can be found in the “District-Wide” chapters, particularly the Urban Form and Development (UFD), and Noise and Vibration (NAV) chapters. Specifically, Objective UFD-O4 recognises that amenity values are not “static” and can change over time as a result of “planned urban development”. The NAV provisions also anticipate different expectations across a range of zones and include guidance on how to manage this³⁰ consistent with the noise management measures being advanced as conditions of consent.

Objective testing of values by relevant experts

- 7.22 The three experts that have conducted assessments that relate to amenity values are Mr Brown (landscape/visual), Mr Greenaway (recreation), and Mr Fitzgerald (noise).
- 7.23 As described above, Mr Brown has considered effects on the visual component of amenity values in his evidence. From the Reotahi perspective, he concludes that despite the infilling of the Marsden Point Beach area and additional port structures and lighting, effects would be contextualised by both the current port and CINZ facility, as well as by the coastal settlements and residential areas that frame most views across, and up and down, the harbour. He expands on this further in stating that *“it is also important to reiterate that much of the industrial context and ‘backcloth’ to the port and its proposed expansion areas will remain intact for the foreseeable future, reinforcing the industrial nature of Marsden Point, irrespective of where it is viewed from”*.³¹
- 7.24 Both Mr Brown and Mr Greenaway consider that the loss of beach area will appreciably diminish both its recreational utility and appeal, with Mr Greenaway describing the effects as significant for recreational users of the beach, and more than minor at the regional scale.³²
- 7.25 In regard to noise, as outlined above, Mr Fitzgerald considers the potential maximum increase in indoor noise relative to the existing limits will be no more than minor following the mitigation proposed by Northport. He considers the effects on outdoor amenity to be minor.

³⁰ NAV.3(1), NAV.4(2), NAV.4(3)

³¹ Brown EIC, paragraph 21.

³² Rob Greenaway EIC, paragraphs 2, 55, 62, 64, 68.

Overall conclusions on amenity values

- 7.26 While some submitters cited potential visual and recreational impacts, the majority of submissions from local residents raised noise as their primary concern. Some of those submissions raised concerns about existing noise, and all were concerned about the impact of additional noise as a result of the proposed expansion.
- 7.27 The District and Regional Plan expectations for the Port Zone, MPPZ, and residential zones understandably differ, but there are plan provisions that aim to strike a balance between enabling the uses expected in the Port Zone and MPPZ and achieving a reasonable standard of amenity in residential and open space zones in the vicinity of the port, particularly in respect to the management of noise.
- 7.28 Furthermore, in my view the port noise standard (NZS6809:1999) is specifically designed to manage the effects on residential communities, whilst providing for the operation, use and development of ports, recognising their importance as regionally significant infrastructure, with Section 1.3 stating that:
- This standard describes a method for the establishment of noise limits and associated land use controls with the objective of protecting community health, whilst recognising the need for the efficient operation, use and development of ports. A balanced approach is recommended; that is, providing for the mitigation of the effects of Port noise, and providing for adequate planning to limit the adverse effects of noise at the source.*
- 7.29 In this regard, I note the evidence of Mr Fitzgerald is that the proposed provisions have been specifically developed in accordance with the guidance in NZS 6809:1999, and that they represent an appropriate response in the context of this document, together with the District and Regional Plan provisions.
- 7.30 Overall, while the evidence is that there will be some effects on amenity values, in my opinion these effects must be considered in the context of the existing environment, the expectations of the various district and regional zones as expressed through the District and Regional Plan provisions, and best practice measures that are proposed by Northport to avoid or otherwise manage effects.

Indigenous biodiversity

Assessment Context

- 7.31 The effects of the proposal on indigenous biodiversity (marine ecology, avifauna, marine mammals, and terrestrial fauna) are considered in the evidence of Dr Kelly, Dr Bull, Dr Clement, and Dr Flynn respectively. The various assessments take a “system-wide” approach consistent with the direction in Policy D.2.18 of the PRP.³³

Marine ecology

- 7.32 Dr Kelly considers the effects of the proposal on marine ecology (excluding birds and marine mammals) to be within minor/transitory levels subject to the implementation of management and mitigation measures.³⁴ I also note his conclusion that there are no threatened or at-risk species adversely affected by the proposal.³⁵

Avifauna

- 7.33 Dr Bull considers the effects of the proposal on coastal avifauna (including cumulative effects) to be low to very low³⁶ taking account of the avoidance and mitigation measures proposed. For completeness, this includes the construction and maintenance of the high tide roost area, the preparation and implementation of an Avifauna Management Plan, underwater noise monitoring during piling and possible changes to construction methodology depending on results, and measures to minimise the effects of operational lighting.

Marine mammals

- 7.34 Dr Clement considers the effects of the proposal to be less than minor based on the implementation of recommended best practice management actions set out in the draft Marine Mammal Management Plan (MMMP).³⁷ For completeness, these include a marine mammal observation zone, source noise reduction measures, shut down zones, seasonal consideration of piling stages, and ongoing acoustic monitoring and potential adaptation during piling.

³³ **Policy D.2.18**

5) assessing the potential adverse effects of the activity on identified values of indigenous biodiversity, including by:
a) taking a system-wide approach to large areas of indigenous biodiversity such as whole estuaries or widespread bird and marine mammal habitats, recognising that the scale of the effect of an activity is proportional to the size and sensitivity of the area of indigenous biodiversity, and

³⁴ Dr Shane Kelly EIC, paragraph 119.

³⁵ Dr Shane Kelly EIC, paragraphs 15, 36, 75, 80, 119.

³⁶ Dr Leigh Bull EIC, paragraphs 75, 81.

³⁷ Dr Deanna Clement EIC, paragraph 17

Terrestrial flora and habitat

- 7.35 The effects of the proposal on terrestrial flora (specifically dune vegetation) and habitat for fauna have been considered by Dr Flynn. Dr Flynn considers the effects of the loss of terrestrial vegetation to be no more minor, including in respect to the at-risk declining grass species Pingao.³⁸

Channel navigation and safety and oil spill risk

- 7.36 The effects of the proposal on channel navigation and safety and oil spill risk are considered in the evidence of Mr Goodchild. His evidence responds to the concerns raised by several of the submitters³⁹ and concludes that any potential effects around navigation safety and marine oil spill risk will be appropriately managed.⁴⁰

Biosecurity

- 7.37 The application AEE identified potential biosecurity risks arising from both the construction and operational phases of the proposed port development. Biosecurity risks arising from construction are proposed to be managed through the implementation of measures identified in a Construction Environmental Management Plan (CEMP) required as a condition of consent. Risks arising from operations will continue to be managed in accordance with the requirements of the Import Health Standard (IHS) administered by MPI, the Northland Regional Pest and Marine Pathway Management Plan (2017-2027) prepared under the Biosecurity Act 1993, and PRP rules administered by the NRC.

Archaeology

- 7.38 The application AEE included an archaeological assessment carried out by Clough and Associates Ltd. While the report identified twelve archaeological sites within 1km of Northport, no sites were identified within the footprint of the proposed port expansion. The report concludes that the potential for undetected subsurface remains within the project area is “very low” and recommends adherence to the accidental discovery protocol.⁴¹ I also note that the Patuharakeke CEA did not identify any archaeological sites within the development footprint.

³⁸ Sarah Flynn EIC, paragraphs 4.5, 4.9, 8.5, 11.6

³⁹ Channel Infrastructure, Seafuels Ltd, BP Oil NZ Ltd

⁴⁰ Goodchild EIC, paragraph 18

⁴¹ Clough and Associates Archaeological Assessment (2021), page 23 (Appendix 16 of application AEE).

Recreation effects

- 7.39 As outlined above, the effects of the proposal on recreation are considered in the evidence of Mr Greenaway. Mr Greenaway considers that while the proposal will retain many elements of existing recreational amenity, the effects of the loss of beach area associated with the reclamation will be significant for recreational users of the beach, and more than minor at the regional scale.⁴² I understand Mr Greenaway's conclusions on the level of effects are derived from a matrix contained in his evidence, with the displacement of users being a key determinant.

Stormwater discharges/water quality

- 7.40 The effects of stormwater discharges are considered in the evidence of Dr Kelly and Mr Blackburn. I understand that Dr Kelly relies on the evidence of Mr Blackburn, the monitoring record of the existing Northport stormwater system, and the proposed conditions of consent in relation to water quality, in concluding that the effects of discharges from the expanded port will be no more than minor. I also understand from the evidence of Mr Blackburn that the discharge will be consistent with the water quality requirements of the PRP.⁴³

Air quality

- 7.41 The air quality effects of the proposal are considered in the evidence of Mr Curtis. He concludes that through the use of appropriate mitigation, any potential for nuisance effects can be minimised such that the site should not result in offensive or objectional dust nuisance.⁴⁴

Traffic effects

- 7.42 The traffic effects of the proposal are addressed in the evidence of Ms Harrison who considers that traffic effects can be appropriately managed, and where necessary mitigation can be employed to maintain the safety and efficiency of the road network.

Cultural effects

- 7.43 A range of cultural effects were identified in the Cultural Effects Assessment (CEA) prepared by the Patuharakeke Te Iwi Trust Board and reinforced in the submissions filed

⁴² Rob Greenaway EIC, paragraphs 2, 55, 62, 64, 68.

⁴³ Blackburn, paragraphs 4.8, 5.5 and 5.6.

⁴⁴ Curtis, paragraph 98.

by tangata whenua.⁴⁵ In considering these effects, I acknowledge that Māori may have a different perspective of what constitutes the “existing environment” to that established through caselaw under the RMA, and specifically that the environment extends back to what existed prior to Pākehā settlement and port and other developments at Poupouwhenua.

- 7.44 The cultural effects identified in the CEA and submissions are wide ranging, from potential impacts on the natural environment (including concerns about further degradation of the harbour (Whangārei Te Rerenga Parāoa) and effects on declining taonga species), to loss of connection with and alienation from the marine and coastal area (Takutai Moana) and effects on the local community resulting from increased noise and traffic.
- 7.45 Many of the matters raised in the CEA and submissions are capable of being analysed and addressed through a “western science” lens. However, others are intangible and can only be articulated by tangata whenua. They arise in the context of whakapapa,⁴⁶ mauri,⁴⁷ manaakitanga,⁴⁸ mana,⁴⁹ wairuatangata,⁵⁰ rangatiratanga,⁵¹ kaitiakitanga,⁵² mātauranga,⁵³ and te reo Māori me ōna tikanga.⁵⁴
- 7.46 While some matters are outside the control of Northport (e.g. potential impact on future Marine and Coastal Area (Takutai Moana) Act 2011 claims) or are otherwise not amendable to being addressed through consent conditions, many of the matters are able to be addressed to some extent through conditions of consent. To this end, Northport engaged a cultural advisor (Mr Isaacs) to assist with better understanding (including through engagement) and responding to the concerns of tangata whenua. This has culminated in a range of proposed design measures and conditions of consent, summarised as follows:
- Retention of access from Ralph Trimmer Drive to the poupouwhenua mataitai (Mair Bank) incorporated in the design (wairuatangata).

⁴⁵ Patauharakeke Te Iwi Trust Board, Ngati Kahu O Torongare/Te Parawhau Hapu Iwi Trust, Nga Hapu o Whangarei, Ngatiwai Trust Board, Te Parawhau Resource Management Unit, Mere Kepa, Dr Ben Pittman, Pari Walker, Fred Tito and Selwyn Norris, Te Pouwhenua o Tiakiriri Kukupa Trust.

⁴⁶ Lineage, descent. (While I understand that some of the Te Reo terms used in paragraph 7.45 may not be readily translated into short English summaries, I have attempted to provide brief English descriptions in this and the following footnotes).

⁴⁷ Life force or essence.

⁴⁸ Showing respect, generosity, and care.

⁴⁹ Prestige, authority, control, power, influence, status, spiritual power, charisma.

⁵⁰ The distinctive identity or spirituality of people and places.

⁵¹ Chieftainship, right to exercise authority.

⁵² Guardianship and conservation.

⁵³ Maori knowledge.

⁵⁴ The language and its cultural practices.

- Specific effects management measures for taonga species, especially marine mammals and avifauna (kaitiakitanga).
- Design and landscape treatment (cultural artwork/storytelling at the pocket park and associated accessway) (wairuatangata).
- Establishment and annual contribution to a Harbour Restoration and Enhancement Fund for the purpose of improving the health of Poupouwhenua and/or Whangārei Te Rerenga Parāoa (kaitiakitanga).
- Establishment of a kaitiaki group (funded by Northport) aimed at recognising and providing for the kaitiakitanga of Māori who have a relationship with Poupouwhenua and Whangārei Te Rerenga Parāoa. Key functions of this group are:
 - Input of the kaitiaki group in monitoring of construction and ongoing operational effects, including through an online monitoring and reporting platform, the 'Cultural Indicators Hub'.
 - Identify projects to be funded by the Harbour Restoration and Enhancement Fund (kaitiakitanga).
 - Identify initiatives to develop expertise and capacity building for mana whenua which could include establishing educational scholarships, providing post-graduation research funding, identifying opportunities for professional training (e.g. Directors Institute course), apprenticeships, and/or port operator training (e.g. forklift licence), and/or proposing suitable candidates for employment opportunities.

7.47 In my opinion, and having regard to the evidence of Mr Isaacs, the response to identified cultural effects is consistent with Policy D.1.2(9) of the PRP, being:

D.1.2 Requirements of an analysis of effects on tāngata whenua and their taonga

If an analysis of the effects of an activity on tāngata whenua and their taonga is required in a resource consent application, the analysis must:

.....

9) identify, where possible, how to avoid, remedy or mitigate the adverse effects on cultural values of the activity that are more than minor.

Summary of environmental effects

- 7.48 Based on the technical evidence on behalf of Northport and the information provided with the AEE, while the proposal will have various effects on the environment, for the most part these are minor or less, or transitory - which is the case with respect to threatened or at-risk indigenous biodiversity and outstanding natural landscapes/seascapes, outstanding natural features, and natural character. Effects that cannot be avoided can be appropriately managed by the proposed conditions of consent. This includes the proposed management of port noise through a framework consistent with best practice in New Zealand. Furthermore, I consider the proposed conditions relating to tangata whenua issues respond genuinely to the matters raised in the CEA and through consultation, notwithstanding I acknowledge some residual issues regarding the proposal remain as between tangata whenua and Northport.
- 7.49 Overall, the actual or potential environmental effects associated with the proposed expansion can be appropriately avoided, remedied, or mitigated (including as required by the applicable planning framework, addressed below) through the project design and the consent conditions that are proposed by Northport.

8. ASSESSMENT OF STATUTORY PLANNING DOCUMENTS (Section 104(1)(b), RMA)

Planning framework

- 8.1 The statutory plans relevant to the proposal are:
- National Policy Statement for Indigenous Biodiversity (NPS-IB)_
 - New Zealand Coastal Policy Statement (NZCPS)
 - Regional Policy Statement for Northland (RPS)
 - Proposed Regional Plan for Northland (PRP)
 - Whangarei District Plan (WDP)
- 8.2 I have prepared my evidence on the basis that where plan provisions are settled, clear and direct in relation to the relevant matters, and have been prepared in a way that specifically gives effect to the relevant provisions of the higher order planning documents, there is no need to consider Part 2 of the RMA.
- 8.3 The PRP and WDP were prepared under, and in my opinion specifically and appropriately give effect to, the NZCPS and the RPS. However, for completeness I

assess the key provisions in these higher-order documents, before assessing the PRP and WDP.

National Policy Statement for Indigenous Biodiversity

- 8.4 The NPS-IB came into effect on 4 August 2023.
- 8.5 The NPS-IB only applies to indigenous biodiversity in the terrestrial environment. “Terrestrial environment” is defined in the NPS-IB to mean “land and associated natural and physical resources above mean high-water springs, excluding land covered by water... and the coastal marine area”. For that area of the “terrestrial coastal environment”, the NPS-IB states that both it and the NZCPS apply, and that if there is a conflict between them, the NZCPS prevails. There are some exceptions to this, relevantly that “specified highly mobile fauna” are covered by the NPS-IB, regardless of whether they use the CMA for part of their life cycle. The relevant species are listed in Appendix 2 to the NPS-IB and include the threatened/at risk bird species at issue for Northport.
- 8.6 The NPS-IB contains specific requirements relating to indigenous biodiversity within terrestrial Significant Natural Areas (SNAs), although (as confirmed the evidence of Ms Flynn) this is not relevant to the Northport expansion as there are no affected terrestrial SNAs.⁵⁵
- 8.7 The NPS-IB and its relevance to coastal avifauna is considered in the evidence of Leigh Bull.⁵⁶ I note her conclusion that the proposal adequately manages effects on coastal avifauna in a manner that gives effect to the objective (2.1) and relevant policies (4 and 15) of the NPS-IB.
- 8.8 The NPS-IB is also considered in the evidence of Sarah Flynn in respect to other terrestrial indigenous biodiversity.⁵⁷ Her assessment considers the relevant provisions 3.10 and 3.16. I note her conclusion that no SNAs are affected and so Clause 3.10 is not engaged, and also that there are no significant effects on indigenous biodiversity and so Clause 3.16(1) is not engaged. In regard to Clause 3.16(b) I note her conclusion that the residual effects can be managed in a manner that gives effect to the objectives and policies of the NPS-IB.

⁵⁵ Flynn EIC, paragraph 10.6

⁵⁶ Bull EIC, paragraphs 86-93

⁵⁷ Flynn EIC, 10.1-10.14

- 8.9 Based on the evidence of Ms Bull and Ms Flynn, and my understanding of the correct application of the NPS-IB, the proposal is consistent with the relevant provisions of the NPS-IB.

New Zealand Coastal Policy Statement

- 8.10 The NZCPS contains 7 objectives and 29 policies aimed at achieving sustainable management in the coastal environment, with the majority of these having relevance to the project. The key matters most pertinent to the proposal are:

- Indigenous biodiversity
- Natural character
- Tangata whenua
- Public Open Space
- Coastal hazards
- Development in the coastal environment
- Integrated management
- Ports
- Reclamation
- Biosecurity
- Natural features and landscapes
- Sedimentation
- Discharges in the CMA

- 8.11 A comprehensive analysis of the NZCPS provisions is provided in the AEE. Further analysis is provided below.

Indigenous biodiversity

- 8.12 The relevant NZCPS provisions in respect to Indigenous biodiversity are Objective 1 and Policy 11. Policy 11 contains specific direction to avoid adverse effects on certain endangered and threatened indigenous flora and fauna, and to avoid significant effects on other indigenous biodiversity and related habitat (a provision that has subsequently been given effect to in Policy 4.4.1 of the RPS and Policy D.2.18 of the PRP).

- 8.13 As detailed in the evidence of others,⁵⁸ the proposal has been the subject of detailed, integrated, and appropriately scaled assessments of effects on indigenous biodiversity that recognise the dynamic, complex, and interrelated nature of the environment in this locality. The various assessments have concluded that the overall effects on biological and physical processes, and on indigenous coastal flora and fauna, will be minor or less subject to the implementation of measures to avoid, or otherwise manage, effects (in all cases as required by the planning framework).
- 8.14 In my opinion, the proposal is consistent with Objective 1 and Policy 11, including the Policy 11(a) requirement to avoid effects on certain flora, fauna, and areas/habitats.⁵⁹

Natural character

- 8.15 Objective 2 and Policy 13 include direction to avoid adverse effects on areas of outstanding natural character and avoiding significant effects on natural character in other areas in the coastal environment.
- 8.16 The port is not located in an Outstanding Natural Character Area and, on the basis of Mr Brown's statement of evidence, the proposal is consistent with Policy 13(1)(a) and (b).
- 8.17 At a more general level, Mr Brown considers that, although the character and values of the Marsden Point Beach area will be very appreciably altered, because the proposal is located in an area where natural character values are compromised by existing activities in the immediate and surrounding environment, the proposed expansion will not alter the natural character values of the wider Marsden Point coastline to a commensurate degree. Effects on natural character are not significant in that context.
- 8.18 Overall, I agree with Mr Brown that the proposal is acceptable in natural character terms, and in alignment with Objective 2 and Policy 13.

Tangata Whenua

- 8.19 Objective 3 and Policy 2 relate to taking account of the principles of the Treaty of Waitangi, and kaitiakitanga in relation to the coastal environment. Throughout my involvement with this project, the relationship of tangata whenua with their lands, rohe and resources and the related effects of the proposal on this relationship have been a key focus for Northport. This is reinforced in the evidence of Mr Blomfield and Mr Issacs

⁵⁸ Dr Flynn, Dr Kelly, Dr Clement, Dr Bull

⁵⁹ I rely on the advice of Mr Simmons that avoiding adverse effects does not preclude minor or transitory effects as per the Supreme Court Decision *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38 (para. 145)

who document the engagement with tangata whenua in the years leading up to lodgement of the resource consent applications and post lodgement.

- 8.20 In my opinion the proposed conditions of consent relating to cultural matters are a necessary and appropriate response to the issues identified by tangata whenua, consistent with the intent of these provisions.

Public Open Space

- 8.21 Objective 4 and Policies 18 and 19 are to maintain and enhance public open space qualities and recreation opportunities in the coastal environment, including walking access to and along the coast. This is caveated in Objective 4 and Policy 19 where it is specifically recognised that there may be exceptional circumstances when maintaining and enhancing walking access to and along the coast is not practicable, including for health and safety reasons.
- 8.22 In my opinion, the proposed incorporation of public access and enhanced open space facilities is consistent with these provisions, recognising that some loss of public open space is necessary to enable the port to expand and safely operate in providing for its regionally (and nationally) significant infrastructure function.

Coastal hazards

- 8.23 Objective 5 and Policies 24-27 are concerned with managing coastal hazard risks. There is also specific recognition for activities that cannot avoid locating in coastal hazard areas, such as an existing commercial port. Given the specific circumstances and noting that the reclamation and structures will be subject to further engineering assessment and design, in my opinion the proposal aligns with Objective 5 and Policies 24-27, and specifically natural hazard risks will be managed appropriately.

Development in the coastal environment

- 8.24 Objective 6 and Policy 6 seek to enable people and communities to provide for their social, economic, and cultural well-being by enabling development in the coastal environment where the development is appropriate for the intended location.
- 8.25 In my opinion, the proposal aligns well with these provisions because, in addition to the positive economic and social effects and the functional need to be located in the CMA, the expansion is also designed to meet the reasonably foreseeable needs of future generations, is located in an area where natural character values are already influenced

by existing activities in the immediate and surrounding environment (indeed, it integrates with the existing port), incorporates mitigation measures in relation to public access and open space, and includes shared use of facilities in the CMA where practicable (i.e. the proposed water taxi pontoon and other amenities on the eastern revetment).

Integrated management

- 8.26 Policy 4 seeks to provide for the integrated management of natural and physical resources in the coastal environment, including the need to take a collaborative approach between the NRC, WDC, and hapu and iwi groups. This is being achieved through joint processing of the application by the WDC and NRC, and the collaborative approach to consultation with hapu and iwi.

Ports

- 8.27 Policy 9 is a specific policy for ports. It provides high level strategic context for the proposal, by recognising the importance of ports to a sustainable national transport system in New Zealand, and requiring consideration of where, how and when to provide in Regional Policy Statements and in plans for the efficient and safe operation of ports, the development of their capacity for shipping, and their connections with other transport modes.
- 8.28 In my opinion, the proposal directly aligns with, and gains considerable support from, Policy 9 as it is founded on a need to integrate with and assist the national network of ports in New Zealand to provide for the efficient and essential movement of national and international freight. Central to this is the reality that providing for the development of the capacity of ports for shipping requires long lead times for gaining consents, securing funding, design, and construction. Accordingly, a long-term view is required.
- 8.29 Furthermore, the proposed expansion is predominantly located in the MPPZ, the singular purpose of which is *“to enable the development and operation of existing and authorised maritime-related commercial enterprises or industrial activities...”*. Accordingly, the PRP has identified the proposal site as the appropriate location for the port as per Policy 9(b).

Reclamation

- 8.30 Policy 10 provides a prescriptive framework for the consideration of reclamation in the coastal marine area.

- 8.31 Policy 10(1) sets out requisites for reclamation, and otherwise states that it should be avoided. In my opinion, the proposal aligns with Policy 10(1) for the following reasons:
- Policy 10(1)(a): It is not possible to provide additional berth length without an associated reclamation (freight handling area) behind and immediately adjacent to berth face.
 - Policy 10(1)(b): The activity can only occur in the coastal marine area.
 - Policy 10(1)(c): Other alternative methods have been considered and are not considered practicable.
 - Policy 10(1)(d): The proposed reclamation will provide significant national and regional benefits.
- 8.32 Where reclamation is considered suitable having considered the requisite matters under Policy 10(1), Policy 10(2) sets out a range of matters to have regard to when considering its form and design. The proposal appropriately responds to these matters as follows:
- Policy 2(a): The port deck height and rock armouring of the reclamation will be designed to take into account coastal hazards, including climate change and sea level rise.
 - Policy 2(b): The reclamation will have the same appearance as the existing port.
 - Policy 2(c): No contaminated materials will be used in the reclamation.
 - Policy 2(d): Public access is to be provided within the esplanade reserve and along the eastern edge of the reclamation.
 - Policy 2(e): The various technical reports conclude that potential adverse effects of the proposal on the environment can be avoided or otherwise managed.
 - Policy 2(f): Conditions are proposed to minimise effects on cultural landscapes and sites of significance to tangata whenua.
 - Policy 2(g): Modelling has determined that there will not be significant changes in harbour morphology resulting from the proposed reclamation, and that other effects can be managed.
- 8.33 Policy 3 also requires that when considering proposed reclamations particular regard be had to the efficient operation of infrastructure, including ports. This is directly applicable to the proposal, the intent of which is to enable the efficient operation of Northport, and

to improve the overall movement of freight handled by the network of ports servicing the upper North Island.

Biosecurity

- 8.34 Policy 12 requires conditions for resource consents, where relevant, to assist with managing the risk of adverse effects caused by harmful aquatic organisms. The proposal includes conditions of consent related to biosecurity, and specifically biosecurity measures are to be included in the BMP to manage biosecurity risks associated with construction vessels. In addition, as explained by Mr Blomfield,⁶⁰ Northport will continue to abide by MPI regulations in relation to international shipping. Accordingly, in my opinion the conditions of consent in relation to biosecurity are consistent with Policy 12.

Natural features and landscapes

- 8.35 Policy 15 includes direction to avoid adverse effects on areas of outstanding natural features and landscapes, and to avoid significant effects on all other natural features and landscapes in the coastal environment.
- 8.36 The port is not located in an Outstanding Natural Landscape and there are no Outstanding Natural Features within the proposed development footprint. Furthermore, I note the advice of Mr Brown that ONFs and ONLs in the surrounding environment already coexist with port and Channel Infrastructure activities, and - for the reasons set out in Mr Brown's evidence - the proposal will be consistent with Policy 15(a) in terms of avoiding effects on OLN/ONFs.
- 8.37 At a more general level, Mr Brown's evidence is that significant adverse effects on other natural features and landscapes will be avoided.
- 8.38 Overall, I agree with Mr Brown that the proposal is an appropriate development in this location, consistent with Policy 15.

Sedimentation

- 8.39 Policy 22 requires that development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water. The proposal responds to and is consistent with this policy by proposing a comprehensive suite of conditions of consent designed to provide real-time monitoring of dredging

⁶⁰ Blomfield EIC, paragraph 84 and associated footnote.

sedimentation levels, response mechanisms to appropriately manage adverse effects of sedimentation in coastal water and in the coastal marine area generally and reporting of outcomes to councils and other bodies and agencies with collaborative responsibilities and duties in the coastal environment.

- 8.40 In regard to the predicted increase in sedimentation/accretion to the east of Berth 5 associated with the ongoing presence of the wharf and reclamation (including the vicinity of the CINZ wharves), I note that Mr Reinen-Hamill does not consider this to be significant, and the associated monitoring and response strategies included in the proposed conditions of consent are also consistent with Policy 22.

Discharge of contaminants

- 8.41 Policy 23 contains a range of matters that are to be had particular regard to when managing discharges to water in the coastal environment, including a requirement to avoid significant adverse effects on ecosystems and habitats after reasonable mixing, and to minimise adverse effects on the life supporting capacity of water within the mixing zone.
- 8.42 Discharges to water from the port facility will be managed by the existing pond-based stormwater treatment system for the existing port and/or proprietary devices. Based on the evidence of Mr Blackburn in respect to the performance of proprietary stormwater treatment devices, and the monitoring results from the existing stormwater treatment system, the effects of these discharges on water quality are predicted to be minor or less. Increases in turbidity and sedimentation resulting from dredging and construction of the reclamation are expected to be temporary, subject to adherence to the proposed conditions of consent.
- 8.43 Having considered the proposed conditions of consent relating to construction and operational discharges to the coastal marine area, in my opinion the proposal aligns with Policy 23.

Regional Policy Statement for Northland

- 8.44 The RPS was made operative in 2016. It gives effect to the NZCPS, and accordingly the objectives and policies traverse similar matters, albeit tailored to the regional context. It is founded on eight principles⁶¹ which are focused on providing for the health and

⁶¹ People, Economy within the environment, Partnership, Partnership with tangata whenua, Local government's role and responsibility, Affordability, Adaptive management, Effectiveness

economic well-being of people and communities, while managing effects on the environment.

8.45 The key RPS matters pertinent to the proposed expansion are as follows:

- Water quality
- Indigenous biodiversity
- Enabling economic wellbeing
- Regionally significant infrastructure
- Efficient and effective infrastructure
- Tangata whenua
- Natural hazards
- Natural character and landscape
- Occupation of space in the CMA
- Coastal permit duration
- Development in the coastal environment
- Hard protection structures

Indigenous biodiversity

8.46 Objective 3.4 and Policy 4.4.1 give effect to Objective 1 and Policy 11 of the NZCPS. Policy 4.4.1 contains a similar framework for managing effects on indigenous ecosystems and biodiversity including a direction to avoid adverse effects on threatened or at-risk taxa and significant areas of indigenous vegetation and habitats of indigenous fauna. For the same reasons the proposal aligns with Objective 1 and Policy 11 of the NZCPS,⁶² in my opinion the proposal also aligns with these provisions.

Enabling economic well-being

8.47 Objective 3.5 is to sustainability manage Northland's natural and physical resources in a way that is attractive for business and investment, and that will improve the economic well-being of Northland and its communities. In my opinion, the proposal is entirely consistent with this objective as its purpose is to ensure a robust port network with sufficient capacity into the future, thereby enabling the operation and expansion of

⁶² Paragraphs 8.12-8.14 of this evidence.

downstream businesses and investment that contributes to the economic well-being of people and communities.

Regionally significant infrastructure

- 8.48 The importance of Regionally Significant Infrastructure, and economic development in general is one of the key themes of the RPS, with Northport identified as Regionally Significant Infrastructure in Appendix 3 of the RPS.
- 8.49 Objective 3.7 is to recognise and promote the benefits of Regionally Significant Infrastructure to Northland's economic, cultural, environmental, and social well-being. Objective 3.7 is supported by Policies 5.3.2 and 5.3.3(3).
- 8.50 Policy 5.3.2 requires particular regard to be had to the significant social, economic, and cultural benefits of Regionally Significant Infrastructure when determining resource consent applications. Notwithstanding subsequent caselaw in respect to the overall judgement approach, the explanation for the intent of this policy is that it is *"to assist Regionally Significant Infrastructure when it comes to the overall judgement to be made in terms of Section 5 of the RMA, during the resource consent process, by providing clear recognition of the social, economic, and cultural benefits of regionally significant infrastructure"*.
- 8.51 Policy 5.3.3(3) sets out matters that are to be assigned weight by decision makers when managing the adverse effects of Regionally Significant Infrastructure. These include (relevantly) the benefits of the proposed port expansion in accordance with Policy 5.3.2, the fact that ports are specifically recognised in the NZCPS (Policy 9), the functional need for the expanded port be located in the coastal environment and the relative effects of establishing a new port in other alternative locations in the CMA, the fact that the port is a lifeline utility, and that the effects of the proposal can be practicably reduced taking into account appropriate measures to provide positive effects that accrue to the community of interest and/or the resource affected.
- 8.52 In my opinion, these provisions provide support for expansion of the existing port and reinforce the appropriateness of the proposed effects management measures.

Efficient and effective infrastructure

- 8.53 Objective 3.8 and Policies 5.2.1, 5.2.2, and 5.2.3 promote efficient and effective infrastructure. They are reinforced by the Regionally Significant Infrastructure provisions assessed in paragraphs 8.48-8.52 above.

- 8.54 Objective 3.8 is to optimise the use of existing infrastructure, ensure new infrastructure is flexible, adaptable, and resilient, and meets the reasonably foreseeable needs of the community, and to strategically enable infrastructure to lead or support regional economic development and community well-being. In my opinion, the proposal aligns with this objective. It optimises the use of existing port infrastructure, avoids the need for a new port elsewhere in Northland, enables flexibility to adapt to changing market and political conditions to meet the reasonably foreseeable needs of the community, and it enables the port to continue to lead and facilitate regional economic development and community well-being.
- 8.55 Objective 3.8 is supported by Policies 5.2.1, 5.2.2, and 5.2.3, which collectively recognise the importance of infrastructure to the economic wellbeing of the region. These policies emphasise the importance of flexibility, resilience, and adaptability for infrastructure to meet the foreseeable needs of future generations. In my opinion the proposal is consistent with these policies, particularly as the core project purpose is to provide flexibility for Northport to adapt to everchanging markets, and to enable Northport to continue to facilitate economic growth in the region, and nationally.

Tangata Whenua

- 8.56 Objective 3.12 is to recognise and provide for the Tangata Whenua kaitiaki role in decision-making over natural and physical resources. In my view, the role of tangata whenua in decision-making has been recognised in the Northland and Whangarei contexts through Regional and District plan provisions, iwi management plans, and through meaningful and ongoing engagement with tangata whenua on this proposal. Northport has actively sought to understand the relationship of tangata whenua over the lands, rohe, and resources and the related effects of the proposal on this relationship. This has culminated in conditions of consent designed to mitigate or otherwise manage adverse effects to the extent practicable, in line with the intent of Objective 3.12.

Natural hazards

- 8.57 Objective 3.13, supported by Policies 7.1.1, 7.1.3, 7.1.4, 7.1.5 and 7.1.6, is aimed at minimising the risks and impacts of natural hazards.
- 8.58 Northport (as with all ports) has a functional need to be located in the coastal environment. As such, it is more likely to be subject to potential risks and impacts of coastal hazards, although the natural hazard risk to the port itself is lessened by its location inside the harbour, as opposed to more exposed coastal locations. This is

specifically recognised in Policy 7.1.5, and in this regard I consider the proposal to be an appropriate development in the context of these provisions.

- 8.59 The remaining focus of the provisions is on ensuring that the development is designed to accommodate natural hazards, cognisant of the impacts of climate change. These factors have been carefully considered and I understand they will influence the final design of the expanded port as envisaged by these provisions.

Natural character and landscape

- 8.60 Objective 3.14 and Policy 4.6.1 give effect to Objective 2 and Policies 13 and 15 of the NZCPS. For the same reasons the proposal aligns with the NZCPS provisions,⁶³ in my opinion the proposal also aligns with these provisions.

Occupation of space in the CMA

- 8.61 Policy 4.8.1 sets out criteria for considering structures and other activities in the coastal marine area and the wider coastal area. In my opinion, the proposal aligns with the policy for the following reasons:
- (1) There is a clear functional need for port activities, and therefore the expansion to the port, to be located in the coastal marine area – they cannot be located anywhere else. This is further reinforced by the fact that the port is located in the MPPZ and adjacent to the existing port.
 - (2) The design and location of the proposal is constrained by the existing port development and the need for additional berth space. It then follows that the operational port area must be located immediately proximate to the berths. Based on the evidence of Mr Blomfield and Mr Khanna and having reviewed the configuration of ports located elsewhere in the world,⁶⁴ I understand that it is not feasible or viable to undertake port activities on inland areas well away from the berth face, which would require inefficient multiple handling of cargo/containers.
 - (3) I understand from the evidence of Mr Khanna that the proposed two-berth port extension and reclamation footprint is necessary to provide for the intended use (i.e. a container terminal capable of handling 500,000 TEU), and further that it will adequately enable the transition period during which the container port is expected to

⁶³ Paragraphs 8.15-8.18 and 8.35-8.38 of this evidence

⁶⁴ Refer to relevant part of second RFI response (add s42A report reference)

undertake a series of infrastructural and technological upgrades in response to changing demand.

- (4) I understand that exclusion of the public from the port operations area, including the port exclusion zone, is necessary to protect the integrity of the structure and for health and safety reasons.

Coastal Permit Duration

- 8.62 Policy 4.8.3 sets out the matters to be had regard to when determining the expiry date for coastal permits to occupy space in the common marine and coastal area.
- 8.63 In my opinion the proposed 35-year durations sought for the Northland Regional Council consents – other than the coastal permit for reclamation, which is sought to be of unlimited duration pursuant to s 123(a) of the RMA, reflects the need for security of tenure given the significant level of capital investment involved. It also reflects the long-term perspective required for investment in Regionally Significant Infrastructure, including specifically port development, and the need for flexibility and the ability to react to changing factors, such as exchange rates, availability of resources, and market requirements.

Development in the coastal environment

- 8.64 Policy 5.1.2 gives effect to Policy 6 of the NZCPS. It is to enable people and communities to provide for their well-being through appropriate subdivision, use and development, subject to a range of listed matters.
- 8.65 Consistent with the intent of this policy, the proposed expansion will improve the economic well-being of Northland and its communities. In my opinion it achieves this, and is consistent with Policy 5.1.2, by consolidating the existing port development consistent with Policy 5.1.2(a), retaining public access to the residual beach area and the eastern side of the reclamation and improving public amenities as per the pocket park concept consistent with Policy 5.1.2(b)(i), minimising effects on the functioning of coastal processes and ecosystems consistent with Policy 5.1.2(b)(ii), through being compatible with existing development in the surrounding environment (i.e. existing port and CINZ facility) consistent with Policy 5.1.2(c), and through the ability to service the expanded port with adequate infrastructure consistent with Policy 5.1.2(d).

Hard protection structures

- 8.66 Policy 7.2.2 prioritises non-structural measures over hard protection structures but sets out a range of considerations for when hard protection structures may be considered appropriate, including when hazard risk reduction cannot reasonably be achieved through non-structural options. As I understand it, the proposed reclamation rock revetment is the best practicable option for protecting the reclamation against natural hazards, and there are no viable non-structural measures.

Proposed Regional Plan

Water quality

- 8.67 The direction for managing the impacts on water quality from discharges to water is found in Objective F.1.2 and Policy D.4.1. Both provisions are focused on maintaining the water quality standards in Appendix H.3 of the PRP, together with a range of other water quality aspirations including safeguarding the life-supporting capacity, ecosystem processes, and indigenous species, in coastal water, the ability to harvest and eat kai, and providing for cultural values.
- 8.68 Based on the evidence of Mr Blackburn in respect to the performance of proprietary systems and in respect to the water quality monitoring results from existing port related discharges, I consider the proposal to be consistent with all the matters listed in Objective F.1.2 and D.4.1 - where the discharge of operational stormwater via the existing pond system (potentially in combination with proprietary systems) will continue to meet the water quality standards in H.3 of the PRP, and not adversely affect overall water quality in the adjoining harbour. I also understand from the evidence of Mr Blackburn that the proposed treatment methods represent the best practicable option in accordance with Policy D.4.2.
- 8.69 In regard to terrestrial land disturbance and the potential effects on water quality, I consider that Policy D.4.27 can be achieved through the implementation of best practice management practices established in accordance with relevant conditions of consent.

Indigenous biodiversity

- 8.70 Policy D.2.18 is the key PRP provision for managing adverse effects on indigenous biodiversity, with the overarching objective (F.1.3) being to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, maintaining indigenous biodiversity in the Northland Region, reducing the threat status of threatened

or at-risk species (where practicable), and preventing the introduction of new marine and freshwater pests.

- 8.71 D.2.18 is multi-faceted. In the coastal environment, D.2.18(1)(a) is to avoid adverse effects on threatened or at-risk taxa, and the values and characteristics of indigenous vegetation and habitats where assessed as significant under Appendix 5 of the RPS; and D.2.18(1)(b) is otherwise to avoid significant effects on *inter alia* indigenous ecosystems that are vulnerable to modification (including intertidal zones).
- 8.72 In considering the effects under D.2.18(a) and (b), D.2.18.5(a) directs that a system-wide approach be adopted for large areas of indigenous biodiversity “*such as whole estuaries or widespread bird and marine mammal habitats*” and “*recognising that the scale of the effect of an activity is proportional to the size and sensitivity of the area of indigenous biodiversity*”.
- 8.73 D.2.18.6 then states that appropriate methods of avoiding, remedying or mitigating effects may include inter alia “*maintaining and enhancing connections within and between areas of indigenous biodiversity*”, “*considering the minimisation of effects during sensitive times..*”, “*maintaining the continuity of natural processes and systems contributing to the integrity of ecological areas*” and “*the development of ecological management and restoration plans*”.
- 8.74 The proposal has been carefully scoped, located, and designed to avoid effects on significant indigenous vegetation and significant habitats of indigenous fauna, as evidenced by the many years of studies and careful consideration of alternative sites and methods. As detailed in the evidence of Dr Kelly, Mr Sneddon, Dr Bull, Dr Clement, and Dr Flynn, the proposal has been the subject of detailed, integrated, and appropriately scaled assessments of effects on indigenous biodiversity that recognise the dynamic, complex, and interrelated nature of the environment in this locality. The various assessments carried out by these experts have included desktop analysis, technical modelling, and survey work, and have concluded that the overall effects on biological and physical processes, and on the diversity of indigenous coastal flora and fauna, will be minor or less subject to the implementation of avoidance and mitigation measures designed to maintain ecological processes and integrity.
- 8.75 Having considered the evidence of Dr Kelly, Mr Sneddon, Dr Bull, Dr Clement and Dr Flynn, in my opinion the proposal aligns with Objective F.1.3 and Policy D.2.18.

Specifically, I consider that the relevant effects in D.2.18(1)(a) and (b) will be avoided⁶⁵ (respectively) as per the framework for assessing effects set in the wider policy.

- 8.76 Furthermore, I consider that the proposed avoidance and mitigation measures for indigenous biodiversity align with D.2.18(6), including the construction of roosting habitat to maintain/enhance connections within areas of biodiversity, and measures to avoid transitory adverse effects associated with construction during sensitive times (i.e. during avifauna nesting and when marine mammals are known to be near works areas).

Economic wellbeing

- 8.77 Objective F.1.5 is to manage Northland's natural and physical resources in a way that is attractive for business and investment that will improve the economic well-being of Northland and its communities. This is supported by Policy D.2.2 which requires that regard be had to the social, cultural, and economic benefits of activities, including benefits to local communities, Māori and the region.
- 8.78 Objective F.1.5 is a replica of Objective 3.5 of the RPS. The evidence of Mr Akehurst (supported by conclusions in the Polis report) is that the proposed expansion will provide direct economic benefits such as employment opportunities, plus a range of indirect benefits including associated and ancillary business opportunities. In my view these benefits to the wider community (e.g. increased employment, wages, general economic stimulation) are also likely to be beneficial to Māori. Based on this evidence, in my opinion the proposal aligns with this objective.
- 8.79 Having considered the significant economic benefits associated with the proposal, including promoting employment opportunities and supply chains for regional businesses, in my opinion the proposal aligns with Policy D.2.2.

Regionally Significant Infrastructure

- 8.80 Objective F.1.6 is a similarly worded objective to Objective 3.7 of the RPS, where Northport is identified as Regionally Significant Infrastructure. The objective is to *recognise* the benefits of Regionally Significant Infrastructure and to *enable* its effective development, operation, maintenance, repair, upgrading and removal.
- 8.81 Policies D.2.7, D.2.8, and D.2.9 are intended to work together, with D.2.7 being to enable new Regionally Significant Infrastructure by allowing minor adverse effects and

⁶⁵ I rely on the advice of Mr Simmons that avoiding adverse effects does not preclude minor or transitory effects as per the Supreme Court Decision *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38 (para. 145).

D.2.8 being to enable the upgrading of established Regionally Significant Infrastructure in certain circumstances, while the intent of D.2.9 is to identify relevant considerations for more substantial infrastructure proposals.

- 8.82 D.2.9 is a similar but more detailed version of Policy D.2.5. D.2.5 requires regard and weight to be given to the national, regional, and local benefits of Regionally Significant Infrastructure, while D.2.9 sets out a specific range of matters, 1-9, that are to be had regard to and given appropriate weight. In my opinion, the matters in D.2.9 are particularly important within the overall context of the PRP and should be accorded significant weight. While D.2.9 is not directive in of itself, many of the listed matters to have regard to are covered by other more directive provisions of the PRP being F.1.6, F.1.11 and D.5.8. The proposal engages with most of the matters in D.2.9, including (importantly) the proposal has a range of social and economic benefits to the region,⁶⁶ has a clear and demonstrated functional need to be located within the CMA, is integrated with the current operating port (therefore achieving consolidated development and efficient use of existing infrastructure resources), and has been the subject of extensive studies into alternative sites and methods and careful design, all of which have avoided or managed a range of adverse effects.
- 8.83 For the reasons outlined above, in my opinion the proposal aligns with the Regionally Significant Infrastructure provisions, including Objective F.1.6 and Policies D.2.5, D.2.7, D.2.8, and D.2.9.

Use and development in coastal marine area

- 8.84 Objective F.1.8 sets out a range of requirements and outcomes for use and development in the coastal marine area. In my opinion the proposal aligns with Objective F.1.8 for the following reasons:
- The proposal makes efficient use of space in the CMA by expanding the existing facility, which is appropriately located within the MPPZ and adjacent to port and heavy industry zoned land, as opposed to constructing a new port elsewhere (representing consolidated development and efficient use of existing infrastructure resources).
 - The various technical studies provided with the application AEE have concluded that:

⁶⁶ Akehurst EIC, paragraph 81

- the scale and design is necessary to provide for the future needs of Northland and North Auckland communities
- the scale and design is compatible with the location
- the proposal has effects (both within and outside the CMA) that fall within appropriate limits.

8.85 The design recognises the need to maintain and enhance public open space and recreational opportunities through the proposed pocket park development and associated amenities, and the continued provision of public access to the coastal margin.

Tangata whenua

8.86 The relevant objectives and policies relating to tangata whenua are Objectives F.1.9 and F.1.12, supported by Policies D.1.1, D.1.2, D.1.3, D.1.4, and D.1.5.

8.87 Objective F.1.9 is a process orientated provision that is a replica of Objective 3.12 of the RPS, being to recognise and provide for the kaitiaki role of tangata whenua in decision-making. For the same reasons outlined in paragraph 8.56 I consider the process followed from project inception to the Council hearing to be consistent with the intent of this objective, and the supporting policies D.1.1 and D.1.2.

8.88 Objective F.1.12 deals more specifically with effects and seeks to protect places of significance to tāngata whenua from “*inappropriate use and development*”. Policy D.1.5 describes what constitutes a place of significance to tāngata whenua under the PRP. While there are no mapped places of significance to tāngata whenua in the proposal footprint, I am aware of the mapped place of significance to tāngata whenua at Te Poupouwhenua (Mair and Marsden Bank) – discussed further below.

8.89 Regarding potential effects on Mair and Marsden Bank, I note that Mr Reinen-Hamill has not identified any material coastal process related effects on this feature resulting from the proposed reclamation and dredging. Similarly, Dr Kelly has comprehensively assessed marine ecology effects, including on the area of Mair and Marsden Banks (including with respect to kai moana/shellfish). Mr Isaacs also comments on relevant cultural values, potential effects, and the “cultural mitigation proposal”. I am aware of the concerns raised by Patuharakeke about potential impacts on mahinga kai and indigenous biodiversity, particularly where it impacts on the ability of tangata whenua to carry out cultural or traditional activities (e.g. shell fish gathering), and how the proposal responds to those concerns through the various cultural and other conditions of consent.

While I understand the effects identified by tangata whenua, both in the Patuharakeke CEA and in submissions, in my view the proposal is not inappropriate development in the context of Objective F.1.12, particularly given the purpose and expectations for development in the MPPZ and the various effects avoidance and mitigation measures proposed.

- 8.90 Objective F.1.12 is supported by Policy D.1.4.⁶⁷ In my opinion Policy D.1.4 is poorly worded (particularly the phrase “may generally only”), but I understand that the policy enables consent to be granted (i.e. it is not particularly directive), notwithstanding that tāngata whenua have identified cultural effects as being more than minor. While not all of the effects identified by tāngata whenua are capable of resolution, including some that are very broad in scope, conditions of consent are proposed to manage the effects on tangata whenua to the extent practicable.
- 8.91 Finally on this issue, I acknowledge that, while the expectation is that most places of significance will be mapped, a footnote⁶⁸ to Policy D.1.5 states that weight can still be given to unmapped sites in considering applications for resource consent. There is no evidence of such unmapped sites that I am currently aware of.

Natural hazards

- 8.92 Objective F.1.10 relates to natural hazard risk. It is a replica of Objective 3.13 of the RPS, except for the addition of F.1.10(8) which is largely irrelevant to the proposal in any event.
- 8.93 As is the case with all ports, Northport has a functional need to be located in an area subject to coastal hazards. This is specifically recognised in Objective F.1.10(7) which recognises that in justified circumstances critical infrastructure may need to be located in hazard-prone areas.
- 8.94 In my opinion the proposal aligns with this objective given the careful assessment of natural hazard risk, including tsunami, that has been undertaken by Mr Reinen-Hamill.
- 8.95 Policies D.6.1 and D.6.2 relate to the design, location and appropriateness of hard protection structures (applicable to the Northport revetments and sheet piling). Based on

⁶⁷ “**D.1.4 Managing effects on places of significance to tangata whenua:** Resource consent for an activity may generally only be granted if the adverse effects from the activity on the values of Places of Significance to tāngata whenua in the coastal marine area and water bodies are avoided, remedied or mitigated so they are no more than minor.”

⁶⁸ **Footnote 37:** This policy sets out how a Place of Significance to tāngata whenua is to be identified and described. In order to be included in the mapped Sites and Areas of Significance to tāngata whenua in the Plan, a plan change will be required. Places which have been identified and described in the manner required by the policy but have not been subject to a plan change and hence are not included in the Plan, can still be given weight in consent application decisions.

the evidence of Ms Stanaway, I understand there are no viable non-structural measures for retaining the proposed reclamation (D.6.1), and that the structures will be designed in accordance with D.6.2(2) and (4). Accordingly, the proposal aligns with the provisions relating to hard protection structures.

Improving the use of natural and physical resources

- 8.96 Objective F.1.11 is to “*enable and positively recognise activities that contribute to improving Northland's natural and physical resources*”. Consistent with this objective, it must be recognised that the proposal will contribute to Northlands physical resources by extending and ensuring future capacity at Northport, which is an important part of achieving resilience in the national port network. Ultimately, this will promote the social and economic wellbeing of people and communities in Northland.

Natural character, outstanding natural landscapes and features, and places of significance to tangata whenua

- 8.97 Objective F.1.12 and the supporting Policy D.2.17 relate to protecting, and managing effects on natural character, outstanding natural landscapes, and outstanding natural features.
- 8.98 I note there are no ONLs, ONCAs or HNCAs, outstanding natural features (ONFs), or outstanding natural seascapes within the development footprint.
- 8.99 While there are no mapped places of significance to tangata whenua within the proposed expansion footprint (as previously discussed in paragraphs 8.88 and 8.89 of my evidence), I understand there is cultural significance associated with accessing Te Poupouwhenua (Mair and Marsden Bank).
- 8.100 Based on the evidence of Mr Brown and noting the provisions for continued access to Te Poupouwhenua incorporated in the design, I consider the development to be appropriate in the context of these provisions. Specifically, the proposal will avoid adverse effects on the relevant characteristics, qualities, and values of outstanding natural landscapes, outstanding natural features, and areas of outstanding natural character; adverse effects on other natural character, feature, or landscape values have not been assessed as being significant;⁶⁹ the effects of the proposed expansion on natural character are appropriate in the context of the existing port, Channel Infrastructure terminal and

⁶⁹ Brown EIC, paragraph 69

surrounding heavy industrial activities and zoning; and access to culturally important areas is provided for.

Air quality

- 8.101 Objective F.1.13 and the supporting policies D.3.1, D.3.2, D.3.4, and D.3.6 relate to managing the effects of activities on air quality. The effects on air quality from construction and operation of the port were assessed in the air quality assessment in the AEE and are further considered in the evidence of Mr Curtis. Mr Curtis concludes that the effects will not be significant,⁷⁰ reinforced by the fact that all air discharges associated with the proposal are permitted activities under the PRP. Accordingly, in my opinion the proposal is fully aligned with Objective F.1.13 and Policies D.3.1, D.3.3, D.3.4 and D.3.6.

Climate change

- 8.102 Policy D.2.3 requires that regard be had to the effects of climate change on potential development. I note that the effects of climate change have been considered by the independent technical experts in their assessments, most relevantly Mr Reinen-Hamill and Ms Stanaway. Based on these assessments, I understand the final design of the expanded port will take into account the latest information and guidance on the effects of climate change as envisaged by this policy.

Adaptive management

- 8.103 Policy D.2.4 requires that regard be had to taking an adaptive management approach in circumstances where, in the first instance, there is inadequate baseline information on the receiving environment. To this end, none of the technical reports submitted with the application identified concerns with inadequate baseline information. Rather, the effects on the receiving environment are well understood and are able to be addressed by clear monitoring and management responses, to be set out via Management Plans and in conditions of consent. Accordingly, I do not consider that an adaptive management response is required.

Marine pests

- 8.104 Policy D.2.13 seeks to manage the adverse effects from marine pests *inter alia*. In response, the proposal includes management measures to be included in the CEMP

⁷⁰ Curtis EIC, paragraph 45

designed to manage biosecurity risks associated with construction vessels. Then, once the expanded port is operational, I understand that Northport will continue to follow MPI biosecurity requirements for international shipping. Accordingly, I consider the proposal aligns with Policy D.2.13.

Resource consent duration

- 8.105 Policy D.2.14 contains matters to be had regard to when determining resource consent expiry dates. It is a précis of Policy 4.8.3 in the RPS.
- 8.106 Consistent with this policy, the proposed 35 year durations sought for the NRC consents – other than the coastal permit for reclamation which is sought to be of unlimited duration pursuant to s 123(a) of the RMA, reflects the need for security of tenure given the investment involved, the fact that the activity is Regionally Significant Infrastructure, and Northport's prior compliance history and adoption of good management practices (all factors to be considered under this policy). It also reflects the long-term perspective required for port development, and the need for flexibility and the ability to react quickly to changing market requirements.

Other plans and strategies

- 8.107 Policy D.2.15 requires that regard be had to operative NRC plans, and strategies that have followed a consultation process carried out in accordance with the consultative principles and procedures of the Local Government Act 2002. To that end, as covered in Section 9 of my evidence, the expansion of Northport is identified and provided for (to the extent that it can be) in Section 5.5.1 (page 51) and Chapter 6 'Key Initiatives' (page 69) of the *30 Year Transport Strategy for Northland 'incorporating' The Regional Land Transport Strategy*.

Precautionary approach

- 8.108 Policy D.2.20 (which gives effect to Policy 3 of the NZCPS) requires that decision makers adopt a precautionary approach where the adverse effects of proposed activities on indigenous biodiversity are uncertain, unknown, or little understood.
- 8.109 Given the proposal has been carefully designed and located in order to avoid significant areas of indigenous biodiversity, that the applicant has invested heavily and over a period of years in commissioning a broad suite of independent expert studies to thoroughly understand the existing values and the effects associated with its proposal, and that the effects of the proposal are well understood and capable of being managed

under the proposed conditions of consent, in my opinion Policy D.2.20 is not triggered by the Proposal. In any event, the proposal is consistent with Policy D.2.20: given its approach to effects management, the proposal adopts a precautionary approach to several aspects of the applications.

Development in the Marsden Point Port Zone (MPPZ)

8.110 Policies D.5.8 and D.5.9 set out the expectations for development in the MPPZ.

Specifically, D.5.8 states that the purpose of the zone is to *enable* the development and operation of existing and authorised maritime commercial enterprises, while Policy D.5.9 states that development in the zone is generally appropriate where it is consistent with existing development above and below MHWS and/or associated with Regionally Significant Infrastructure in the MPPZ. I note the advice of Mr Simmons that the word “enable” is directive as per the High Court decision *Southern Cross Healthcare Ltd v Eden Epsom Residential Protection Society Inc* [2023] NZHC 948 and so should be afforded significant weight in the overall consideration of objectives and policies under Section 104(1)(b).

8.111 In my opinion the proposal is directly consistent with the purpose of the MPPZ set out in D.5.8. The proposal directly aligns with, and is therefore enabled by, Policy D.5.9 for the following reasons:

- It is an expansion of an existing port 1(a).
- It is consistent with existing port activities and the Channel Infrastructure facility 1(b).
- It is consistent with what is anticipated in the adjoining Port Zone 1(c).
- It is associated with Regionally Significant Infrastructure (2).

Reclamation

8.112 Policies D.5.20 and D.5.21 are specific to reclamations, with D.5.20 being a précis of Policy 10 of the NZCPS, and Policy D.5.21 requiring regard to be had to the extent to which the reclamation and its intended purpose provide for the efficient operation of infrastructure (including ports *inter alia*).

8.113 In my opinion, the proposed port expansion is consistent with Policy D.5.20 for the following reasons:

- The activity cannot be provided for on land, because of the obvious need to provide deep water berthage (D.5.20(1)).
- The activity has a functional need to occur in the CMA (D.5.20(2)).

- There is no other practical means of providing additional berthage, and associated freight handling areas which must be located physically adjacent to the wharf, otherwise they become unviable for a number of reasons, including the need for double (or multiple) handling of cargoes (D.5.20(3)).
- The activity will provide significant regional and national benefits, representing a key part of the national port network (D.5.20(4)).

8.114 In regard to D.5.21, the reclamation is designed and located to interact seamlessly with the existing port facility. Accordingly, it represents consolidation of development in a manner that most efficiently utilises existing physical resources including port handling, road, and planned rail infrastructure. Overall, I consider that the proposal will provide for the efficient operation of Northport in full alignment with this policy.

Dredging, disturbance and deposition

8.115 Policies D.5.24 and D.5.25 relate to dredging, disturbance, and deposition activities. Policy D.5.24 is focused on potential long-term erosion in the CMA and on land, and on potential damage to authorised structures resulting from these activities. Policy D.5.25 is to recognise the benefits of dredging, disturbance and deposition activities, especially where (relevantly) they are for the operation, maintenance, upgrade or development of Regionally Significant Infrastructure, for beach renourishment and deposition for beneficial purposes, and to protect, restore or rehabilitate ecological or recreational values.

8.116 None of the various technical assessments in the AEE or the expert evidence have identified long term erosion within the CMA, or any damage to authorised structures. While some accretion is predicted around the Channel Infrastructure jetties, Northport already holds resource consents to undertake maintenance dredging around those jetties. Overall, I consider that the proposal aligns with Policy D.5.24.

8.117 I also consider that the proposal aligns with Policy D.5.25 because:

- The dredging is associated with the upgrade and subsequent operation and maintenance of Regionally Significant Infrastructure (D.5.25(1) and D.5.25(2)).
- The dredging will improve access and navigational safety (D.5.25(3)).

- 8.118 The deposition associated with the proposed bird roosting area aligns with Policy D.5.25(4)-(6)⁷¹ and according to the evidence of Dr Bull will result in positive outcomes for avifauna species.

Underwater noise

- 8.119 Policy D.5.27 relates to underwater noise, including (relevantly) from vibratory piling and drilling, construction, and demolition. It focusses on adopting the best practicable option for managing effects and avoiding adverse effects on threatened or at-risk marine mammals, and other marine mammals, while having regard to the location and duration of the proposed activity and the benefits of Regionally Significant Infrastructure.
- 8.120 Potential underwater noise effects from piling and dredging are addressed in the evidence of Mr Pine (underwater noise), Dr Clements (marine mammals), and Dr Bull (Little Penguin). Based on this evidence, the effects of underwater noise can be avoided or otherwise minimised through the implementation of management measures. This aligns the proposal with Policy D.5.27, as does the fact that the activity is for Regionally Significant Infrastructure (D.5.27(4)(c)).

Overall conclusions

- 8.121 The PRP contains the following plan interpretation statement:⁷²

1. Regard must be had to all the relevant objectives and policies in the Plan when considering an application for a resource consent.
2. Where policies in this plan are in conflict, the more directive policies shall prevail.
3. Regard must be had to any relevant provisions of the Regional Policy Statement and National Policy Statements, and where appropriate Part 2 of the RMA, when considering an application for a resource consent.

- 8.122 Having considered the broad range of matters covered under the PRP provisions, including the expectations of the MMPZ, the provisions relating to the importance of Regionally Significant Infrastructure to the prosperity of the region, the directive provisions relating to ecological values, the provisions relating to tangata whenua, and

⁷¹ **D.5.25 Benefits of dredging, disturbance and deposition activities**

Recognise that dredging, disturbance and deposition activities may be necessary:

...

- 4) for beach re-nourishment or replenishment activities, or
- 5) to protect, restore or rehabilitate ecological or recreational values, or
- 6) when it is undertaken in association with the deposition of material for beneficial purposes, including the restoration or enhancement of natural systems and features that contribute towards reducing the impacts of coastal hazards.

⁷² Section D Policies, page 241 (PRP).

the mitigation measures proposed in the conditions of consent, in my opinion the proposal aligns with the collective intent of the PRP provisions. The proposal is consistent with all directive policies, including those requiring the “avoidance” of certain effects, and is consistent with the PRP objectives and policies as a whole.

Whangarei District Plan

Port Zone chapter

Regionally Significant Infrastructure

- 8.123 Objective PORTZ-O1 and Policy PORTZ-P1 are to recognise and provide for the importance of the port as Regionally Significant Infrastructure and the contribution it makes to the economic and social wellbeing of the District and Region. The provisions provide further recognition of the importance (regional significance) of the port and support existing and future port operations and activities.

Recognising and providing for current and future port development

- 8.124 Objective PORTZ-O2 requires recognition of the unique characteristics of the port. Further, it requires that the ongoing operation of port activities, and the future development and expansion of the port be provided for. This directive provision, together with other provisions (including provisions in the PRP relevant to the MPPZ) reinforce the appropriateness of the location for existing and future port activities and development.

Managing adverse effects

- 8.125 Objective PORTZ-O3 and Policy PORTZ-P5 relate to managing the effects of the port on the environment.
- 8.126 The proposal has responded to the objective at a broad level through careful location selection and design of the facility, with appropriate effects management secured through the various conditions of consent.
- 8.127 At a more specific level, PORTZ-P5 attempts to establish some broad limits on port operations and development to maintain a level of amenity and/or to appropriately manage adverse effects. Consistent with this Policy, the adverse effects of the expanded port operations and activities will be managed through:

- The height of buildings on the expanded port will match the permitted height in the adjoining Port Zone.
- Best practice management of port noise in accordance with recommendations in NZS 6809:1999.
- Lighting on the expanded port will comply with the permitted standard applicable to the adjoining Port Zone.

8.128 Accordingly, I consider the proposal to be consistent with these provisions.

Public access

8.129 Objective PORTZ-O4 and Policy PORTZ-P6 relate to maintaining public access to the CMA, provided this does not adversely affect the efficient and safe operation of the port, or public health and safety. The proposal responds to these provisions with a range of public access and amenity proposals, including by providing public access to the eastern side of the reclamation without compromising the efficient and effective operation of the expanded port, and public health and safety.

Cultural values

8.130 Objective PORTZ-O6 is to recognise and provide for the relationship of Māori and their culture and traditions in the future development and expansion of the port. Policy PORTZ-P9 requires this to be achieved by limiting the height of buildings and storage areas and requiring an assessment of cultural values.

8.131 The proposal aligns with PORTZ-O6 through the commissioning of a CEA and CVA, ongoing consultation with tangata whenua, and through the subsequent proposed conditions of consent that respond (to the extent that they can) to the concerns raised, as described in the evidence of Mr Isaacs. The proposal also aligns with PORTZ-P9 by limiting the maximum proposed height of buildings and structures on the expanded port to match the permitted height on the existing port, and through the commissioning, receipt and consideration of the CEA and CVA.

District Growth and Development (DGD) chapter

Special purpose zones

8.132 Policy DGD-P9 is to provide for specific activities or areas where special circumstances apply by identifying and zoning areas as Special Purpose Zones.

- 8.133 The existing port is located within a specific 'Port Zone', which is broadly permissive of port related activities and development. The proposed expansion adjoins this zone but is predominantly in the CMA (zoned MPPZ in the PRP).

Regionally Significant infrastructure

- 8.134 There is a raft of provisions in the DGD chapter relating to Regionally Significant Infrastructure. The provisions require the protection of infrastructure (Objective DGD-O13 and that the benefits of Regionally Significant Infrastructure be recognised and provided for (Objective DGD-O14 and Policy DGD-P15), and also address managing the adverse effects associated with upgrading Regionally Significant Infrastructure (Objective DGD-O15 and Policy DGD-P17).
- 8.135 In regard to the significant and broadly encompassing benefits associated with the port, these were outlined in the AEE, and are also addressed in the evidence of Mr Akehurst. He concludes that there are significant economic benefits for the region, and potentially at a national level. DGD-O14 and Policy DGD-P15 direct that these be recognised and provided for.
- 8.136 At a general level the approach to managing the effects of the proposed port expansion aligns with DGD-O15 and the supporting Policy DGD-P17. More specifically, the existing port and the proposal aligns with DGD-P17 for the following reasons.
- The adverse effects of the existing port (most notably noise) are being managed in combination with those of the proposed expanded port through a combination of avoidance and mitigation measures.
 - There are measurable economic and social benefits of the existing port and the proposed expanded port that can be taken into account.
 - Ports are specifically recognised in the NZCPS (Policy 9).
 - The port is constrained in terms of its design and location.
 - Ports are Regionally Significant Infrastructure lifeline utilities.
 - There are a range of positive effects associated with the existing port.
 - No significant adverse effects have been identified.

Reverse sensitivity

- 8.137 Objective DGD-O5 and Policy DGD-P2 seek to avoid conflict between incompatible land use activities.

- 8.138 From a zoning perspective, except for some encroachment into land zoned Natural Open Space (the esplanade reserve), the land within the jurisdiction of the proposed District Plan utilised by the project adjoins the Port Zone. The proposal is therefore sited appropriately in terms of avoiding incompatible land use activities.
- 8.139 Regarding potential noise impacts on sensitive receivers, in my opinion the proposed adoption of port noise management measures in accordance with the guidelines in NZS6809: 1999, the objective of which is *“to ensure the long-term compatibility of ports and their neighbours by the application of appropriate land use planning techniques”*, is consistent with the outcomes sought under DGD-O5 and DGD-P2.

Indigenous biodiversity

- 8.140 Objective DGD-O6 is to identify and protect indigenous biological diversity (including SNAs). While there are no SNAs within the proposed expansion area, the proposal will result in the loss of some indigenous biodiversity within the development footprint. These matters have been carefully assessed by the respective experts, including Dr Bull, Dr Flynn, and Dr Kelly. Measures are proposed to maintain the values and attributes of indigenous biological diversity at the appropriate system level, consistent with this objective.

Cultural values

- 8.141 Objective DGD-O8 is to *“ensure that growth and development takes into account Māori cultural values”*. Meaningful consultation with tangata whenua has been undertaken by Northport to date. Māori cultural values have been a key driver in the evolution of the proposal, consistent with this objective, and conditions of consent are proposed to address many of the effects on cultural values that have been raised.

Natural Hazards

- 8.142 Objective DGD-O10 and Policy DGD-P3 seek to minimise and avoid the risk of hazards on people and property.
- 8.143 Natural hazard risks have been assessed by independent experts. Consistent with the objective, the expanded port will be designed to minimise the risks of natural hazard events, including the deck height above sea level, rock armouring of the reclamation extents, and stormwater treatment system capacity.

- 8.144 As covered elsewhere in my evidence, there is an obvious functional and operational need for the expanded port to be in this location (DGD-P3(5)).
- 8.145 The design will avoid natural hazards to the greatest extent practicable, and accordingly the proposal is consistent with this policy.

Amenity values

- 8.146 Policy DGD-P4 is *“to ensure that the scale and nature of new land use activities are commensurate with the anticipated level of amenity and the stated issues and objectives for the relevant zone”*.
- 8.147 Notwithstanding that the proposed port expansion is not a new land use activity, activities on the expanded port are consistent with the anticipated level of amenity and the stated objectives for the adjoining Port Zone, and the adjoining MPPZ (within the adjoining CMA). Management measures (most notably in relation to noise) have been incorporated in the proposal to appropriately manage effects on amenity values in nearby residential zones, and in the residual Natural Open Space Zone.

Infrastructure servicing

- 8.148 Objective DGD-O7 and Policy DGD-P5 seek to ensure that development is served by appropriately designed, located, and constructed infrastructure. Consistent with this policy, I understand the proposed expansion will incorporate a combination of on-site and reticulated infrastructure designed and installed in accordance with appropriate conditions of consent.

Transport

- 8.149 Objective DGD-O9 and Policy DGD-P7 seek to maintain and enhance the transport system in the Whangarei District.
- 8.150 Northport is a key component of cargo transport in the region, and North Auckland. Expanding the facility will have significant benefits for communities and their social and economic well-being.
- 8.151 More directly, the proposal carefully considers and integrates with existing commercial and recreational shipping using the Whangarei Harbour.
- 8.152 Effects on road traffic have been carefully assessed by independent experts, who have recommended appropriate mitigations (primarily the upgrade of key intersections should

port related traffic movements exceed specified triggers) which will be secured by appropriate conditions of consent. Subject to compliance with these conditions (as required) the proposal will maintain and enhance accessibility and safety in accordance with these provisions.

- 8.153 While not within the scope of these consent applications, I consider it possible that an expanded port operation will proceed in parallel with alternative transport options, most notably rail.

Natural Open Space zone chapter

- 8.154 Objective NOSZ-O1 and Policy NOSZ-P1 seek to protect and enhance the values of the NOSZ (the zone applying to the esplanade reserve behind the beach). While it cannot be said that the proposal implements this policy, the open space values in this locality are influenced to an extent by the existing Northport and Channel Infrastructure facilities, and the mitigation proposed minimises effects on the NOSZ in this locality to the greatest extent practicable, while creating new open space resources in the immediate vicinity.
- 8.155 Objective NOSZ-O2 and Policies OSZ-P2 and NOSZ-P3 all seek to manage the effects of buildings and structures on the qualities and values of the NOSZ.
- 8.156 To that end, apart from relocating the toilet building to the eastern end of the expanded port, no other buildings are proposed in the NOSZ. Given the scale of structures on nearby land (including Northport and Channel Infrastructure structures on land and in the CMA) the relocated toilet building will not compromise the values and qualities of the NOSZ.
- 8.157 Policy NOSZ-P5 is to manage adverse effects on the amenity and character of the NOSZ by managing activities to ensure that they support ongoing conservation. While the proposal does not align with NOSZ-P5 as it does not avoid adverse effects on the amenity and character of the NOSZ, measures are proposed to support and enhance the ongoing conservation of species that currently utilise the NOSZ (i.e. VOC, NZ Dotterel) by providing appropriate habitat, and additional measures are proposed in respect to dune restoration.

Transport (TRA) chapter

- 8.158 The relevant objectives of the TRA chapter⁷³, reinforced by the supporting policies,⁷⁴ are focused on maintaining a safe, efficient, accessible, and sustainable transport network, and ensuring that future growth can be supported by appropriate transport infrastructure.
- 8.159 Based on the evidence of Ms Harrison, there is sufficient capacity within the network to accommodate additional traffic from the expanded port, and any effects of additional port traffic can be managed by upgrading key SH15 intersections when/if capacity is exceeded. These proposed management measures are consistent with the policy framework in the TRA chapter.

Three waters (TWM) chapter

- 8.160 The relevant TWM objectives and policies⁷⁵ are focussed on ensuring that development is provided with appropriate water, stormwater, and wastewater infrastructure and that the related effects on the environment are minimised.
- 8.161 The Port will be serviced by reticulated water and wastewater, with capacity confirmed at the appropriate time with the WDC. Connection to available reticulated services is consistent with the TWM provisions.
- 8.162 The proposed on-site stormwater treatment measures are in accordance with best practice and are designed to achieve the prescribed water quality standards in the PRP, consistent with the effects outcomes envisaged in these provisions.

Lighting (LIGHT) chapter

- 8.163 The relevant objectives⁷⁶ and policies⁷⁷ in the LIGHT chapter focus on both health and safety outcomes for night-time activities and minimising external effects.
- 8.164 Artificial lighting is required for health and safety reasons given the 24/7 nature of Port operations.
- 8.165 The effects of artificial lighting on the amenity and character of the surrounding environment have been assessed in the BNZL report, and subsequently in the evidence of Mr Brown. Based on this, the effects of artificial lighting are consistent with these

⁷³ TRA-O1, TRA-O2, TRA-O4, and TRA-O6

⁷⁴ TRA-P3, TRA-P4, TRA-P7, TRA-P8,

⁷⁵ TWM-O1-O5, TWM-P1, TWM-P2, TWM-P3, TWM-P4, TWM-P6, TWM-P8, TWM-P9

⁷⁶ LIGHT-O1, LIGHT-O2, LIGHT-O3

⁷⁷ LIGHT-P1, LIGHT-P2

provisions as they can be managed through conditions of consent and are otherwise appropriate given the context of the surrounding environment.

Riparian and Coastal Margins chapter

- 8.166 The objectives⁷⁸ and policies⁷⁹ for riparian and coastal margins are focussed on preserving natural character, protecting significant areas, maintaining public access, and enhancing the relationship of tangata whenua with their sites and taonga.
- 8.167 In regard to natural character, the proposed expansion is not located within a mapped natural character or landscape area in the RPS, PRP, or the WDP. Furthermore, based on the evidence of Mr Brown, while the character and values of Marsden Point Beach would be appreciably changed by the proposed expansion, this will not alter the natural character values of the wider Marsden Point coastline to a commensurate degree, primarily because the proposal is located in an area where natural character values are compromised by existing activities in the immediate and surrounding environment (as outlined above).
- 8.168 In regard to public access, this is achieved by incorporating public access to the eastern side of the reclamation and residual eastern beach area in the overall design, and a public park/reserve area and associated amenities will be developed at the eastern end of the expanded port to enhance the use of this space.
- 8.169 In regard to the relationship of tangata whenua to their sites and taonga, the proposal provides for this by maintaining access to Te Poupouwhenua (Mair and Marsden Bank), and through a range of other measures incorporated in the proposed conditions of consent.
- 8.170 In regard to dune revegetation, while some dune vegetation is proposed to be removed, the related effects on indigenous biodiversity have been carefully considered and mitigated to ensure they are minor or less. Also, it is proposed to enhance dune vegetation elsewhere, and there will be landscape planting associated with the pocket park.
- 8.171 For the above reasons, in my opinion the proposal generally aligns with the objectives and policies of the Riparian and Coastal Margins chapter.

⁷⁸ 11.3.1, 11.3.2, 11.3.3, 11.3.5

⁷⁹ 11.4.1, 11.4.2, 11.4.7, 11.4.9, 11.4.10, 11.4.16

Waterbodies (WB) chapter

- 8.172 The relevant provisions of the Waterbodies chapter⁸⁰ are focussed on managing adverse effects, including on natural character, water quality, and ecological and cultural values.
- 8.173 As per my earlier conclusions in respect to natural character, while the character and values of Marsden Point Beach would be appreciably changed by the proposed expansion, based on the evidence of Mr Brown this will not alter the natural character values of the wider Marsden Point coastline to a commensurate degree, primarily because the proposal is located in an area where natural character values are compromised by existing activities in the immediate and surrounding environment.
- 8.174 Furthermore, while there are some adverse environmental effects associated with these activities, the effects are not dissimilar to those associated with the existing port operation, and other maritime operations in this location, and are overall minor or less in this context. Potential effects on water quality (WB-P1) will be mitigated through best practice stormwater treatment and disposal. Ecological and cultural effects are addressed above.
- 8.175 Overall, the proposal responds to the provisions in the Waterbodies chapter to the extent practicable.

Ecosystems and biodiversity (ECO) chapter

- 8.176 The relevant objectives⁸¹ and policies⁸² of the ECO chapter seek to maintain and enhance the life supporting capacity of ecosystems and biodiversity, including through the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna from inappropriate development.
- 8.177 The objectives are relatively high level and need to be applied at the appropriate, case-specific scale. While the life supporting capacity of ecosystems and biodiversity in the eastern beach area will not be maintained at the project footprint scale, the loss of habitat (particularly for Variable Oystercatcher and NZ Dotterel) will be mitigated through construction of the additional roosting area on the western side of the port and will be maintained at the appropriate system scale. (As detailed in the AEE, and in the evidence of Dr Kelly, Dr Flynn, Dr Bull and Dr Clement, the proposal has been carefully located,

⁸⁰ WB-P1 and P2

⁸¹ ECO-O1, ECO-O2

⁸² ECO-P1, ECO-P2, ECO-P3, ECO-P4

scoped, and designed to ensure that the life-supporting capacity of ecosystems and biodiversity is maintained at the appropriate scales.)

- 8.178 Consistent with ECO-P4, potential adverse effects associated with the loss of habitat for avifauna and removal of Pingao from the affected dune area will be avoided in the manner described in the evidence of Dr Bull and Dr Flynn respectively, with the proposed roosting area on the western side of the existing port also being consistent with ECO-P3. Also consistent with ECO-P3 are the proposed conditions of consent relating to tangata whenua.
- 8.179 When the provisions are considered overall, and in the context of the adjoining Port Zone (WDP) and Marsden Point Port Zone (PRP), the proposed development is appropriate in this location and aligns with Objectives ECO-O1 and ECO-O2 and the supporting policies.

Natural hazards (NH) chapter

- 8.180 The relevant objective⁸³ and policies⁸⁴ of the Natural Hazards chapter seek to avoid (as far as practicable), and otherwise remedy the adverse effects of natural hazards.
- 8.181 As already outlined, ports have a functional need to be located in the CMA and are therefore exposed to coastal natural hazards. The adverse effects of natural hazards on the expanded port will be avoided as far as practicable, and otherwise mitigated through the implementation of a wide range of design related measures and proposed conditions.
- 8.182 Overall, the proposal responds to these policies, with the effects of natural hazards being avoided to the greatest extent practicable, and otherwise managed, noting the functional need for the port to be located in the coastal environment.
- 8.183 I also note that, after the lodgement of Northport's application, the WDC has publicly notified Plan Change 1: Natural Hazards (PC1), with the first round of submissions closing on 28 July 2023. The PC1 will eventually replace the NH chapter. It introduces objectives, policies and rules, including (relevantly) provisions relating to coastal flooding and erosion.

⁸³ NH-O1

⁸⁴ NH-P1, P2, P4, P5, and P6

- 8.184 The PC1 provisions are at an early stage of evolution and are very much subject to change. Accordingly, in my view very little weight should be placed on the objectives and policies, noting also that the rules do not currently have legal effect.
- 8.185 Notwithstanding the weight assigned to PC1, I note the objectives and policies seek similar outcomes to those in the NH chapter, and include specific consideration of functional and operational need, design considerations to achieve resilience, integrity and function, and consideration to the long-term effects of climate change. In my opinion, the relevant proposed conditions of consent will ensure alignment with the objectives and policies of PC1.

Coastal Area (CA) chapter

- 8.186 The Coastal Area (as defined in the WDP) applies to the part of the proposal located inland of MHWS. There are multiple objectives and policies relevant to the Coastal Area focussing on the full range of coastal matters including natural character, natural features and landscapes, ecological values, public access, coastal hazards, and cumulative effects.
- 8.187 In regard to natural character, while there will be some adverse effects on natural character, particularly at a local level, the evidence of Mr Brown is that the character of the coastal area in this location is largely influenced by the existence of the port and Channel Infrastructure facility, and other surrounding heavy industrial and commercial operations. Furthermore, there are no mapped ONC Areas, ONFs, or ONLs within the expansion footprint identified in either the district or regional plans. On the basis of Mr Brown's evidence, I consider the development is appropriate in this location, and aligned with CA.1.2(1) and the supporting policies CA.1.3(1), CA.1.3(2) and CA.1.3(3).
- 8.188 In regard to ecological values, the evidence of Dr Kelly, Mr Sneddon, Dr Flynn, Dr Clement, and Dr Bull is that the effects will be minor or less, subject to the implementation of recommended avoidance and mitigation measures, when considered at a scale consistent with the direction in Policy D.2.16(5)(a) of the PRP. Consequently, the proposal achieves the outcomes in Objectives CA.1.2(12) and (13) and the supporting policies CA.1.3(4)-(6).
- 8.189 In regard to public access, the proposal maintains access to and along the coast to the greatest extent practicable, whilst providing for the safe and efficient operation of the port. This aligns with Objective CA.1.2(6).

- 8.190 In regard to coastal hazards, consistent with Objective CA.1.2(7), the effects of coastal hazards have been carefully considered by Mr Reinen-Hamill, including tsunamis, and the expanded port can be designed to minimise risk to the extent practicable.
- 8.191 In regard to cumulative effects, these have been considered in the various technical reports and in evidence. A range of mitigation measures are proposed to manage effects consistent with Objective CA.1.2(4).
- 8.192 The CA provisions also encourage enhancement and rehabilitation of the coastal area.⁸⁵ To that end, while it is acknowledged that the reclamation will remove an area from the CMA, the proposal includes enhancement and rehabilitation measures as encouraged by this policy.
- 8.193 The CA provisions seek to direct development to appropriate locations where there is existing development,⁸⁶ and recognise that there is often a functional need to locate, operate, maintain and upgrade infrastructure, commercial and industrial activities in certain locations in the Coastal Area proximate to existing infrastructure, commercial and industrial activities,⁸⁷ noting the specific reference to Regionally Significant Infrastructure in Objective CA.1.2(1). The proposal is appropriate in this location given the existing port and Channel Infrastructure facilities and the MPPZ applying to this part of the CMA. There is also a clear functional need for the expansion to be located adjacent to the existing port in accordance with CA.1.3(25), this being an important directive policy supporting the proposed upgrading/expansion of the port.
- 8.194 The CA provisions also seek to protect coastal water quality through the implementation of best practice sediment control during earthworks,⁸⁸ and stormwater treatment/management.⁸⁹ The proposal achieves these policies through best practice erosion and sediment control during earthworks required as part of the CEMP, and implementation of the best practicable option for the treatment and disposal of operational stormwater.

Landscapes and features (LAN) chapter

- 8.195 The landscape chapter contains a suite of objectives and policies aimed at protecting ONFs and ONLs from inappropriate development.⁹⁰ In this regard, there are no ONFs

⁸⁵ Objective CA.1.2(9), Policy CA.1.3(15)

⁸⁶ CA.1.2(5), CA.1.2(1), CA.1.2(10)

⁸⁷ CA.1.3(25)

⁸⁸ CA.1.3(17)

⁸⁹ CA.1.3(21)

⁹⁰ LAN1.2(2), LAN1.2(4), LAN.1.3(2), LAN.1.3(3), LAN.1.3(6) and LAN.1.3(11).

and ONLs in the development footprint, and Mr Brown has confirmed that ONFs and ONLs in the vicinity will not be adversely affected by the proposed expansion.

Tangata Whenua (TW) chapter

8.196 The Tangata Whenua objectives are focused on the protection of taonga, the relationship of tangata whenua to the natural environment, and to enable rangatiratanga and kaitiakitanga over ancestral lands. The supporting policies provide guidance on how the objectives are to be achieved in practice (including when considering resource consent applications), as follows:

- By ensuring that the views of tangata whenua are represented at every stage of the process.
- By ensuring that Sites of Significance to Māori and other taonga are not adversely affected.
- By ensuring that waterbodies are maintained and enhanced, and access provided for tangata whenua.
- By ensuring effective consultation and participation in resource management processes.

8.197 I am aware that Northport has sought to involve and understand the concerns of tangata whenua throughout the initial design and consenting phases of the project. This has culminated in proposed conditions of consent aimed at addressing some of the issues raised by tangata whenua through the process, although I acknowledge that there are residual matters that are not able to be practically addressed through conditions of consent or design responses.

8.198 In regard to TWP-O3 specifically, while it is acknowledged that there are registered (extant) Treaty claims, the Northport application is not associated with those in any way, and no action in relation to the current application will knowingly exacerbate any such claims.

8.199 In my view the Northport approach to consultation and the avoidance and mitigation of effects aligns with the general intent of the tangata whenua policies.

Noise and Vibration (NAV) chapter

8.200 The two key objectives in the Noise and Vibration chapter are NAV.3(1) which is “to enable a mix of activities to occur across a range of environments, while ensuring that noise and vibration is managed within appropriate levels for the health and wellbeing of people and communities, and for the amenity and character of the local environment”, and NAV.3(2) which is “to ensure that activities that seek a high level of acoustic and vibration amenity do not unduly compromise the ability of other lawful activities to operate”.

8.201 In support of NAV.3(1), Policy NAV.4(1) is “to establish reasonable noise and vibration limits and controls that enable appropriate activities to operate while maintaining the characteristic amenity values of each zone”, and Policy NAV.4(3) which is:

To ensure that high noise generating activities located in noise sensitive areas maintain the characteristic amenity values of each zone by:

a. Establishing noise limits that are consistent with anticipated noise and vibration levels in each zone.

b. Requiring high noise generating activities to provide suitable mitigation measures to maintain appropriate noise levels for the health and wellbeing of people and communities, and for the amenity and character of the local zone.

8.202 The proposed conditions relating to port noise (including the proposed limits and mitigation measures) are consistent with these provisions and are considered best practice and appropriate for managing port noise in the vicinity of sensitive activities, noting consistency with the relevant New Zealand Standard NZS6890:1999.

8.203 In support of Objective NAV.3(2) is Policy NAV.4(2) which is:

To avoid reverse sensitivity effects by:

a. Requiring suitable acoustic design standards for noise sensitive activities located in or adjacent to areas anticipating high noise levels.

b. Restricting noise sensitive activities in zones where they could unduly compromise the continuing operation of appropriate business activities.

c. Considering the use of other mechanisms, such as noise control boundaries, buffer areas or building setbacks, as appropriate tools to protect existing or future activities.

8.204 These provisions pertain to noise sensitive activities in the surrounding environment potentially constraining Northport operations (reverse sensitivity). While it is beyond the

scope of the application to control the actions of third parties, the proposal includes conditions of consent that require Northport to offer acoustic mitigation for dwellings exposed to night-time noise exceeding prescribed limits (thereby contributing to the management of reverse sensitivity effects).

8.205 In addition, Policy NAV.4(5) is “*to ensure that noise associated with activities in open spaces and on public recreational areas is appropriate to the amenity values anticipated in the surrounding environment*”. Given the proportion of port related activities that will be located in the Open Space Zone, this will have a negligible impact on amenity values in the surrounding environment.

8.206 In my opinion the suite of proposed noise management measures is an appropriate response to the objectives and policies in the NAV chapter, particularly given the anticipated uses in the Port Zone of the WDP and the MPPZ of the PRP, and the amenity expectations of residential zones in the surrounding environment.

Port Otago Limited v Environmental Defence Society Inc [2023] NZSC 112

8.207 As I am finalising my evidence, I am aware that yesterday the Supreme Court released its decision on *Port Otago Limited v Environmental Defence Society Inc* [2023] NZSC 112. I note the framework for analysis for how a decision-maker should address any potential conflict between the port and the avoidance policies⁹¹ but note that no such conflict has been identified by the Northport experts.

8.208 Given the very recent timing of this decision and its relevance, I will address this point in greater detail later in the process.

9. OTHER MATTERS (Section 104(1)(c) RMA)

Whangarei District Council Growth Strategy (2021)

9.1 The Whangarei District Council Growth Strategy (2021) (WDCGS) provides a vision for how the Whangarei District will grow and develop over the next 30 years. To that end, it outlines nine strategic drivers to inform future growth in the Whangarei District. One of the drivers ‘*Projects to support prosperity*’ identifies the long-term expansion of Northport as playing an important role in meeting future freight needs and supporting the needs of businesses across Northland.⁹²

⁹¹ At [83]

⁹² Whangarei District Council Growth Strategy, Page 68

- 9.2 The WDCGS identifies “*advocating and supporting decision-making on Northport*” as a strategic priority⁹³. Similarly, the list of priority actions in the ‘Action Plan’ includes prioritising decisions on Northport.⁹⁴

Regional Land Transport Strategy for Northland (2021-2027)

- 9.3 The Regional Land Transport Strategy 2021-2027 (RLTS) also refers to the planned expansion of Northport:

Northport, located at the mouth of Whangārei Harbour, is the region's only deep-water commercial port. The port's unique position, combined with deep-water capabilities, means it could potentially play a vital role in our national economy and global trade. Northport is planning for expansion to support growth in both Northland and north Auckland.

While the plans for expansion are not set in stone, it is important to be cognisant of the inter-relationship the port, roading and rail networks have in providing efficient, reliable connections to support productive economic activity in Northland. Expansion of the port will undoubtedly have flow-on effects for the roading and rail networks.⁹⁵

- 9.4 The RLTS identifies the expansion of Northport as a major driver for the construction of a rail link between Northport and improvements/upgrading to the main Northland-Auckland line.⁹⁶

Climate Change Response Act (2022)

- 9.5 I am advised by Mr Simmons that due to the application being filed prior to the repeal of Section 104E of the RMA on 30 November 2022, regard must not be had to the effects of air discharges on climate change.
- 9.6 Notwithstanding the application of s104E, I have considered the proposal against the Climate Change Response Act 2022 (CCRA), and more specifically the National Adaptation Plan 2022 (NAP) required by the CCRA, and the Emissions Reduction Plan 2022 (ERP) required by the CCRA.

National Adaptation Plan

- 9.7 The NAP identifies over 120 future actions across a range of delivery agencies, the overarching strategy being to enable better risk informed decisions, driving climate resilient development in the right locations, and adaptation options, including managed retreat.

⁹³ Whangarei District Council Growth Strategy, Page 110

⁹⁴ Whangarei District Council Growth Strategy, Page 114

⁹⁵ Regional Land Transport Strategy, Page 37

⁹⁶ Regional Land Transport Strategy, Page 14, 15, 16, 36, 37

- 9.8 Risks to ports and associated infrastructure due to extreme weather events and ongoing sea-level rise is one of the climate risks addressed by the NAP.⁹⁷ One of the key actions related to this is *Action 10.1: Deliver the New Zealand Freight and Supply Chain strategy* which will present a long-term and system-wide view of the freight system that also considers climate adaptation, and it will inform the government, councils and private-sector players when investing in freight infrastructure.
- 9.9 While the 'Freight and Supply Chain Strategy' is yet to be released, my understanding is that the expanded Northport facility can and will be designed to be resilient to the effects of climate change, and specifically sea level rise.⁹⁸

Emissions Reduction Plan

- 9.10 The ERP outlines both high-level objectives and specific actions that the Government intends to pursue in order to put New Zealand on track to meet our emissions reduction targets.
- 9.11 The ERP includes specific sector plans, with ports falling within the 'Transport' section covered in Chapter 10. A key action in Chapter 10 relevant to ports is '*Action 10.3.1 Support the decarbonisation of freight*'. There are seven key initiatives in Action 10.3.1, one of which is to continue to implement the New Zealand Rail Plan and supporting coastal shipping.
- 9.12 Implementing the New Zealand Rail Plan is outside the control of Northport. However, I note that the plan identifies \$450 million of regional investment in rail transport and the regions, including:
- North Auckland Line repairs and maintenance south of Whangarei to halt the previous state of managed decline to ensure the line remains operational.
 - Capacity upgrades, including lowering the tracks in 13 tunnels to allow high-cube shipping containers to be carried, reopening the line from Kauri to Otiria, and building a road rail exchange at Otiria.
 - Purchasing land along the designated rail corridor between Oakley and Marsden-Point.

⁹⁷ *First National Adaptation Plan (2022)* Appendix 2: Climate risks addressed by this plan.

⁹⁸ Reinen-Hamill, paragraph 58(b).

- 9.13 As I understand it, existing and future Northport operations are a key driver for much of this work, as reinforced in the submission by Kiwirail.
- 9.14 At a general level, coastal shipping will be enhanced by improved capacity and containerisation capability at Northport. Combined with planned improvements to the rail network, this will be a key contributor to reducing emissions from the road transportation of freight in the upper North Island.
- 9.15 In addition to the above, I understand that Northport has been proactive in its approach to carbon emissions and has several initiatives which seek to minimise its impacts (as described in the evidence of Mr Blomfield), and in the second Section 92 response dated 21 February 2023.

10. SUMMARY OF SECTION 104 EVALUATION

- 10.1 Section 104 requires that regard be had to actual and potential effects on the environment of allowing the activity (Section 104(1)(a)), the relevant provisions of statutory plans (Section 104(1)(b)), and any other matters considered relevant and reasonably necessary to determine the application (Section 104(1)(c)).
- 10.2 My evidence has considered all of the relevant matters in Section 104(1) and concludes that:
- (1) In terms of s101(1)(a), actual and potential effects on the environment can be avoided, or otherwise appropriately managed by the proposed conditions of consent.
 - (2) In summary in terms of s104(1)(b), the proposal is consistent with the applicable planning framework as a whole, notwithstanding it does not entirely align with every single policy.
 - a. The proposal is located in District and Regional Plan zones created specifically for port establishment, operation, and upgrading. Furthermore, the proposal aligns with the objectives and policies pertinent to these zones, RSI, and economic development in general.
 - b. With respect to the directive policies to avoid adverse effects on indigenous biodiversity, outstanding natural character and landscape areas, outstanding natural features, and other natural areas located within the coastal environment, having considered the evidence of the various technical experts, my evidence concludes that the proposal aligns with these directive policies.

- c. With respect to the various provisions relating to tangata whenua, I consider that the process followed by Northport, coupled with the proposed conditions of consent, align with these provisions to the greatest extent practicable, noting some residual matters remain unresolved (including matters outside the control of Northport).

11. SECTION 105 RMA ASSESSMENT

General

- 11.1 Section 105 outlines additional matters than must be considered by consent authorities for reclamations and discharge permits in addition to the matters in section 104(1).

Stormwater discharges (Section 105(1)) and 107

- 11.2 I understand from the expert assessments that the effects of discharges during the construction phase of the project will be acceptable subject to best practice construction management (and specifically sediment control), and that these temporary construction discharges are consistent with 107(2)(b). I also understand that the proposed collection and treatment methods for managing stormwater discharging from the port operations area are the most appropriate in the circumstances and will not result in any of the effects in s107(1)(c)-(g).

Reclamation (Section 105(2))

- 11.3 Due to port operational and health and safety requirements, including the need to 'future proof' port operations – including to provide for rail access – I understand that it is not practicable for any part of the area to be set aside as an esplanade reserve or esplanade strip. Accordingly, no condition is appropriate/necessary pursuant to s108(2)(g) requiring an esplanade reserve or esplanade strip be set aside or created.

12. PROPOSED CONDITIONS OF CONSENT ADVANCED BY NORTHPORT

- 12.1 Draft conditions have been developed for both the NRC and WDC consents (included in **Attachment 4** of my evidence). The conditions have been prepared in conjunction with the technical various experts, discussed in general terms with Council officers and submitters where relevant (and where practicable), and include a range of measures to manage the effects of both the construction and operations phases of the proposal.
- 12.2 As is usual practice in my experience, an early working draft version of the conditions was provided to the Council and posted on the Council websites in April 2023. Those

early working draft conditions have evolved over the period between lodgement to the filing of evidence. This has meant that there are a number of key amendments to conditions now proposed by Northport and its experts, including following engagement with submitters and/or in response to recommendations by Council officers in the s42A report.

12.3 Accordingly, it is important to record that the two sets⁹⁹ of conditions included in **Attachment 4:**

- (a) represent the latest Northport position, including in response to engagement (to date) with submitters, and the various recommendations of Council officers; and
- (b) contain substantive conditions relating to matters post-dating the analysis in the s42A report; meaning that those conditions were not available to the Council officers in preparing their report. These include conditions responding to capital dredging turbidity monitoring and management, cultural matters, integrated marine planning, and potential effects on Channel Infrastructure.

12.4 The preferred “clean copy” conditions are further explained below. For completeness, I emphasise that the conditions record Northport’s current position, and (as is my experience) it is likely that these conditions will be further modified and refined as the hearing process continues.

NRC conditions

12.5 The NRC conditions are structured as follows:

- General conditions
- Design and construction and reclamation, structures, and sandbank/bird roost
- Construction management
- Dredging (capital and maintenance)
- Monitoring conditions (sandbank, bathymetric and shoreline monitoring)
- Marine biosecurity (construction vessels)

⁹⁹ Being an NRC set of conditions; and a WDC set of conditions. Note that for each set of conditions I have provided (i) a clean copy, and (ii) a copy showing the changes as against the Council s42A set of recommended conditions.

- Earthworks (terrestrial)
- Ongoing operational stormwater discharges
- Ongoing operational air discharges
- Cultural effects

12.6 The management of construction effects is via conditions containing limits, and several management plans designed to achieve the parameters/outcomes established by the limit conditions, and to ensure that the effects conclusions of the various experts are achieved.

12.7 In my opinion, the proposed conditions of consent will ensure the effects are consistent with those predicted by the relevant experts, and consistent with the outcomes sought under the PRP.

WDC conditions

12.8 The WDC conditions are structured as follows:

- General conditions.
- Construction conditions – including archaeology, construction noise, and construction transport.
- Port operations – including operational port noise, lighting, and transport.
- Height of structures and stockpiles.
- Public access/recreation.
- Landscape planting.

12.9 While there are some conditions that manage construction effects, the majority of the conditions control future port activities on the reclamation. The proposed conditions will ensure that the effects of the construction and operation of the expanded port are consistent with those predicted by the relevant experts, and the outcomes sought under the WDP.

13. RESPONSE TO MATTERS RAISED IN THE SECTION 42A REPORT

- 13.1 I have reviewed the s42A Report. I respond to each of the planning matters arising from the report below.

Cultural mitigation measures

- 13.2 In paragraphs 269-275 the s42A report discusses cultural effects and states that at the time of writing the application contained no cultural mitigation measures. I note that cultural mitigation measures are described in detail in the evidence of Mr Isaacs and incorporated in the updated proposed conditions of consent forming Attachment 4.

Effects on ONLs

- 13.3 In paragraphs 424-426 the s42A report discusses Mr Farrow's concern about potential effects on the ONL at Reotahi based on his interpretation that effects ratings assigned in the LVEA are a surrogate for effects upon those portions of the ONL. This is addressed in the evidence of Mr Brown where he concludes that the effects identified do not pertain to Whangarei Heads' ONLs or the areas that display high to outstanding level of natural character.¹⁰⁰ On this basis, the expansion proposal is consistent with Policies 13(1) and 15 of the NZCP.

Potential restriction on number of cranes

- 13.4 In paragraph 659(a) the s42A report seeks clarification over the number of STS cranes proposed, including any height limits. The maximum height of cranes is specified in the AEE being 83m when in use, and 117m when not in use, this being consistent with the adjoining Port Zone applying to the existing port. No limit on STS cranes is proposed, but the application anticipates up to four could be employed, as explained in the evidence of Mr Khanna, and this formed the basis for the LVEA as confirmed in the evidence of Mr Brown.¹⁰¹

Marine ecology receiving environment – capital and maintenance dredging

- 13.5 In paragraphs 310 and 659(d) the s42A report states that it would be helpful if the Applicant were able to provide further evidence on what reasonably constitutes the receiving environment with regard to the existing and proposed Northport dredging extents.

¹⁰⁰ Brown, paragraph 103

¹⁰¹ Brown, paragraph 95

- 13.6 The consented and proposed Northport capital and maintenance dredging extents are shown on the design drawings included in the AEE. Specifically, Sheet C04 shows an existing consented dredge area of approximately 60.16ha, and a proposed dredging extent of approximately 61.37ha. While the proposed and consented dredging extents are similar, the proposed dredging extent extends outside the consented dredge extent in some places, and inside it in others. The total additional dredging area outside the existed consented dredging area is 3.76ha.
- 13.7 In terms of dredge depths, the consented dredge area has a split depth of -13m and -14.5m CD. The proposed dredge area will have a split dredge area of -14.5m CD and -16m CD (so 1.5m deeper than the consented depths).
- 13.8 In summary, the additional effects of the proposed dredging over the consented dredging are:
- (1) Approximately 3.76ha of dredging outside the consented dredging area.
 - (2) An increase in dredge depth of 1.5m across the dredging footprint.
- 13.9 As identified in paragraph 310, the MEEA prepared by Mr Kelly did not discount the effects of the existing consented dredging. Accordingly, his assessment is very conservative. Notwithstanding this, I note he has still concluded that the related effects on marine ecology are acceptable.

NZCPS Policy 10 'Reclamation'

- 13.10 In paragraphs 439-440 the s42A report discusses Policy 10 of the NZCPS. The report concludes that the proposal satisfies the directive avoidance components of Section 10(1), and that the matters in 10(2) are generally satisfied "*with the exception of cultural impacts identified in the CEA*" (presumably a reference to 10(2)(f)). In my view, it is important to note that the matters in 10(2) do not need to be satisfied per se, and are more accurately matters to "have particular regard to". In any event, Mr Isaacs provides a detailed explanation of his understanding of the cultural impacts identified, and how these have been considered and responded to by Northport.

Efficient and effective infrastructure

- 13.11 In paragraph 458 the s42A report states that it would be preferable for the port to be designed to withstand seismic events to provide a critical lifeline utility service when the region is most vulnerable. This is addressed in the evidence of Ms Stanway.¹⁰²

Occupation and allocation of space in the CMA and the relevance of “demand”

- 13.12 In paragraphs 466-475 of the s42A report there is a discussion about policy statement and plan provisions that deal with the occupation and allocation of space in the CMA where it is concluded that *“a broader reading of Policies 3.10 and 4.8.1 warrants demand to be established in order for a decision maker to have confidence that the proposal represents the most efficient allocation of this scarce coastal space”*.
- 13.13 I do not agree that the plan provisions (read broadly or at face value) require demand to be established, or that other potential competing users of the MPPZ are fundamental to that interpretation in the context of this proposal.
- 13.14 The PRP has given effect to the RPS and NZCPS, and so the primary provisions of relevance are those in the PRP. To that end, the relevant provision is F.1.8¹⁰³, and specifically F.1.8(1), where the key consideration is whether the proposal is an “efficient” use of space in the coastal marine and coastal area.
- 13.15 In determining what is meant by “efficient” the s42A report seeks guidance from Objective 3.10¹⁰⁴ and Policy 4.8.1¹⁰⁵ of the RPS.
- 13.16 Objective 3.10 deals with both the efficient use, and allocation of common resources. However, Policy F.1.8 refers to efficient “use” only. The explanation for Objective 3.10 of the RPS states that efficient use may involve:

- (a) Avoiding wastage;
- (b) Using the most efficient available technology;

¹⁰² Stanway, Paragraphs 28-31, 43, and 50

¹⁰³ **F.1.8 Use and development in the coastal marine area**

Use and development in the coastal marine area:

- 1) makes efficient use of space occupied in the common marine and coastal area, and
- 2) is of a scale, density and design compatible with its location, and
- 3) recognises the need to maintain and enhance public open space and recreational opportunities, and
- 4) is provided for in appropriate places and forms, and within appropriate limits, and
- 5) is undertaken in a way that recognises it can have effects outside the coastal marine area.

¹⁰⁴ **Objective 3.10 Use and allocation of common resources**

Efficiently use and allocate common natural resources, with a particular focus on:

- (a) Situations where demand is greater than supply;
- (b) The use of freshwater and coastal water space; and
- (c) Maximising the security and reliability of supply of common natural resources for users.

¹⁰⁵ **Policy 4.8.1 Demonstrate the need to occupy space in the common marine and coastal area**

- (c) Linking use with availability (for example, water extraction increases during high flows and decreases with low flows);
- (d) Reducing the need for a resource (for example, encouraging water storage to lessen demand for water extraction); and
- (e) Reusing resources (for example using treated waste and process water for irrigation).

13.17 In my view there is nothing in Objective 3.10 or the associated explanation that points to needing to establish demand.

13.18 The s42A report seeks further guidance from Policy 4.8.1(1)(d) being:

(1) Only consider allowing structures, the use of structures and other activities that occupy space in the common marine and coastal area where:

.....

(d) The area occupied is necessary to provide for or undertake the intended use.

.....

13.19 The s42A report also refers to the “explanation” for Policy 4.8.1, but in my view, this is not particularly informative or relevant in determining whether there is a requirement to establish demand.

13.20 In my view, whether something is “necessary” for an intended use is quite different to whether there is “demand” for that use.¹⁰⁶ While F.1.8(1) of the PRP and 4.8.1 of the RPS ostensibly deal with similar things, the reference to “need” in Policy 4.8.1 of the RPS is in my view clearly not a reference to “demand”.¹⁰⁷ Rather, it is tied specifically to the efficient use of the space “for the intended use”, being a 500,000 TEU capable container terminal. The intended use in this case is a container terminal capable of handling 500,000 TEU per annum. The company witnesses for Northport have explained in detail the need to adequately provide for future growth at Northport, and both relevant port experts agree that the extent of the reclamation is appropriate for that purpose. In my opinion, there is no policy ‘gap’ here that requires further explanation.

13.21 In support of the Northport position, I note that there is express policy support in the NZCPS, RPS and the PRP that encourages taking a “flexible, adaptable and resilient” long-term view to the provision of infrastructure, especially where it meets the

¹⁰⁶ The ordinary meaning of “demand” and “need” as defined in the Concise Oxford (ninth addition):
demand 2. *Econ.* the desire of purchasers or consumers for a commodity.

need n 1. A want or requirement.

¹⁰⁷ The ordinary meaning of “demand” and “need” are also different:

demand 2. *Econ.* the desire of purchasers or consumer for an economy

need n 1. A want or requirement.

“reasonably foreseeable” needs of the community.¹⁰⁸ Northport’s proposed expansion aligns with this policy direction.

Coastal permit duration

13.22 Paragraph 478 of the s42A report addresses the proposed duration of the NRC consents. The report states that:

478. In my opinion the duration does link back to the need to occupy space in this instance, and if the proposal is concluded to represent efficient use of coastal water space then a longer duration is likely to be appropriate.

13.23 As outlined in the preceding paragraph 477, I understand that this opinion is based on RPS Policy 4.8.3(c) and PRP D.2.14(3). In my opinion D.2.14(3) is not relevant as there is sufficient certainty of effects, as illustrated by the comprehensive and robust suite of assessments undertaken on behalf of Northport.¹⁰⁹ Regarding Policy 4.8.3(c) of the RPS¹¹⁰, I am not aware of any other reasonably foreseeable demands for occupying water space in the MPPZ beyond Northport activities.

13.24 Looking at the purpose and background to the MPPZ, it was created to differentiate between the more general Coastal Commercial Zone and the zone around the CINZ and Northport facilities, the purpose of which (set out in Policy D.5.8) is to “*enable the development of existing and authorised maritime-related commercial enterprises*”, noting that the only “existing” and “authorised” facilities in the MPPZ are those of Northport and CINZ.

13.25 The related policy D.5.9 reinforces the intended use of the MPPZ by stating that development will “generally be appropriate” provided it is:

1) consistent with:

- a) existing development in the Coastal Commercial Zone or the Marsden Point Port Zone, and
 - b) existing development on adjacent land above mean high water springs, and
 - c) development anticipated on the land above mean high water springs by the relevant district plan, or
- 2) associated with regionally significant infrastructure in the Marsden Point Port Zone.

13.26 The Northport expansion fits all these criteria where the adjoining land (above MHWS) is zoned Port Zone (with rules specific to Northport operations only), and Northport is Regionally Significant Infrastructure.

¹⁰⁸ Policy 9 (NZCPS), Objective 3.8 (RPS), Policy 5.2.2 (RPS), Method 5.2.4 (RPS).

¹⁰⁹ I do not consider that uncertainty of effects is in any way tied to demand in the context of this policy.

¹¹⁰ 4.8.3(c) The reasonably foreseeable demands for the occupied water space by another type of activity (the greater the demands, the shorter the consent duration);

13.27 In summary, in my opinion the proposed consent duration is fully aligned with the relevant PRP Policy D.2.14, and to the extent that it is relevant, RPS Policy 4.8.3(a).

Riparian and Coastal Margins (RCM)

13.28 In paragraphs 526-528 the s42A report addresses the Riparian and Coastal Margins (RCM) chapter of the WDP.

13.29 The s42A report considers that the avoidance directive of Policy RCM-P1¹¹¹ (supported by Objective RCM-O1)¹¹² is not met, due in part to what I consider to be Mr Farrow's misinterpretation of Mr Brown's LVEA conclusions in respect to ONLs, and in part to Mr Brown's conclusion that the adverse effects on natural character when viewed from Marsden Bay Beach and Mid-harbour are more than minor.

13.30 In considering RCM-O1 and RCM-P1, I note Mr Brown has re-confirmed in his evidence that the effects on OLAs in the surrounding environment are no more than minor. He also concludes that while the character and values of Marsden Point Beach would be appreciably changed by the proposed expansion, this will not alter the natural character values of the wider Marsden Point coastline to a commensurate degree.¹¹³ His overall conclusion is that although there will be some changes in the characteristics of the coastal environment in the vicinity of the proposed expansion, those changes do not manifest themselves as adverse effects that are more than minor.

13.31 Unlike the literal interpretation of the RCM provisions in the s42A report, in my view the provisions should be interpreted in the context of the wider Marsden Point coastline (consistent with the approach taken by Mr Brown), which includes consideration of the existing Northport and CINZ facilities, and the further development expectations of the MPPZ and Port Zone. If there is no scale or context to the assessment, almost all land use consent activities would, to some degree, conflict with RCM-O1 and RCM-P1, including land use activities located in areas where natural character values have already been compromised and where adjoining zones enabling further development. In my view this is not the intent of the provisions, which need to be read in the context of the existing environment and the overall body of District Plan provisions.

13.32 The s42A report also identifies potential conflicts with RCM-O3¹¹⁴ and RCM-O5¹¹⁵.

¹¹¹ **RCM-P1 Riparian Management**

To avoid the adverse effects of land use activities on the natural character and functioning of riparian margins of water bodies and the coast.

¹¹² **RCM-O1** Preservation of the natural character of riparian margins and the coastal environment.

¹¹³ Brown EIC, paragraph 70.

¹¹⁴ RCM-O3 Maintain and enhance public access, where appropriate, to and along the coast and rivers.

¹¹⁵ RCM-O5 The relationship of tangata whenua with their sites and other taonga is enhanced.

13.33 Regarding RCM-O3, in my opinion the proposal maintains public access to the appropriate extent.

13.34 Regarding RCM-O5 and the corresponding policy RCM-P9,¹¹⁶ I note that the proposed cultural conditions attached to my evidence respond to these provisions. I also note the comments by various witnesses for Northport where they express a commitment to further develop existing relationships with mana whenua including to strengthen and, where appropriate, formalise those relationships.

Tug facility

13.35 In paragraph 660(b) of the s42A report, it is requested that further detail be provided on the location and layout of the proposed tug facility (including detailed plans).

13.36 The intention is not to provide detailed plans of the tug facility and water taxi berth at this time, primarily because the final layout of the facility will depend on the tugs that are in use at the time that Berth 5 is developed. Instead, the facility is to be located within the area shown on the plans in **Attachment 3** of this evidence, and pre-construction conditions are proposed requiring:

(1) Approval of the final detailed design; and

(2) A navigation safety assessment.¹¹⁷

13.37 Given this approach, it is important to record that, to provide confidence for the consent authority, preliminary modelling has been undertaken for a new tug facility involving the existing tug fleet. This modelling indicates that a new tug facility and water taxi berth within the identified area can be accessed safely. The proposed conditions of consent will ensure that any future facility will be designed and accessed safely from a navigation perspective.

Surrendering of consents

13.38 Paragraph 660(c) of the s42A report requests detailed analysis of the existing consents that are to be surrendered, retained, and/or varied and the triggers for those actions. This has previously been covered in responses to requests for information¹¹⁸. However, for clarity:

¹¹⁶ To set aside esplanade reserves and to create esplanade strips to protect areas of significance to Māori.

¹¹⁷ Proposed NRC condition 38

¹¹⁸ RFI response dated 20 June 2023

- (1) The two WDC land use consents for activities on the reclamation will be surrendered when Berth 5 is constructed and operational – but they will remain in place in the interim. The relevant (enduring) conditions from these consents have been incorporated in the proposed conditions of consent in **Attachment 4** of my evidence. As noted in the proposed condition set, proposed conditions 41 and 42 are proposed to carry over from the original consents, with the landscape planting under condition 42 modified to recognise the practical changes which will be authorised by the current application.
- (2) The NRC resource consents for Berths 1 and 2 and 3 and 4 will remain in place, except that the existing resource consent for the current stormwater collection, treatment, and disposal system across Berths 1-4 (CON20090505532) will eventually be surrendered and replaced with a new consent covering stormwater from the overall port area when Berth 5 is constructed and operational. This will consolidate the stormwater resource consents and conditions applying to the expanded Northport, meaning that a single consent and single set of conditions will apply to all Northport operational stormwater. It remains in place in the interim.

Lapse dates

- 13.39 Paragraph 660(h) of the s42A report requests confirmation of sought lapse dates for the regional permits. The lapse dates are intended to match the expiry dates, being 35 years from commencement. Mr Mitchell provides some further context to the issue of appropriate lapse date in his evidence.¹¹⁹

Alternative land to minimise reclamation

- 13.40 Paragraph 660(g) of the s42A report seeks clarification on whether “surplus” CINZ land is available and suitable to minimise the reclamation extent or to assist with achieving adequate recreation/open space mitigation. As traversed in the evidence of Mr Moore, CINZ is a publicly-listed entity completely independent of Northport. I understand that Northport has had discussions with CINZ and have been advised that the land is not available for acquisition. Even if that situation were to change (and I have no reason to consider this would be the case), as set out in the RFI response dated 20 June 2023, my understanding is that acquisition of this land would not reduce the size of the reclamation for the practical reasons stated in that response: i.e. because of the fundamental operational need for the yard facility to be immediately proximate to the quay, or wharf.

¹¹⁹ Mitchell, paragraph 4.8

Air quality

- 13.41 Paragraph 660(e) of the s42A report seeks confirmation that stock-piling is not proposed within the container terminal. As explained in the AEE, and in the evidence of Mr Moore, while the proposal is for a container terminal, it is possible from time to time (especially in the interim period between construction and full utilisation) that the expanded area could be used for other port related purposes, including stockpiling. I note that the potential effects of stock-piling are addressed more specifically in the evidence of Mr Curtis.¹²⁰

Comments on Council draft conditions of consent

- 13.42 I have reviewed the draft conditions of consent provided by the Council in conjunction with the s42A report. While for the most part the conditions are acceptable, the structure of the conditions was untidy, especially where the limits conditions have been merged with the management plan conditions. As outlined paragraph 12.3 of this evidence, a document compare version of the preferred Northport conditions versus the Council conditions is provided in **Attachment 4**.
- 13.43 Fundamental points of difference beyond general formatting, structure and process conditions are discussed further below.

Cruise Ship Traffic Management (WDC conditions 60-63)

- 13.44 Northport is already able to accept cruise ships. Therefore, the proposed conditions requiring a Cruise Ship Management Plan are not related to the effects of the expansion. This has been deleted from the preferred Northport conditions.

Restrictions on other port activities (WDC condition 66)

- 13.45 This condition restricts the use of the expanded port to a container terminal only. While the application is to enable the construction of a container terminal, Mr Blomfield and Mr Khanna have explained in their evidence that as container throughput increases organically over time flexibility is needed to continue current log/bulk goods operations across the wider port, while maintaining 'headroom' for transition planning to occur. If there is no flexibility for interim uses, parts of the reclamation, particularly further away from the berth face, would effectively be redundant (unused) until such time as the terminal reaches capacity.

¹²⁰ Curtis EIC, paragraphs 78-80

- 13.46 I also note that it is likely that, once constructed, the expanded port will eventually be rezoned 'Port Zone' as per the zone applying to the existing port. This zone is broadly permissive of port activities generally.

Number of ventilation installations per year (WDC condition 74)

- 13.47 The preferred Northport conditions propose a maximum of 10 installations per year. The Council officers in the s42A report have proposed deleting this condition, such that there would be no limitations on the number of installations. I understand from the evidence of Mr Blomfield that there are practical constraints to achieving more than 10 installations per year, including time needed for landowner discussions, reviewing, quoting, approving, ordering, and installing. Accordingly, to avoid a potential (technical) non-compliance, I recommend the reinstatement of this condition.

Marsden Rail Link Construction (NRC condition 13)

- 13.48 The traffic effects assessment provided in the application AEE, and the related conditions of consent were not contingent on a rail link being established to the port. It is in my view inappropriate to purport to include a condition preventing the expansion of Northport on the basis of a potential future rail upgrade, when the expert evidence is that effects on the transport network can be managed regardless of whether a rail link has been established.

Restricted access to Ralph Trimmer Drive (WDC condition 96 and NRC condition 53)

- 13.49 The 9-month maximum period for the restricted use of Ralph Trimmer Drive during the construction phase of the development does not appear to have an evidentiary basis, is potentially un-workable, and is proposed to be deleted.

Duneland compensation plan (NRC condition 57)

- 13.50 The proposed contribution to the Bream Bay Coastal Care Trust in the preferred Northport conditions is an *Augier* condition under s 108AA(1)(a) of the RMA. It is not required to manage any effects as per the evidence of Ms Flynn.¹²¹ Therefore, the original wording proffered by Northport has been retained.

¹²¹ Flynn EIC, paragraphs 10.7, 11.9

Restriction on dredging in proximity to marine mammals (NRC conditions 90-97)

- 13.51 None of the Northport technical assessments for underwater noise and marine mammals identify a need for restrictions on dredging in proximity to marine mammals. The evidence of Ms Clemment is that any effects from dredging-generated underwater noises will likely be transitory and non-injurious.¹²² Instead, the condition set proposed by Northport establishes a comprehensive set of provisions carefully designed to avoid (where necessary) and otherwise manage effects on marine mammals – including through use of MMOZ and mitigation of underwater noise.

Restriction on contemporaneous dredging and piling (NRC condition 112)

- 13.52 None of the Northport technical assessments for underwater noise and marine mammals identify an effects connection between contemporaneous dredging and piling. Instead, my understanding based on the evidence of Dr Pine is that noise from those sources has been carefully considered and is acceptable.

Restriction on maintenance dredging volume (NRC conditions 139 and 148)

- 13.53 The proposed restriction on the volume of maintenance dredging is not practical. It has been deleted from the preferred Northport conditions.

Avifauna Management Plan (NRC condition 189)

- 13.54 Northport's avifauna expert does not consider an Avifauna Management Plan to be necessary for ongoing operations.

Staging (NRC condition 168 and WDC condition 47)

- 13.55 The preferred Northport conditions include a 12 month period between practical completion of the reclamation and completion of the recreational facilities. This allows for possible differences in the completion dates for the reclamation and recreational facilities, which I understand could end up being separate contracts.

14. RESPONSE TO SUBMISSIONS RAISED

- 14.1 Approximately 243 submissions were received by the WDC and NRC. The submissions can be broken down into the following categories:

(a) 176 submissions in support;

¹²² Clemment, paragraph 57

(b) 10 neutral submissions;

(c) 57 submissions in opposition.

14.2 The general themes contained in the submissions that fall within my field of expertise are:

(a) The Court has already “declined” the proposed noise levels, and the current noise levels should be maintained.

(b) There has been inadequate consideration of alternatives.

(c) Third party approvals are required to give effect to consents and these have not yet been obtained.

(d) There has been inadequate community engagement.

(e) There has been inadequate engagement with tangata whenua.

(f) The application has not demonstrated that expansion is “needed”.

(g) The cumulative effects of potential future applications (including the drydock) should be taken into account.

(h) The application does not address the effects on climate change or demonstrate compliance with the Emissions Reduction Plan.

(i) Conditions of consent need to specify detail required for management plans.

(j) The existing environment is degraded and should not be used as the baseline for effects assessments.

14.3 My response to these submission matters is outlined below.

Environment Court has already “declined” the proposed noise levels, and the current noise levels should be maintained.

14.4 In May 2019 the Whangarei District Council publicly notified the ‘Proposed Urban and Services’ plan changes. This suite of plan changes included new urban zones and associated rules, including a complete review of the Port Zone. Northport had no control over the timing of these plan changes, noting that they coincided with the early consultation and technical investigation phases of the proposed port expansion project.

14.5 Northport filed a submission that was focused on the Port Zone provisions, including requested changes to the permitted noise limits and associated standards in the Noise and Vibration chapter of the plan. More specifically, Northport proposed a suite of noise

management provisions consistent with NZS 6809:1999 'Acoustics - Port noise management and land use planning'.

- 14.6 Noise management provisions under NZS 6809:1999 are typically based on noise contours derived from predicted port noise over the 10 year life of the District Plan. Therefore, the noise contours proposed by Northport incorporated potential future noise from a future expanded port and dry dock.
- 14.7 The Environment Court ultimately declined to introduce new noise limits under NZS 6809:1999, primarily because the existing port was able to comply with the existing noise conditions of consent and the permitted activity noise limits in the NAV chapter, and neither the dry dock or port expansion had been authorised by resource consents (and therefore at the time of that hearing, the Court had insufficient certainty as to the future direction of the port).
- 14.8 As per the advice of Mr Fitzgerald, the expanded port will be unable to comply with the permitted activity limits in the NAV chapter. As the appropriate noise management provisions under NZS 6809:1999 are not yet included in the District Plan, Northport is proposing to include them as conditions for the current application. Ultimately, if consent for the proposal is granted, a package of noise management provisions reflecting the proposed noise conditions of consent may be incorporated into the District Plan in future, but that would be subject to a separate plan change process.
- 14.9 The Environment Court decision on the Proposed Urban and Services plan changes was a decision on a separate process to the current resource consent application. In my opinion it is not correct that the Environment Court has previously "declined" the noise limits proposed by Northport as part of this consent.

There has been inadequate consideration of alternatives¹²³

- 14.10 The application includes an 'Issues and Options' report¹²⁴, which amongst other things provides a detailed explanation of the process for considering alternative port locations, extents, and designs. Further information in respect to alternatives was also provided in the response to the second request for information, and the evolution of the Proposal,

¹²³ For resource consent applications, several provisions in the RMA require consideration of alternatives in the context of discharges (e.g. s105(1)(c); s108(8)(b); and Schedule 4, clause 6(1)(d)); and clause 6(1)(a) of Schedule 4 requires an AEE to include a description of any possible alternative locations or methods for undertaking an activity where it is likely to have significant adverse effects. For completeness, alternatives assessments are also required in the context of assessing the "best practicable option" with respect to noise and discharges.

¹²⁴ Appendix 2 AEE

including location and design alternatives, is summarised in the evidence of Mr Moore, Mr Blomfield, and Mr Khanna.¹²⁵

14.11 In summary, the potential options for the expansion of Northport to provide for container handling are narrowly constrained by clear and obvious environmental and practical limitations/factors. These include the location and design of the existing Port, the berth length required to provide sufficient capacity in response to predicted demand, the location of naturally deep water, and the proximity of environmentally sensitive areas (including SEAs, Blacksmiths Creek, and Snake Bank).

14.12 In my opinion, the consideration of alternatives for the expansion of Northport has been robust.

Third-party approvals are required to give effect to consents

14.13 This matter was covered in the response to the second request for information. As stated in that response, in my experience it is not uncommon for a project of this size and nature to require additional approvals post the granting of resource consents,¹²⁶ there is no fundamental reason to expect that such additional approvals cannot be granted/obtained, and that it is generally prudent to conclude the RMA process before seeking other statutory approvals because of the certainty this brings to these subsequent processes. I am advised by Mr Simmons that the requirement for such approvals does not represent an impediment to the grant of resource consents under the RMA.

Inadequate community engagement

14.14 As detailed in Section 8 of the AEE, and the evidence of Mr Blomfield and Mr Isaacs, Northport has actively engaged with the community and key stakeholders since launching the VisionforGrowth website in 2017. In my view, consultation has been extensive throughout this period, and there have been numerous opportunities for meaningful public engagement.

Inadequate engagement with tangata whenua

14.15 As detailed in Section 7 of the AEE, and the evidence of Mr Jagger, Mr Moore, Mr Blomfield and Mr Isaacs, Northport engaged with tangata whenua over the five-year period prior to lodgement of the application. An outcome of this engagement was the

¹²⁵ Response to second request for information Paragraphs 56.1-56.19.

¹²⁶ Revocation of esplanade reserve status under Reserves Act, 1977.

preparation of a Cultural Effects Assessment by Patuharakeke. Engagement has continued post-lodgement, including with Te Parawhau and Ngatiwai, with an emphasis on building relationships and seeking input on proposed conditions of consent relating to cultural matters.

- 14.16 In my view, Northport's attempts to consult with tangata whenua have been meaningful and comprehensive. From my involvement in the development of the proposal since 2017, I am aware that identifying, understanding, and responding to effects on tangata whenua has been a key focus of the consenting team.

The application has not demonstrated that the expansion is “needed”

- 14.17 As outlined in paragraphs 55.11-55.17 of the response to the second request for information, there is no policy requirement to demonstrate “necessity”. To the contrary, there is express policy support in the NZCPS, RPS and the PRP that encourages taking a “flexible, adaptable and resilient” long-term view to the provision of infrastructure, especially where it meets the “reasonably foreseeable” needs of the community.
- 14.18 Notwithstanding the above, the proposal responds to technical advice from Market Economics and TBA Group that a two-berth container terminal (700 m berth length) is required to handle the predicted container volume at Northport over the next 50-year period.
- 14.19 Regardless, my understanding is that the decision to proceed with the proposed expansion will not be taken lightly. A strong business case will be required, with confidence that the demand for the facility is required and will be supported.

The cumulative effects of future applications should be taken into account

- 14.20 Several of the submissions referred to the dry dock which was included in the initial consultation phase of the project, with one suggesting that the effects of future applications should be taken into account.
- 14.21 The dry dock is not part of the current application and may or may not be pursued in future. In my view, reinforced by advice from Mr Simmons, the effects of the dry dock, or any other unconsented activity requiring consent, do not form part of the existing environment, and should not be taken into account in the consideration of the current application.

The application does not take into account the effects on climate change

14.22 This matter is addressed in paragraphs 9.5-9.15 of my evidence.

Conditions of consent must provide sufficient detail for management plans

14.23 The draft conditions of consent include specific detail in respect to the required content of management plans. I consider the conditions of consent to be appropriate, including those relating to the content of, and certification process for, management plans.

The existing environment is degraded and should not be used as a baseline for effects assessments

14.24 The various technical assessments carried out by the Northport experts appropriately considered the effects of the proposal on the existing environment as established through caselaw under the RMA.

14.25 The application specifically recognises that Māori may have a different perspective of what constitutes the existing environment to that established through caselaw under the RMA, and that perspective traverses the environment extending back to what existed prior to Pākehā settlement at Poupouwhenua.¹²⁷ As outlined in the application, this fundamentally different approach may result in different conclusions on the context for – and perceived scale of – effects.

14.26 As an aside, I note from the evidence of Dr Kelly that key aspects of the existing (receiving) environment are not degraded from an ecological perspective and rather are characterised by high biodiversity values and water quality.

Brett Hood

25 August 2023

Attachments

1. Berth 1 and 2 consents
2. Berth 3 and 4 consents + stormwater discharge consent for Berths 1-4
3. Development plans [Reyburn and Bryant]
4. Conditions of consent

¹²⁷ Section 5.2.2 AEE

BLH ATTACHMENT 1

Decision #4 - Recommendation to the Minister of Conservation : Coastal Permit No. 4

Date of commencement of consent: As provided in section 119(7) of the RMA 1991 (the Act)

Date of expiration of consent: Thirty five (35) years

Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: To construct and use piles and wharf structures in the coastal marine area abutting the reclamation.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

A.	Crown land comprising foreshore and seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to the commencement of works associated with this consent.
3. The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Northland Regional Council within ten (10) working days following the date of the completion of all activities associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
6. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at six (6) monthly intervals starting from the notified date of the commencement of works associated with this consent.
7. The Consent Holder shall maintain all structures covered by this consent in good order and repair. Maintenance works authorised by this Consent shall be routine maintenance and repair consistent with the scale and form of the initial approved structures.

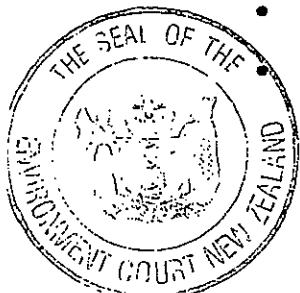
SPECIAL CONDITIONS OF CONSENT:

8. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:

Immediately take such action or execute such work as may be necessary to stop and/or



- contain such escape; and
- (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (iii) Report the escape to the Northern Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
9. The Consent Holder shall keep the coastal marine area free of litter and other debris [including offcuts, pipes, and rock debris] arising from the exercise of this consent.
10. The Consent Holder shall carry out or commission, at its own expense, the monitoring work described in paragraphs 2 to 8 inclusive of Addendum D in the report by Barnett Consultants Limited dated August 1994 entitled "Marsden Point Port Development Hydrodynamic Study Addenda to Original Report" which covers:
- Bathymetric monitoring
 - Side scan sonar
 - Current profiling
 - Drogue tracking
 - Tide recording
 - Weather recording
 - Ship movement recording
11. All works in connection with the construction of the wharf (including marine activities such as ship movements, loading and unloading) shall be undertaken in a manner which minimises adverse effects on:
- (i) New Zealand Refining Company's [NZRC] jetties; and
- (ii) the safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.
12. The Consent Holder shall submit to the Northland Regional Council for approval the following management plans with which it shall comply:
- (i) At least twenty[20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a construction management plan which shall provide the following information
- Description of proposed works and drawings;
 - A programme including a timetable, sequence of events and expected duration of all proposed works;
 - A breakdown of the project into construction packages for later submission in greater detail
 - Community liaison arrangements
 - Contingency response plan
 - Community Liaison Group (CLG) comments on the construction management plan and the Consent Holder's response to those comments.



The Northland Regional Council shall, within twenty working days of receipt of the plan notify the Consent Holder of its approval of the plan or, failing approval, of the respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

- (ii) At least twenty [20] working days before construction commences on any package of work identified in the construction management plan, the following additional information shall be supplied to the Northland Regional Council:

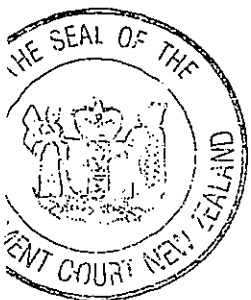
- Design and construction report which shall cover where appropriate:
 - Dredging activities
 - Perimeter dyke construction
 - Geotextile lining of bund wall
 - Pile driving activities
 - Dust control measures
 - Noise controls proposed
- Community Liaison Group (CLG) comments on the design and construction report and NPC response
- Plans and specifications providing sufficient detail to show compliance with the resource consent
- Monitoring procedures where applicable
- Reporting procedures where applicable

The Northland Regional Council shall, within twenty working days of receipt of the additional information, notify the Consent Holder of its approval of the additional information or, failing approval, of the respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

- (iii) The Consent Holder may, at any time, submit variations to the approved construction management plan or the approved additional information required under this condition to the Northland Regional Council, together with comments from the Community Liaison Group and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers of approval under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its approval or otherwise of the proposed variation within five working days.

13. The Consent Holder shall, immediately upon completion of the marine works associated with the consent, notify in writing [and shall include a scale plan of the completed works]:

The Hydrographer
RNZ Navy
P O Box 33-341
TAKAPUNA

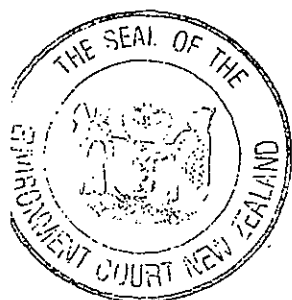


Maritime Safety Authority
P O Box 27 006
WELLINGTON

14. The Consent Holder shall not exceed the recommended upper noise limits described in *NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in *NZS6802:1991 Assessment of Environmental Sound*, then these noise limits shall apply.
15. The Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person. This report shall, among other things, detail:
 - (i) the reasonable potential for cumulative noise emissions from the site;
 - (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
 - (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase noise levels at the locations under consideration.
 - (iv) any comments of the Community Liaison Group and the responses to these.
16. At least twenty [20] working days prior to commencement of construction, and following appropriate consultation with the Community Liaison Group, the Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval a Noise Information Monitoring Programme. This Programme shall include the proposed times, duration and location of the measurements, and procedures for logging and responding to noise complaints.
17. The Consent Holder shall maintain public access to and ensure operation is able to continue for the water taxi operation during construction.
18. The Consent Holder shall erect adequate signage during the construction period in the vicinity of the site advising the public of construction activity and noting any special precautions that should be taken.

ADVICE NOTE:

Nothing in this consent authorises the discharge of ballast water or any other contaminants from ships into the coastal marine area.



Decision #5 - Northland Regional Council : Recommendation to the Minister of Conservation: Coastal Permit No. 11

Date of commencement of consent: As provided in section 119(7) of the RMA 1991 (the Act)

Date of expiration of consent: Thirty five (35) years

Date of lapsing of consent (if not given effect to): 15 years from the date of commencement

Purpose of Consent: Disturbance of the seabed by maintenance dredging of the turning basin within the design depth of 13m below Chart Datum extending approximately 300m westward of the reclamation and approximately 420m out from the berth face.

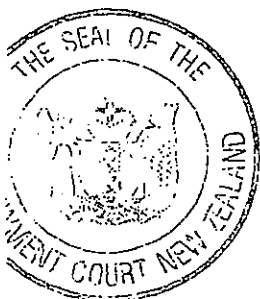
Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

A.	Crown land comprising foreshore and seabed
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STANDARD CONDITIONS OF CONSENT:

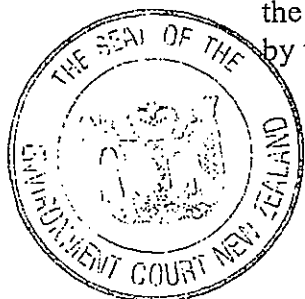
1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty (20) working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of commencement of works associated with this consent.
4. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
5. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein, or to address significant adverse effects that were not anticipated at the date of determination of this consent, at six (6) monthly intervals starting from the notified date of the commencement of the works associated with this consent.



SPECIAL CONDITIONS OF CONSENT

6. Where from any cause, a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Northland Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
7. At least twenty [20] working days prior to the commencement of maintenance dredging the consent holder shall submit a management plan that shall provide the following information:
- (i) A description of proposed works; and
 - (ii) A programme including a timetable, sequence of events and expected duration of the proposed works; and
 - (iii) Plans and specifications providing sufficient detail to show compliance with the resource consent, including monitoring and reporting procedures; and
 - (iv) Community liaison arrangements; and
 - (v) The Community Liaison Group's comments on the management plan and the consent holder's response to these comments.

The Northland Regional Council shall within twenty [20] working days of receipt of the plan notify the Consent Holder of its approval of the plan, or failing approval, of the respects in which the plan fails to comply with information or evidence supplied by the Consent Holder in support of its application.

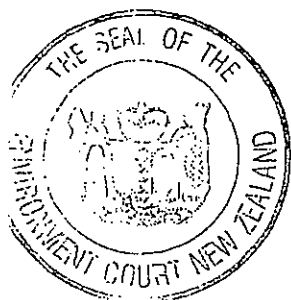


The Consent Holder may, at any time, submit variations to the approved management plan, together with any comments of the Community Liaison Group, and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers of approval under this condition, and the same time limits shall apply, save that where the variation is minor, the Northland Regional Council shall notify its approval or otherwise of the proposed variation within five working days.

8. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
9. All works in connection with the maintenance of the dredge basin (including marine activities such as any vessel movements, loading and unloading) shall be undertaken in a manner that minimises adverse effects on:
 - (i) New Zealand Refining Company's Marsden Point jetties; and
 - (ii) the safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.

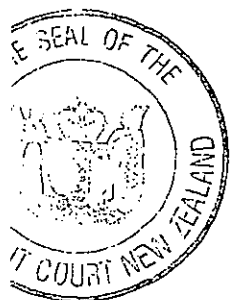
and to this end maintenance dredging shall when reasonably practicable be undertaken during winter months.

10. The Council reserves the right to modify the timing of monitoring associated with the exercise of all coastal permits for the Marsden Point deep water port so that any effects of the maintenance dredging can be measured and assessed.
11. All maintenance dredging, including any operations consequent upon the excavation and transportation of dredged material, shall be carried out in a manner that minimises the suspension of sediment into the water column so that the following standards are met immediately outside of an 800 metre radius of the point of dredging:
 - (i) The visual clarity (as measured using a black disk or Secchi disk) of harbour water shall not be reduced by more than 20% of the median background visual clarity at the time of measurement.
 - (ii) The hue shall not be changed by more than 10 Munsell units of the median background hue at the time of measurement.



- (iii) Where Z_{eu} is the euphotic depth, defined as the depth at which photosynthetically available radiation [PAR] is reduced to 1% of the level of surface water, the light penetration in the harbour water deeper than $0.5 Z_{eu}$ shall not be changed by more than 10% of the median background euphotic depth at the time of measurement. The light penetration in harbour water shallower than $0.5 Z_{eu}$ shall not be reduced by more than 20% of the median background euphotic depth at the sediment bed, at the time of measurement.
- (iv) There shall be no conspicuous scums or foams, floatable or suspended material in the harbour waters.

- 12. During periods of maintenance dredging, monitoring of the harbour waters for compliance with Condition 11 shall be carried out at not greater than fortnightly intervals. For periods of dredging less than one week, monitoring shall be done on not less than one occasion. These frequencies may be varied from time to time with the written approval of the Northland Regional Council.
- 13. The results of each monitoring event shall be reported to the Northland Regional Council within one week of monitoring being completed, or within 24 hours of any non-compliance. The Council reserves the right to require additional monitoring in the event of non-compliance with Condition 11.
- 14. When any maintenance dredging is carried out, the Consent Holder shall record the periods of dredging, method of dredging and the quantities of material dredged (in cubic metres), and shall submit these records together with post-dredging sounding plans to the Northland Regional Council within ten working days after maintenance dredging work is completed.



Decision #17 - Whangarei District Council : Land Use Consent No. 3

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Unlimited

Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: The use of land for port and port related activities as shown on Development Plan Ref.96055-1 Revision E dated 9 April 1997, and as described in the accompanying Assessment of Effects on the Environment [AEE] and associated plans and drawings and as set out in paragraph 5 of the Consent Holder's amended application for resource consents dated 14 August 1996 including wharves, terminals, associated loading and unloading structures, cargo sheds, port storage and transport operating areas, port related buildings (including storage sheds, stevedoring facilities, berth operations shed, gatehouse) and all ancillary activities.

Legal Description of Land: The land described in paragraph 3 of the Consent Holder's amended application for resource consents dated 14 August 1996, a copy of which is attached, including those parts of all roads to be stopped which adjoin the Consent Holder's property, and as shown on the Development Plan 96055-1 Revision E dated 9 April 1997.

STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with any approved Construction/Management Plan.
2. The Consent Holder shall submit to the Whangarei District Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Whangarei District Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.
4. The Consent Holder shall pay all administration charges associated with this consent prior to work commencing.
5. The Whangarei District Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at twelve (12) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

The Consent Holder shall pay a reserves contribution of \$NZ375,000 to the Whangarei District Council [or such sum as may otherwise be determined as representing 0.5% of the assessed value of the development], within twelve [12] months of using land for the



purpose of this consent.

7. Until such time as the new District Plan is operative and formal zoning provisions are made, and except where otherwise indicated in conditions granted with respect to this consent, the rules relating to :

- (i) bulk and location requirements
- (ii) maximum height of buildings
- (iii) location of buildings (yards)
- (iv) minimum distance from the sea

and the performance standards relating to:

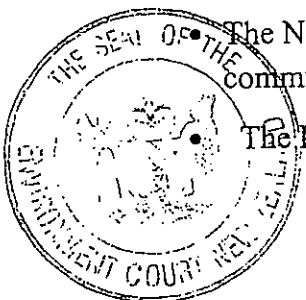
- (i) landscaping and appearance
- (ii) air pollution
- (iii) glare
- (iv) noise
- (v) vibration
- (vi) dust
- (vi) soil and water protection
- (vii) use of hazardous substances

as contained under the Marsden Point Special Industrial Zone provisions of the operative district plan shall apply.

8. For the purposes of this consent, permitted activities on the reclamation shall only be those activities for which application has been made and consent granted and which are shown on the Development Plan Ref.96055-1 Revision E dated 9 April 1997, the associated drawings, and evidence provided.
9. In consultation with the Whangarei District Council, the Consent Holder shall make provision for bus shelters along Marsden Point Road north of the McCathie Road intersection, and at McLeod's Bay.
10. (i) The Consent Holder shall establish, convene and provide reasonable administrative support for a Community Liaison Group [CLG]. The CLG shall be convened at least three months prior to the commencement of port construction work. At least the following parties shall be invited each to nominate one representative to the Group:
- Patuharakeke
 - Resident or Ratepayers Groups and Citizens Associations representing the communities at:
 - Ruakaka
 - Reotahi
 - Rangiora (sea side of Takahiwai hills including One Tree Point)
 - Whangarei Heads
 - Bream Bay College

The Northland Regional Council and the Whangarei District Council representing their communities of interest

The Department of Conservation



- Any other directly affected party that the CLG identifies and recommends for inclusion with the agreement of the Consent Holder.

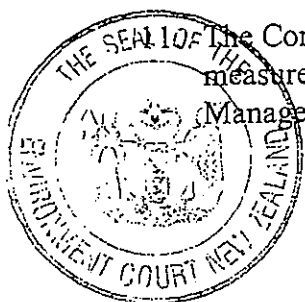
As the project moves through its various stages there will be the potential to affect different parties and accordingly it is expected that membership of the Community Liaison Group may change.

- ii. The Consent Holder shall confirm in writing with the Northland Regional Council and Whangarei District Council that the Community Liaison Group has been established.
 - iii. The Community Liaison Group shall be chaired by an independent person appointed by the Consent Holder from a list of agreed candidates confirmed by the CLG at its inaugural meeting. The Chairman's role shall be to facilitate communication between the Consent Holder and the Community Liaison Group. The appointment shall be reviewed annually by the appointing parties or earlier if any party has reason to require such review.
 - iv. The Consent Holder shall appoint two senior officers, either one of whom will represent the Consent Holder at all meetings of the Community Liaison Group.
 - v. The Consent Holder shall ensure that where the Chair considers it necessary, appropriate technical experts attend meetings.
 - vi. The Consent Holder shall provide the venue and administrative support [including secretarial services] for all meetings of the Community Liaison Group. Meetings are to be held at a time and place convenient for the majority of the group members.
 - vii. The Consent Holder shall arrange regular site inspections for the Community Liaison Group to ensure they are kept informed of all aspects of the project.
 - viii. The purpose of the Community Liaison Group is to provide a forum to address relevant community concerns and needs arising from the exercising of resource consents for the development and operation of a port at Marsden Point. The role shall include the following:
 - (a) To receive reports from the Consent Holder on progress on the port development;
 - (b) To facilitate ongoing communication and consultation with the local community [including directly affected parties] and the diligent resolution of any observations, concerns or complaints that members of that community may have about the construction or operation of the port at Marsden Point, its effects on the environment, the exercise of its resource consents, and ways of alleviating those concerns and dealing with complaints;
 - (c) Through the Chair, to alert and provide information to the Northland Regional Council and Whangarei District Council about any matters remaining unresolved between the Consent Holder and the Community Liaison Group which may need to be addressed by those Councils;
- To discuss management plans [including draft management plans] to ensure that relevant community concerns and needs are taken into account in their preparation;



- (e) To receive the results of monitoring undertaken by the Consent Holder in relation to the port development and operation, to be advised of its implications, and to make this information available to the above-mentioned communities;
 - (f) To recommend suitable studies or projects designed to find ways of improving water quality, environmental ecological, and cultural health of the Whangarei Harbour [including its shores] to the Northland Regional Council [and where appropriate other consent authorities] for action; and
 - (g) To receive copies of any reports on environmental incidents requested by the consent authorities, where these are related to resource consents held by NPC for the Marsden Point Port.
- ix. The Consent Holder shall take all reasonable steps to investigate, in a prompt manner, any complaint [including any incident] forwarded to the Consent Holder by a member of the Community Liaison Group and to advise the complainant and the CLG member of any action taken. A register is to be kept of all complaints received and actions taken and is to be available to the Community Liaison Group at its regular meetings. This role does not replace any statutory obligation of the Consent Holder and consent authorities.
- x. Through the Chair, the Consent Holder shall use its best endeavours to ensure that regular meetings of the Community Liaison Group are held at intervals not exceeding three months for a period of at least five years after the commencement of port construction unless the Group dissolves itself by unanimous decision. The Chair may, if it is considered appropriate, call a special meeting of the Community Liaison Group.
- xi. Through the Chair, the Consent Holder shall send the meeting agenda and relevant papers [including Management Plans] to group members not less than 5 working days before any meeting of the CLG for the purpose of enabling group members to obtain input from others prior to the meeting. It would be expected that minor matters involving amendments to plans, recent monitoring results, or updated progress reports could be tabled at the meeting.
- xii. Through the Chair, the Consent Holder shall, as far as practicable, ensure that Minutes of all Community Liaison Group meetings are forwarded to members of the group as well as to the Northland Regional Council and Whangarei District Council within two weeks of any meeting being held.
- xiii. The Community Liaison Group may regulate its own procedures and, if considered appropriate for the better functioning of the Group, may prepare a Protocol Manual detailing such procedural and administrative matters as are deemed necessary.
- 10A The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review the progress and operation of the project and to review monitoring results.

The Consent Holder shall ensure that the spill of light onto any residentially zoned land or measured at any rural dwelling shall not exceed 10 lux and shall submit a Lighting Management Plan to the Whangarei District Council for approval at least twenty [20]



working days prior to any night-time work commencing. The Lighting Management Plan shall detail the positions and technical specifications of all exterior light sources and indicate the means by which this standard is to be achieved. The Lighting Management Plan shall include comments of the Community Liaison Group on the plan and the Consent Holder's response to these.

12. The noise level (L10) as measured within any residentially zoned boundary or the notional boundary of any existing rural dwelling shall not exceed the following limits:

All Days:

0700am - 1000pm 55dBA L10

10.00pm - 0700 am 45dBA L10

10.00pm - 0700am 65 dBA Lmax

The noise levels shall be measured and assessed in accordance with the requirements of NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environmental Sound

13. The Consent Holder shall not exceed the recommended upper noise limits described in *NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in *NZS6802:1991 Assessment of Environmental Sound*, then these noise limits shall apply.

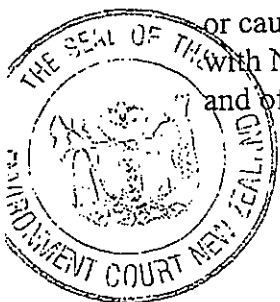
14. The Consent Holder shall submit to the Whangarei District Council and Northland Regional Council for their approval, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person. This report shall, among other things, detail:

- (i) the reasonable potential for cumulative noise emissions from the site;
- (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
- (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase noise levels at the locations under consideration;

(iv) any comments of the Community Liaison Group and the responses to these.

15. At least twenty [20] working days prior to the commencement of earthworks, and following appropriate consultation with the Community Liaison Group, the Consent Holder shall submit to the Whangarei District Council for its approval a Monitoring Programme for noise. This Programme shall include the proposed times, duration and location of the measurements, and the mechanism and procedure for complaints.

16. The Consent Holder shall provide to Council after the construction and within three [3] months of the commencement of the operation of the port, a Compliance Certificate, prepared by a suitably qualified and experienced person. This Certificate shall advise whether activities on the site(s) exceed noise performance standards at locations determined by the Monitoring Programme. The Consent Holder shall then further monitor or cause to have monitored the long term average sound emission levels in accordance with NZS6801:1991 Measurement of Sound and shall provide reports of this monitoring and of compliance on a three [3] monthly basis until Condition 17 to this consent applies.



17. If the operation of the port is found to have consistently complied with the required noise performance standards at the end of the first year of operation, then the monitoring shall be reported annually thenceforth on the anniversary of the commencement of operations.
18. All costs associated with noise monitoring shall be paid for by the Consent Holder.
19. The Consent Holder shall provide, construct and maintain public access from One Tree Point Road to the western edge of the reclamation, including vehicular access to a carpark, and walking access. The design and construction is to be approved by the Whangarei District Council. The car park shall be formed at a suitable point within 400 metres of One Tree Point Road, and the road and the walking access shall be constructed to a standard that conforms with the requirements of the Council's draft Environmental Engineering Standards 1998 ie Class F Service Lane for the road and Clause 5.3 Pedestrian Access and Cycle Tracks for the walking access.

A 10m wide right-of-way easement shall be granted to the Whangarei District Council over the vehicular access and walkway and an easement shall be granted over the carpark.

The Consent Holder shall provide construct and maintain an access strip of not less than 6 metres width for public recreational and access purposes along the western rock wall (edge of the reclamation) to a point 70m from the northern wharf face.

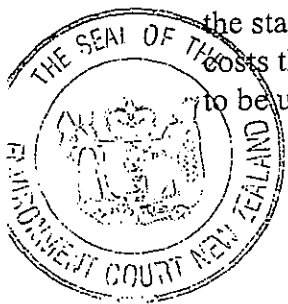
20. The Consent Holder shall provide, construct and maintain an access strip of not less than 10m width for public vehicular access to the eastern side of the reclamation. This access strip shall be constructed to a standard that conforms with the Council's Class F Service Lane, Urban Roads requirement as specified in its draft Environment Engineering Standards 1998.

The Consent Holder shall provide, construct and maintain a restricted access strip of not less than 6m useable width along the eastern side of the reclamation to the water taxi landing with provision for restricting access in accordance with s.237B of the RMA. This access strip shall be constructed to a standard that conforms with the Council's Category B (Urban Private Way Cross Sections) access requirement as specified in its draft Environmental Engineering Standards 1998.

21. Subject to gaining any additional necessary resource consents, and following consultation with the Whangarei District Council, the Consent Holder shall pay the Council a sum not to exceed \$30,000 for upgrading the McLeod's Bay public wharf.
22. Following consultation with the Community Liaison Group, the Consent Holder shall submit to the Whangarei District Council for approval, at least twenty [20] working days prior to the commencement of any site works, a Comprehensive Landscape Plan generally in accordance with the landscape proposal submitted by the Consent Holder in support of its application for resource consents, for the whole area, including:
 - (i) Public access to the harbour edge
 - (ii) Recreational area on waterfront
 - (ii) Buffer strip to Blacksmiths Creek
 - (iii) Stormwater and silt detention systems
 - (iv) Shelter planting to road corridor



- (v) A planted amenity strip of 5m width (in order to achieve a continuous, dense vegetative screening effect) along the eastern side of the transport corridor (adjoining the western side of Marsden Point Road) from where it will meet the Consent Holder's land, south to the intersection of Marsden Point and One Tree Point Roads. Such landscape plantings are to be implemented either concurrently with the development of the transport corridor, or prior to the development of the industrial zoned land adjoining the western side of the proposed transport corridor, whichever is the sooner.
 - (vi) A concept plan for the provision of an amenity planting strip along the northern side of One Tree Point Road between the intersection of that road with Marsden Point Road and Blacksmiths Creek. The concept plan shall outline the anticipated timeframes for planting, and species proposed, in order to achieve effective vegetative screening of the adjoining industrial zoned land while minimising the potential for conflict to arise with property access points, power lines, buildings and other services.
 - (vii) Specimen trees along parts of the foreshore edge
23. The Consent Holder shall, as part of the Comprehensive Landscape Plan, provide for the planting of Pohutukawa trees *Metrosideros excelsa*, with a minimum specification of PB200/3m size on installation, on the eastern and western edges of the reclamation a minimum one per 50m perimeter length of the reclamation. All trees are to be installed and maintained in accordance with good horticultural practice and replaced, if damaged, with another of similar size to that destroyed.
 24. The Consent Holder shall implement the approved Comprehensive Landscape Plan at least twelve [12] months prior to the commencement of operation of the facility.
 25. The Consent Holder shall provide the Whangarei District Council with details of building form and colour prior to any application for building consent being lodged. The visual impact of buildings is to be minimised by the appropriate use of colour, building form, roof lines, and structure compatible with its setting.
 26. The Consent Holder shall supply the Whangarei District Council with a copy of the Dust Management Plan prepared for the Northland Regional Council, and copies of all air quality monitoring reports forwarded to the Northland Regional Council.
 27. The Consent Holder shall not undertake any discharges of dust to air which have objectionable or offensive effects beyond the boundary of the Consent Holder's premises.
 28. Prior to any port construction traffic using the approach roads from State Highway 1 to the Port, the Consent Holder shall, in consultation with the Whangarei District Council, commission an independent assessment of the state of the relevant roads. Thenceforth the Consent Holder shall contribute to the maintenance of Whangarei District Council roads, used by construction traffic which were the subject of the independent assessment, during the port construction period. The amount of the contribution shall be determined by assessing the difference between the normal expected maintenance costs prior to the commencement of construction works and the actual maintenance costs over the construction period, and allocating to the project that proportion of the difference reasonably attributable to wear and tear caused by its construction traffic having regard to the state of the roads as determined by the independent assessment. In assessing such costs the fact that the roads and intersections specified in Condition 29 of this consent are to be upgraded following construction of the Port shall be taken into account.

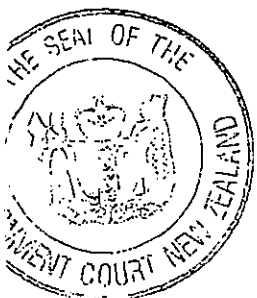


29. The Consent Holder shall pay a contribution of \$1,5m plus gst to the Whangarei District Council towards the costs of upgrading the Ruakaka Bypass route from State Highway 1 to the proposed port, including relevant parts of One Tree Point Road, McCathie Road, Marsden Point Road, and intersections. Payments shall be made progressively as the upgrading work is undertaken
30. The Consent Holder shall ensure that heavy vehicle access shall only be permitted through that part of the heavy vehicle transport corridor on the northern side of One Tree Point Road until agreement is reached and implemented with the Whangarei District Council on a suitable design for the intersection of One Tree Point Road and the heavy vehicle transport corridor.
31. The Consent Holder shall, at least twenty [20] working days prior to commencing construction work on the Marsden Point deepwater port submit to the Whangarei District Council an overall project management plan which shall provide the following information:
 - description of main elements of the project
 - a construction programme including a timetable, sequence of events and expected duration of the proposed works
 - a breakdown of the project into work packages for later submission by way of construction management plans and further information
 - community liaison arrangements
 - contingency response plan.

Subject to submitting a copy of any change to the Whangarei District Council, the overall project management plan may be updated or varied by the Consent Holder from time to time.

ADVICE NOTE:

1. The Whangarei District Council will consider the merits of implementing a Bylaw under the Local Government Act to restrict the use of Marsden Point Road south of McEwen Road by port destination heavy vehicles.
2. Until such time as the determination of the application to Stop Papich Road and a portion of Marsden Point Road is made, and disposal, if appropriate, agreed, the Consent Holder must gain the agreement of the Whangarei District Council, as landowner, prior to any work commencing that affects those existing roads [including any road reserve].



- (c) Northland Port Corporation (NZ) Limited as lessee of part of the coastal marine area.
- (d) Whangarei District Council (Private Bag, Whangarei) in respect of Papich Road and that part of Marsden Point Road adjoining the applicant's land at Marsden Point.
- (e) Electricity Farm Land Holdings No 1 Limited in respect of Section 39 Block VII Ruakaka Survey District and Section 1 Survey Office Plan 44270.
- (f) Wartelboer Motors Limited in respect of Lot 1 DP 57552.

Occupier

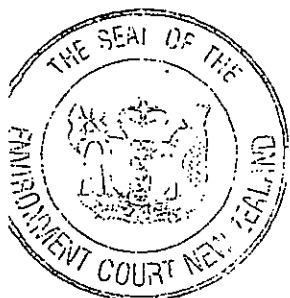
- (a) Northland Port Corporation (NZ) Limited.
- (b) Mission to Seamen in respect of Mission to Seamen facility.
- (c) Electricity Farm Land Holdings No 1 Limited in respect of Section 39 Block VII Ruakaka Survey District and Section 1 Survey Office Plan 44270.
- (d) Wartelboer Motors Limited in respect of Lot 1 DP 57552.

3. Location

The location to which this application relates is:

- (a) On Land

Property at Marsden Point and One Tree Point Roads, the legal descriptions of which are given below, including those areas shown as designations 380 and 381 in the Whangarei District Council Transitional District Plan - Whangarei County Section, Map 28 and including Papich Road and Marsden Point Road so far as it adjoins the applicant's property. The land area is shown on the plan



attached to this application being a plan prepared by Simpson Shaw & Co reference no 96055-1 ("the development plan") and on the plans in the Assessment of Effects on the Environment accompanying this application.

(b) In the Coastal Marine Area

Marsden Point below Mean High Water Springs adjacent to Papich Road and extending eastwards up to and slightly beyond the existing Northland Port Corporation jetty. The area is shown on the development plan and on the plans in the Assessment of Effects on the Environment accompanying this application.

Legal Description

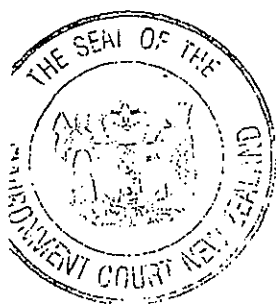
The legal descriptions of the areas subject of these applications are as follows:

Coastal Marine Area

Except for approximately 80m² in the vicinity of the proposed barge terminal, the area is covered by a deemed coastal permit derived from Designation 493 in the Whangarei District Council Transitional District Plan Whangarei County Section 1987, Map 28 and Map 1, sheet 14

Land

	<u>Title</u>	<u>Description</u>	<u>Area(ha)</u>
1	31B/968	Pt lot 5 DP 51845	55.707
2	7C/228	Lot 1, 2, Pt 4 DP 51845	5.3620
3	1825/15	Lot 1 DP 47603	0.0824
4	1825/16	Lot 2 DP 47603	0.0812
5	5D/1475	Lot 3 & 4 DP 47603 & Allot 291 Ruakaka Parish	0.2881
6	2042/48	Lot 5 DP 47603	0.0812
7	1851/11	Lot 6 DP 47603	0.0812

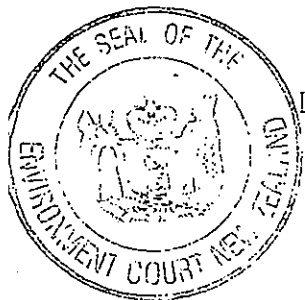


8	1B/857	Lot 6 DP 43643 & Lot 7 DP 47603	0.1621
9	64D/523	Lot 8 DP 47603	0.0812
10	1837/43	Lot 9 DP 47603	0.0812
11	1871/19	Lot 11 DP 47603	0.0812
12	1920/99	Lot 12 DP 47603	0.0812
13	2032/82	Lot 13 DP 47603	0.0812
14	3B/388	Lot 6 DP 51845	0.0920
15	1837/44	Lot 16 DP 47603	0.0812
16	1931/89	Lots 2, 3, 4, 5 DP 43643	0.3238
17	31C/50	Lot 3 DP 51845	0.4755
18	3B/10	Lot 1 DP 52380	4.0478
19	5C/446	Lot 1 DP 53892	8.0937
20	10B/670	Sec 1 Blk VIII Ruakaka SD	5.7136
21	1620/23	Lot 1 DP 43643	0.0809
22	1825/18	Lot 10 DP 47603	0.0812
23	1825/17	Lot 15 DP 47603	0.0812
24	16A/57	Sect 63 Blk VII Ruakaka SD	59.9794
25	95C/994	Lot 1 DP 168926	41.7886
26	22D/1444	Lot 1 DP 65603	0.4046
27	7B/1104	Lot 1 DP 54490	0.8096
28	13B/922	Lot 1 DP 57552	0.3726
29	88C/755	Section 39 Block VII Ruakaka SD Sect 1 SO Plan 44270	<u>37.0379</u>
<u>Total area of land titles</u>			<u>221.7148</u> ha

the roads to be stopped as shown on the application plan have no present legal description.

4. Types of Resource Consents Sought

Land Use Consents



Decision #3 - Recommendation to the Minister of Conservation : Coastal Permit No. 3

Date of commencement of consent: As provided in section 119(7) of the RMA 1991 (the Act)

Date of expiration of consent: Unlimited

Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: To reclaim approximately 32ha of foreshore and seabed, as shown on Development Plan Ref.96055-1 Revision E dated 9 April 1997, including the deposition of dredged material, disturbance of the foreshore and seabed, and building of retaining walls [including any diversion of seawater as a consequence of building the retaining walls and the reclamation].

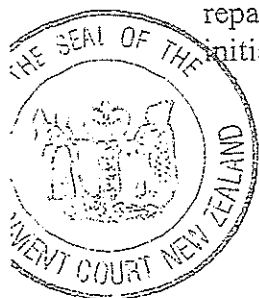
Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

A.	Crown land comprising foreshore and seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty (20) working days prior to work commencing.
3. The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Northland Regional Council within ten (10) working days following the date of the completion of all works and activities associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
6. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at six (6) monthly intervals starting from the notified date of the commencement of works associated with this consent.
7. The Consent Holder shall maintain all structures covered by this consent in good order and repair. Maintenance works authorised by this Consent shall be routine maintenance and repair to the exterior walls of the reclamation consistent with the scale and form of the initial approved reclamation.



SPECIAL CONDITIONS OF CONSENT:

8. Prior to the commencement of any works associated with this Consent and the associated consent for capital dredging, the Consent Holder shall enter into a bond with the Northland Regional Council in the amount of \$NZ5 million in respect of the performance of all works and associated mitigation measures required to be carried out by conditions attached to this Consent and the associated consent for capital dredging. Such a bond shall be prepared to the satisfaction of the Northland Regional Council's Solicitor. All costs associated with the preparation and registration of the bond shall be met by the Consent Holder. The purpose of this bond shall include the following:

- (a) To provide a mechanism to have finance immediately available to mitigate or control the environmental consequences of the inability of the Consent Holder to complete the project.
- (b) To provide a mechanism immediately available to the Northland Regional Council to enable:
 - (i) restoration of the site to an appropriate form should the project works not be completed; and /or
 - (ii) completion of the project works to an environmentally acceptable state, including in particular any landscaping required by the Whangarei District Council.
- (c) To provide for the likely costs involved in the planning, management administration and monitoring of the measures described in (a) and (b) above.

The bond shall continue in place for twelve [12] months following the date of completion of the reclamation, the associated capital dredging, or the associated mitigation measures [whichever is the later].

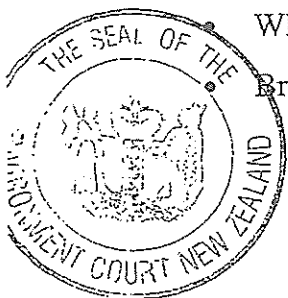
The Northland Regional Council shall review the bond sum annually after the commencement of works secured by the bond and, on each review, the bond sum shall be reduced to the value of work outstanding.

9(i). The Consent Holder shall establish, convene and provide reasonable administrative support for a Community Liaison Group [CLG]. The CLG shall be convened at least three months prior to the commencement of port construction work. At least the following parties shall be invited each to nominate one representative to the Group:

- Patuharakeke
- Resident or Ratepayers Groups and Citizens Associations representing the communities at:
 - Ruakaka
 - Reotahi
 - Rangiora (sea side of Takahiwai hills including One Tree Point)

Whangarei Heads

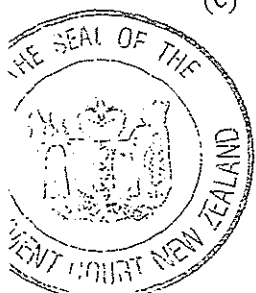
Bream Bay College



- The Northland Regional Council and the Whangarei District Council representing their communities of interest
- The Department of Conservation
- Any other directly affected party that the CLG identifies and recommends for inclusion with the agreement of the Consent Holder.

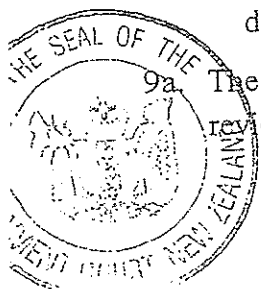
As the project moves through its various stages there will be the potential to affect different parties and accordingly it is expected that membership of the Community Liaison Group may change.

- ii. The Consent Holder shall confirm in writing with the Northland Regional Council and Whangarei District Council that the Community Liaison Group has been established.
- iii. The Community Liaison Group shall be chaired by an independent person appointed by the Consent Holder from a list of agreed candidates confirmed by the CLG at its inaugural meeting. The Chairman's role shall be to facilitate communication between the Consent Holder and the Community Liaison Group. The appointment shall be reviewed annually by the appointing parties or earlier if any party has reason to require such review.
- iv. The Consent Holder shall appoint two senior officers, either one of whom will represent the Consent Holder at all meetings of the Community Liaison Group.
- v. The Consent Holder shall ensure that where the Chair considers it necessary, appropriate technical experts attend meetings.
- vi. The Consent Holder shall provide the venue and administrative support [including secretarial services] for all meetings of the Community Liaison Group. Meetings are to be held at a time and place convenient for the majority of the group members.
- vii. The Consent Holder shall arrange regular site inspections for the Community Liaison Group to ensure they are kept informed of all aspects of the project.
- viii. The purpose of the Community Liaison Group is to provide a forum to address relevant community concerns and needs arising from the exercising of resource consents for the development and operation of a port at Marsden Point. The role shall include the following:
 - (a) To receive reports from the Consent Holder on progress on the port development;
 - (b) To facilitate ongoing communication and consultation with the local community [including directly affected parties] and the diligent resolution of any observations, concerns or complaints that members of that community may have about the construction or operation of the port at Marsden Point, its effects on the environment, the exercise of its resource consents, and ways of alleviating those concerns and dealing with complaints;
 - (c) Through the Chair, to alert and provide information to the Northland Regional Council and Whangarei District Council about any matters remaining unresolved between the



Consent Holder and the Community Liaison Group which may need to be addressed by those Councils;

- (d) To discuss management plans [including draft management plans] to ensure that relevant community concerns and needs are taken into account in their preparation;
 - (e) To receive the results of monitoring undertaken by the Consent Holder in relation to the port development and operation, to be advised of its implications, and to make this information available to the above-mentioned communities;
 - (f) To recommend suitable studies or projects designed to find ways of improving water quality, environmental ecological, and cultural health of the Whangarei Harbour [including its shores] to the Northland Regional Council [and where appropriate other consent authorities] for action; and
 - (g) To receive copies of any reports on environmental incidents requested by the consent authorities, where these are related to resource consents held by NPC for the Marsden Point Port.
- ix. The Consent Holder shall take all reasonable steps to investigate, in a prompt manner, any complaint [including any incident] forwarded to the Consent Holder by a member of the Community Liaison Group and to advise the complainant and the CLG member of any action taken. A register is to be kept of all complaints received and actions taken and is to be available to the Community Liaison Group at its regular meetings. This role does not replace any statutory obligation of the Consent Holder and consent authorities.
- x. Through the Chair, the Consent Holder shall use its best endeavours to ensure that regular meetings of the Community Liaison Group are held at intervals not exceeding three months for a period of at least five years after the commencement of port construction unless the Group dissolves itself by unanimous decision. The Chair may, if it is considered appropriate, call a special meeting of the Community Liaison Group.
- xi. Through the Chair, the Consent Holder shall send the meeting agenda and relevant papers [including Management Plans] to group members not less than 5 working days before any meeting of the CLG for the purpose of enabling group members to obtain input from others prior to the meeting. It would be expected that minor matters involving amendments to plans, recent monitoring results, or updated progress reports could be tabled at the meeting.
- xii. Through the Chair, the Consent Holder shall, as far as practicable, ensure that Minutes of all Community Liaison Group meetings are forwarded to members of the group as well as to the Northland Regional Council and Whangarei District Council within two weeks of any meeting being held.
- xiii. The Community Liaison Group may regulate its own procedures and, if considered appropriate for the better functioning of the Group, may prepare a Protocol Manual detailing such procedural and administrative matters as are deemed necessary.
- 9a The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review the progress and operation of the project and to review monitoring results.



10. The Consent Holder shall pay to the Northland Regional Council up to \$25,000 per annum toward scientific studies for the purpose of monitoring the effects of the development on the water quality and ecology of the Whangarei Harbour, as detailed in conditions to Coastal Permit No.2

The first such contribution shall be made 12 months after the date on which port construction works commence and subsequent contributions shall be paid annually over the same number of years as the payments required by Condition 10 of Coastal Permit No.2, but in any event for no longer than 10 years.

11. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:

- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
- (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (iii) Report the escape to the Northern Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.

12. The Consent Holder shall keep the coastal marine area free of litter and other debris [including offcuts, pipes, and rock debris] arising from the exercise of this consent.

13. The Consent Holder shall carry out or commission, at its own expense, the monitoring work described in paragraphs 2 to 8 inclusive of Addendum D in the report by Barnett Consultants Limited dated August 1994 entitled "Marsden Point Port Development Hydrodynamic Study Addenda to Original Report" which covers:

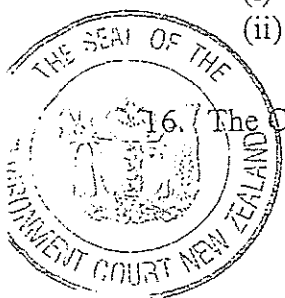
- Bathymetric monitoring
- Side scan sonar
- Current profiling
- Drogue tracking
- Tide recording
- Weather recording
- Ship movement recording

14. The Consent Holder shall carry out, or commission at its own expense, monitoring of beach profiles for a distance of not less than 500m each side of the reclamation, at not greater than six [6] monthly intervals for a period of ten [10] years following completion of the reclamation. A baseline survey shall be carried out prior to construction works commencing. The results of this monitoring shall be reported to the Northland Regional Council immediately following completion of each survey.

15. All works in connection with the construction of the reclamation (including marine activities such as ship movements, loading and unloading) shall be undertaken in a manner which minimises adverse effects on:

- (i) New Zealand Refining Company's [NZRC] jetties; and
- (ii) the safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.

16. The Consent Holder shall carry out at its own expense a study to determine current speeds



and directions in the vicinity of NZRC's jetties prior to any construction commencing in the coastal marine area, and within six [6] months following completion of the capital dredging works. The results of these studies shall be forwarded to the Northland Regional Council and shall be made publicly available.

17. The Consent Holder shall make available to the Northland Regional Council the results of all bathymetric studies undertaken in agreement with the NZRC. These results will be made publicly available. In the event that they indicate unanticipated adverse effects, the conditions of this consent may be reviewed as *per* Condition 6 above.

18. The Consent Holder shall submit to the Northland Regional Council for approval the following management plans with which it shall comply:

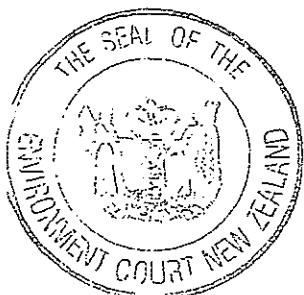
(i) At least twenty[20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a construction management plan which shall provide the following information

- Description of proposed works and drawings;
- A programme including a timetable, sequence of events and expected duration of all proposed works;
- A breakdown of the project into construction packages for later submission in greater detail
- Community liaison arrangements
- Contingency response plan
- Community Liaison Group (CLG) comments on the construction management plan and the Consent Holder's response to those comments.

The Northland Regional Council shall, within twenty working days of receipt of the plan notify the Consent Holder of its approval of the plan or, failing approval, of the respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

(ii) At least twenty [20] working days before construction commences on any package of work identified in the construction management plan, the following additional information shall be supplied to the Northland Regional Council:

- Design and construction report which shall cover where appropriate:
 - Dredging activities
 - Perimeter dyke construction
 - Geotextile lining of bund wall
 - Pile driving activities
 - Dust control measures



- Noise controls proposed
- Community Liaison Group (CLG) comments on the design and construction report and NPC response
- Plans and specifications providing sufficient detail to show compliance with the resource consent
- Monitoring procedures where applicable
- Reporting procedures where applicable

The Northland Regional Council shall, within twenty working days of receipt of the additional information, notify the Consent Holder of its approval of the additional information or, failing approval, of the respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

(iii) The Consent Holder may, at any time, submit variations to the approved construction management plan or the approved additional information required under this condition to the Northland Regional Council, together with comments from the Community Liaison Group and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers of approval under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its approval or otherwise of the proposed variation within five working days.

19. The Consent Holder shall ensure that all reclamation fill shall be from the dredged turning basin unless otherwise approved by the Northland Regional Council.
20. The Consent Holder shall ensure that all quarried rock used to construct bund walls is clean prior to placement and will not leach contaminants into the coastal marine area.
21. The Consent Holder shall, immediately upon completion of the marine works associated with the consent, notify in writing [and shall include a scale plan of the completed works]:

The Hydrographer
RNZ Navy
P O Box 33-341
TAKAPUNA

Maritime Safety Authority
P O Box 27 006
WELLINGTON

22. The Consent Holder shall not exceed the recommended upper noise limits described in NZS6803P:1984 *The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in NZS6802:1991 *Assessment of Environmental Sound*, then these noise limits shall apply.

The Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced



person, together with the relevant management plan(s). This report shall, among other things, detail:

- (i) the reasonable potential for cumulative noise emissions from the reclamation site;
- (ii) the means by which noise emissions from the reclamation site will be minimised and maintained below the noise performance standards specified in this consent;
- (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase noise levels at the locations under consideration;
- (iv) any comments of the Community Liaison Group and the responses to these.

24. At least twenty [20] working days prior to commencement of reclamation, and following appropriate consultation with the Community Liaison Group, the Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval a Noise Information Monitoring Programme. This Programme shall include the proposed times, duration and location of the measurements, and procedures for logging and responding to noise complaints.

25. Within twelve [12] months of the commencement of reclamation works, the Consent Holder shall consult with the Community Liaison Group on the feasibility of constructing a short pier jetty at an oblique angle at the northern end of the access strip on the western rock wall for the purpose of providing an all tide fishing platform. The results of that consultation shall be reported to the Northland Regional Council and the Whangarei District Council and, if agreed to by the Councils, the work shall be undertaken by the Consent Holder and the costs deducted from the reserves contribution.

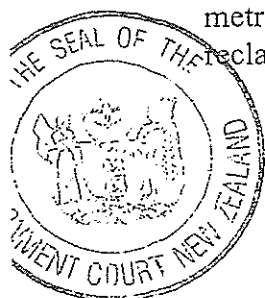
26. (i) The Consent Holder shall provide, construct and maintain an access strip of not less than 10m width for public vehicular access to the eastern side of the reclamation. This access strip shall be constructed to a standard that conforms with the Council's Class F Service Lane, Urban Roads requirement as specified in its draft Environment Engineering Standards 1998.

(ii) The Consent Holder shall provide, construct and maintain a restricted access strip of not less than 6m usable width along the eastern side of the reclamation to the water taxi landing with provision for restricting access in accordance with s.237B of the RMA. This access strip shall be constructed to a standard that conforms with the Council's Category B (Urban Privateway Cross Sections) access requirement as specified in its draft Environmental Engineering Standards 1998

27. The Consent Holder shall maintain public access to and ensure operation is able to continue for the water taxi operation during construction.

28. The Consent Holder shall erect adequate signage during the construction period in the vicinity of the site advising the public of construction activity and noting any special precautions that should be taken.

29. The Consent Holder shall provide, construct and maintain an access strip of not less than 6 metres width for public recreational purposes along the western rock wall (edge of reclamation) to a point 70 m from the northern wharf face



Advice Notes:

1. The Consent Holder is advised that landscaping conditions relating to the reclamation once formed are attached to the Whangarei District Council land use consents. These should be considered adjunctive conditions to this consent for the purposes of bond Condition 8.



NORTHPORT LIMITED, P O BOX 44, RUAKAKA 0250

To carry out remedial measures associated with structure maintenance, required as a result of seabed scouring due to coastal processes, at the New Zealand Refining Company jetties at Marsden Point, Whangarei Harbour, Map Reference 1735400 E: 6033150 N (Geodetic Datum 2000, New Zealand Transverse Mercator Projection), subject to the following conditions:

- 1 This consent applies only to the jetty area identified on NRC Plan No. 3448 **attached**.
- 2 Remedial measures under this consent shall only take place upon:
 - (a) The Consent Holder producing evidence to the Council that there has been a significant change to the recorded seabed levels at the jetties, such that lateral or vertical capacity of jetty piles and/or dolphins are affected, or will be affected if further lowering of seabed levels is likely; and
 - (b) The New Zealand Refining Company Limited providing its written agreement that the remedial measures are necessary.
- 3 The Consent Holder shall forward a copy of the engineering review of the geotechnical requirements for jetty stability, referred to in the application documents, upon its receipt from the New Zealand Refining Company Limited
- 4 The Consent Holder shall ensure that regular monitoring of seabed levels around the structures is carried out as follows:
 - (a) Once every two months, for a period of 12 months following completion of the dredging of Marsden Point Port berths three and four; and then
 - (b) Once every two years thereafter.

- 5 At least four weeks prior to commencing remedial work, the Consent Holder shall submit a management plan to the Council, for its certification, that:
- (a) Details the nature of the remedial work proposed;
 - (b) Describes the method of undertaking the work;
 - (c) Any impacts expected and how these impacts will be controlled; and
 - (d) Proposed appropriate monitoring.

Note: It is intended that the Council will, within one week of its receipt of the management plan, certify that the proposed work falls within the activities provided for by this consent, or otherwise detail the matters in which the proposed remedial works falls outside the coverage of this consent.

If urgent safety circumstances occur where the above timeframes are inappropriate, then the Consent Holder shall immediately advise the Council of the particular circumstances and shall then continue to liaise with the Council so that compliance with items (a), (b), (c) and (d) is achieved and that the Council's certification may be timely given.

- 6 The Consent Holder shall notify the Council in writing of the date remedial work is intended to commence, at least two weeks beforehand on each occasion, except where urgent safety circumstances occur as set out in Condition 5.
- 7 The Consent Holder shall notify the Council in writing as soon as remedial work is completed on each occasion.
- 8 The Consent Holder shall keep the coastal marine area free of debris resulting from the Consent Holder's activities.
- 9 Notwithstanding the generality of Condition 8, only clean material, free from contaminant and loose material (e.g. concrete rubble, steel, undersized rocks and rock fragments) that might release contaminants into the coastal marine area, shall be used in remedial work.
- 10 All loose material, such as rock spalls, forming part of the remedial works shall be of sufficient size and density and placed so as to preclude their movement out of the remedial works site under the most extreme action likely to be imparted on them.
- 11 The Consent Holder shall, for the purposes of adequately monitoring the consent as required under Section 35 of the Act, on becoming aware of any contaminant associated with the Consent Holder's operations escaping otherwise than in conformity with this consent:
- (a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape;
 - (b) Immediately notify the Council by telephone of an escape of contaminant;

- (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (d) Report to the Council in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape.
- 12 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent. Such notice may be served annually during the month of May. The review may be initiated for any one or more of the following purposes:
- (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Regional Council's monitoring of the state of the environment in the area;
 - (b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment;
 - (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent;
 - (d) To deal with any inadequacies or inconsistencies the Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent;
 - (e) To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason); and
 - (f) To change existing, or impose new limits on conditions.

The Consent Holder shall meet all reasonable costs of any such review.

- 13 Prior to the expiry, cancellation, or lapsing of this consent the Consent Holder shall remove all structures and other materials and refuse associated with this consent from the consent area and shall restore the consent area to the satisfaction of the Council, unless an application for a replacement consent has been properly made beforehand.
- 14 For the purposes of the lapsing provisions of Section 125 of the Act, this consent shall not lapse until its expiry date.

EXPIRY DATE: 31 MAY 2032

ISSUED at Whangarei this Twenty-third day of April 2004

**D L Roke
Consents Manager**



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NORTHPORT LIMITED, PO BOX 848, WHANGAREI 0115

To place and use a jetty in the coastal marine area, and to occupy the coastal marine area with a jetty, at Marsden Point, Map Reference Q07: 452-953, subject to the following conditions:

- 1 This consent only applies to the area identified on NRC Plan No. 3385 **attached**.
- 2 The Consent Holder shall notify the Council in writing of the date construction is intended to commence, at least two weeks beforehand.
- 3 The Consent Holder shall notify the Council in writing as soon as the works are completed.
- 4 The Consent Holder shall mark the structure with the number **5055** in black lettering on a white background clearly displayed and in such a manner as to be clearly visible from the land.
- 5 The Consent Holder shall, immediately upon completion of the installation of all works associated with this consent, notify in writing:

Nautical Information Advisor
Land Information New Zealand
Private Box 5501
Wellington

Maritime Safety Authority
P O Box 27-006
Wellington

The Whangarei District Council
Private Bag 9023
Whangarei

Northland Regional Council
Private Bag 9021
Whangarei

The Consent Holder shall include a scale plan of the completed works with the notification.

- 6 Vessels shall not berth alongside the jetty, other than in emergencies, for longer than one hour.
- 7 Signage is to be erected to clearly indicate the one hour berthing time limit.

- 8 The Consent Holder shall maintain all facilities covered by this consent in good order and repair.
- 9 The Consent Holder shall keep the coastal marine area free of debris resulting from the Consent Holder's activities.
- 10 The Consent Holder shall, for the purposes of adequately monitoring the consent as required under Section 35 of the Act, on becoming aware of any contaminant associated with the Consent Holder's operations escaping otherwise than in conformity with this consent:
 - (a) Immediately take such action, or execute such work as may be necessary, to stop and/or contain such escape; and
 - (b) Immediately notify the Council by telephone of an escape of contaminant; and
 - (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (d) Report to the Council in writing within one week on the cause of the escape of the contaminant and the steps taken or being taken to effectively control or prevent such escape.
- 11 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent. Such notice may be served annually during the month of November. The review may be initiated for any one or more of the following purposes:
 - (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Council's monitoring of the state of the environment in the area.
 - (b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.
 - (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent.
 - (d) To deal with any inadequacies or inconsistencies the Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent.
 - (e) To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason.)
 - (f) To change existing, or impose new limits on conditions.

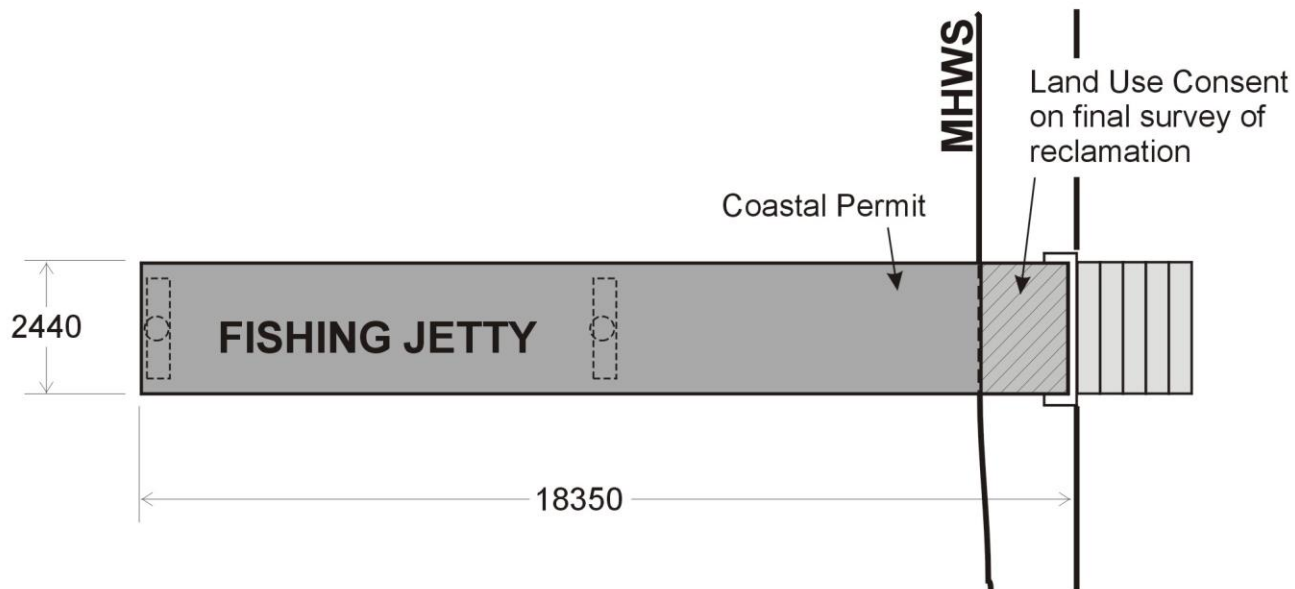
The Consent Holder shall meet all reasonable costs of any such review.

- 12 Prior to the expiry cancellation, or lapsing of this consent the Consent Holder shall remove all structures (other than reclamations) and other materials and refuse associated with this consent from the consent area and shall restore the consent area to the satisfaction of the Council, unless an application for a replacement consent has been properly made beforehand.

EXPIRY DATE: 30 NOVEMBER 2034

ISSUED at Whangarei this Ninth day of April 2003

Allan Richards
Coastal Consents Team Leader



	By	Date
Dwn.	C N Anderson	03/03
App'd		
Amendment		
No.	By	Date

RESOURCE CONSENT CON20030505517
for
Northport Ltd
Fishing Jetty -
Marsden Point

NORTHLAND
REGIONAL
COUNCIL



Scale

N.T.S.

Plan No.

3385

NORTHLAND PORT CORPORATION (NZ) LIMITED & NORTHPORT LIMITED,
P O BOX 848, WHANGAREI 0115

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Unlimited.

Date of lapsing of consent (if not given effect to): 16 November 2014 (*Section 125 application granted 9 May 2006*).

Purpose of Consent: Earthworks on land, including excavation, depositing of material, compaction and other works and excavations necessary for construction, operation and maintenance of the port and associated support facilities and systems including the establishment of the stormwater settlement pond and stormwater storage facilities as shown on Development Plan Ref.96055-1 Revision E dated 9 April 1997.

Legal Description of Land: The land described in Paragraph 3 of the Consent Holders amended application for resource consents dated 14 August 1996, a copy of which is attached, including those parts of all roads to be stopped which adjoin the Consent Holder's property, and as shown on the Development Plan 96055-1 Revision E dated 9 April 1997.

STANDARD CONDITIONS OF CONSENT:

- 1 The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
- 2 The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
- 3 The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of works associated with this consent.

- 4 The Consent Holder shall notify the Northland Regional Council within ten (10) working days following the date of the completion of all activities associated with this consent.
- 5 The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
- 6 The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at four (4) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

- 7 The Consent Holder shall submit to the Northland Regional Council for approval the following management plans with which it shall comply:
 - (i) At least twenty [20] working days prior to construction/demolition commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a construction management plan which shall provide the following information:
 - Description of proposed works and drawings
 - A programme including a timetable, sequence of events and expected duration of all proposed works
 - A breakdown of the project into packages for later submission in greater detail
 - Community liaison arrangements
 - Contingency response plan
 - Community Liaison Group comments on the plan and the Consent Holder's response to those

The Northland Regional Council shall, within twenty working days of receipt of the plan notify the Consent Holder of its approval of the plan or, failing approval, of the respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application.
 - (ii) At least twenty [20] working days before construction commences on any package of work identified in the construction management plan, the following additional information shall be supplied to the Northland Regional Council:
 - Design and construction report which shall cover where appropriate
 - Earthworks activities
 - Development works
 - Sediment control measures
 - Stormwater settlement measures

- Dust control measures
- Noise controls proposed
- Washdown and cleaning of vehicles / earthmoving equipment
- Community Liaison Group comments on the plan and the Consent Holder's response to those
- Plans and specifications providing sufficient detail to show compliance with all relevant resource consents and the Northland Regional Council's Guidelines for Urban Earthworks
- Monitoring procedures
- Reporting procedures

The Northland Regional Council shall, within twenty working days of receipt of the additional information, notify the Consent Holder of its approval of the additional information or, failing approval, of the respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

- (iii) The Consent Holder may, at any time, submit variations to the approved construction management plan or the approved additional information required under this condition to the Northland Regional Council together with comments of the Community Liaison Group and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers of approval under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its approval or otherwise of the proposed variation within five working days
- 8 Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
 - (a) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (b) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (c) Report the escape to the Northern Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
 - 9 The Consent Holder shall not place litter and other debris [including offcuts, pipes, and rock debris] arising from the exercise of this consent in a position where it may enter Blacksmiths Creek or the coastal marine area.
 - 10 No waste oil, grease cartridges, fuel containers or any other potentially contaminating material is to be left on site following the completion of earthworks.

- 11 Prior to any work commencing on the site, the Consent Holder shall, in consultation with Patuharakeke Te Hapu, commission a cultural assessment report to identify any areas of waahi tapu and/or other special sites. A copy of this report shall be provided to both the Northland Regional Council and Whangarei District Council. Where a Waahi tapu or other special site is identified in this report the Consent Holder will take all reasonable steps, in consultation with Patuharakeke Te Hapu, to record and/or protect any such waahi tapu or special site and observe any appropriate cultural protocols.
- 12 The Consent Holder shall ensure that NZ Archaeological Association recorded sites N 24/46 and N 24/590 are identified and securely protected by fencing prior to any earthworks commencing on the site. Written confirmation of this, and of agreements and implementation referred to in the preceding condition shall be forwarded to the Northland Regional Council and, where appropriate, the Whangarei District Council at least twenty [20] working days prior to work commencing.
- 13 The Consent Holder shall ensure that work in the immediate vicinity of any discovered or suspected archaeological site uncovered during the course of earthworks ceases immediately, and that the NZ Historic Places Trust, Northland Regional Council, Whangarei District Council and Patuharakeke Te Hapu are informed. Work shall not continue in the vicinity of any such site until authorised by the Northland Regional Council.
- 14 The Consent Holder shall not exceed the recommended upper noise limits described in *NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in *NZS6802:1991 Assessment of Environmental Sound*, then these noise limits shall apply.
- 15 The Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person. This report shall, among other things, detail:
 - (i) The reasonable potential for cumulative noise emissions from the site;
 - (ii) The means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
 - (iii) Any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase noise levels at the locations under consideration;
 - (iv) Any comments of the Community Liaison Group and responses to these.
- 16 At least twenty [20] working days prior to the commencement of earthworks, and following appropriate consultation with the Community Liaison Group, the Consent Holder shall submit to the Northland Regional Council and Whangarei District Council for their approval a Noise Information Monitoring Programme. This Programme shall include the proposed times, duration and location of the measurements, and procedures for logging and responding to noise complaints.
- 17 The Consent Holder shall maintain public access to and ensure operation is able to continue for the water taxi operation during construction.

- 18 The Consent Holder shall erect adequate signage during the earthworks construction period in the vicinity of the site advising the public of construction activity and noting any special precautions that should be taken.
- 19 The Consent Holder shall, at least twenty [20] working days prior to commencing construction work on the Marsden Point deepwater port submit to the Northland Regional Council an overall project management plan which shall provide the following information:
- Description of main elements of the project
 - A construction programme including a timetable, sequence of events and expected duration of the proposed works
 - A breakdown of the project into work packages for later submission by way of construction management plans and further information
 - Community liaison arrangements
 - Contingency response plan
- Subject to submitting a copy of any change to the Northland Regional Council, the overall project management plan may be updated or varied by the Consent Holder from time to time.
- 20 Following construction of the new stormwater storage pond, the Consent Holder shall submit a Certificate from a suitably qualified and experienced engineer, certifying that all constructed batter faces associated with the exercise of this consent have been constructed to achieve a Factor of Safety of not less than 1.5.
- 21 To minimise erosion and sedimentation, all batter faces shall be established with a suitable vegetative, or other groundcover, to achieve an 80% groundcover within 12 months immediately following the works.

ADVICE NOTE:

The Consent Holder is advised that any activity affecting archeological sites, whether that site is recorded, registered or not, is subject to the approval process of the Historic Places Act 1993.

ISSUED at Whangarei this Eleventh Day of June 2006

Allan Richards
Coastal Consents Team Leader

- NOTE 1** Decision granted on 27 August 2003 to change "Purpose of Consent" and addition of two new Conditions 20 and 21.
(Note added 11 June 2006)
- NOTE 2** Section 125 extension to the lapsing period that was granted 9 May 2006. New wording to "Date of lapsing of consent (if not given effect to):"
(Note added 11 June 2006)

**NORTHLAND PORT CORPORATION (NZ) LIMITED AND NORTHPORT LIMITED,
P O BOX 848, WHANGAREI**

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Thirty five (35) years

Date of lapsing of consent (if not given effect to): 16 November 2014 (*Section 125 application granted 9 May 2006*).

Purpose of Consent: Diversion and damming of stormwater in the course of construction and port operations arising from the construction and use of buildings and other structures including stormwater settlement and storage ponds.

Legal Description of Land: The land described in paragraph 3 of the Consent Holder's amended application for resource consents dated 14 August 1996, a copy of which is attached, including those parts of all roads to be stopped which adjoin the Consent Holder's property, and as shown on the Development Plan 96055-1 Revision E dated 9 April 1997.

STANDARD CONDITIONS OF CONSENT:

- 1 The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
- 2 The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
- 3 The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.

- 4 The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
- 5 The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at four (4) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

- 6 Stormwater from all areas where construction earthworks and other construction works are taking place shall be diverted and discharged to the coastal marine area via a discharge point located within the coastal marine area where land is being reclaimed for the port development.
- 7 The Consent Holder shall ensure that all stormwater diversion and drainage channels, including flood flowpaths, are maintained substantially free of litter and debris.
- 8 Wherever practicable the Consent Holder shall develop riparian planting using native wetland species in accordance with the Comprehensive Landscape Plan approved by the Whangarei District Council.

ISSUED at Whangarei this Eleventh Day of June 2006

Allan Richards
Coastal Consents Team Leader

NOTE 1 This consent is as issued by the Environment Court in November 1999 with the exception of a Section 125 extension to the lapsing period that was granted on 9 May 2006. New wording to "Date of lapsing of consent (if not given effect to):"
(Note added 11 June 2006)

NORTHLAND PORT CORPORATION (NZ) LIMITED AND NORTHPORT LIMITED, P O BOX 848, WHANGAREI

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Thirty five (35) years

Date of lapsing of consent (if not given effect to): 16 November 2014 (*Section 125 granted 9 May 2006*).

Purpose of Consent: To take water from the stormwater storage pond and discharge by way of spray irrigation to land generally depicted on Development Plan Ref.96055-1 Revision E dated 9 April 1997 as "irrigation areas".

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Lot 1 DP 168926
2.	Sec 63 Blk VII Ruakaka SD, SO 45336
3.	Pt Lot 5 DP 51845
4.	Lot 1 DP 54490
5.	Northern portion of Pt Lot 4 DP 51845
6.	Western portion of Lot 1 DP 53892
7.	South Western portion of Pt Lot 1 DP 52380

STANDARD CONDITIONS OF CONSENT:

- 1 The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
- 2 The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
- 3 The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.
- 4 The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
- 5 The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at twelve (12) monthly intervals starting from the notified date of the commencement of activities associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

- 6 At least twenty [20] working days prior to the commencement of irrigation the Consent Holder shall submit to the Northland Regional Council for approval a Stormwater Irrigation Management Plan with which it shall comply, covering all aspects of stormwater irrigation operation including:
 - (i) a description of daily operation of the spray irrigation system;
 - (ii) contingency measures for unforeseen or emergency situations;
 - (iii) baseline soil quality sampling data and means by which to ensure safeguarding the condition of the structure;
 - (i) determination of the need for a maximum rate of application [and, if so, the quantitative annual limit];
 - (v) a quantitative method of irrigation scheduling in order to optimise irrigation and minimise soil saturation and surface runoff;
 - (vi) definition of areas where a higher than 10mm per hour application rate is sustainable due to higher soil infiltration rates;
 - (vii) criteria for calculation of appropriate buffer zones;
 - (viii) records (including frequency of provision) to be supplied to Northland Regional Council.

The Consent Holder shall nominate a Company officer(s) directly responsible for the continuous efficient operation and maintenance of the complete spray irrigation system.
- 7 All aspects of stormwater irrigation shall be carried out in accordance with the Stormwater Irrigation Management Plan.
- 8 The Stormwater Irrigation Management Plan shall be reviewed after the first year of operation of the spray irrigation system and then at not greater than two yearly intervals.

- 9 The Consent Holder shall ensure that the stormwater application rate of the irrigation system does not exceed 10mm per hour [except where the Stormwater Irrigation Management Plan indicates a higher application rate is sustainable due to higher soil infiltration rates]. The Consent Holder shall operate the spray irrigation system to ensure that there is no significant ponding, surface runoff (overland flow) and/or contamination of surface and groundwater resulting from the application of stormwater to the irrigated area.
- 10 The Consent Holder shall ensure that the spray irrigation system is managed in such a way as to ensure that the operation of the system does not cause offensive odours, create any public nuisance, create any adverse drainage impacts beyond the boundary of the properties, and/or allow spray drift to travel beyond appropriate buffer zones and enter:
- (i) Streams;
 - (ii) Drains;
 - (iii) Public roadways;
 - (iv) Adjacent property boundaries, except with the written consent of the adjoining land owner(s) and occupier(s).
- Areas used for the transport corridor, the port, and the storage pond shall not be used for spray irrigation.
- 11 Prior to the commencement of spray irrigation the Consent Holder shall establish the baseline soil quality within every area which will receive stormwater during the term of this consent. Baseline sampling shall incorporate composite topsoil samples from two [2] sites of each of the four [4] representative soil types within the irrigation area, and at least one control site where no irrigation will take place. The results of this baseline sampling shall be provided to the Northland Regional Council at least twenty [20] working days prior to the commencement of spray irrigation.
- 12 The Consent Holder shall ensure that the testing of each area shall be representative, so that comparisons can be made over time to determine if there are any significant differences in soil chemistry or other soil properties between control site(s) and stormwater application sites. Applications of agrichemicals, including fertilisers, and other substances which may influence the soils tested shall also be recorded.
- 13 At least twenty [20] working days prior to the commencement of spray irrigation, the Consent Holder shall submit a Monitoring Programme to the Northland Regional Council for approval detailing how the soil testing will be undertaken (including soil sampling and testing techniques, control site selection criteria, testing determinands and statistical tests for significant differences). The testing determinands shall include:
- (i) Resin acids
 - (ii) Sodium, Potassium, Magnesium and Calcium
 - (iii) Cation Exchange Capacity
 - (iv) pH
 - (v) Total Lead
 - (vi) Total Zinc
 - (vii) Total Copper
 - (viii) Olsen Phosphorus (a measure of plant available phosphorus).
- 14 The Consent Holder shall conduct annual soil testing in September each year, within

every area which received irrigated stormwater within the previous twelve [12] months, and also at the control site(s).

- 15 The Consent Holder shall supply to the Northland Regional Council the results of each annual soil testing event within two months of each event being completed.
- 16 In the event of the development of apparent pasture toxicity or deficiency symptoms within any stormwater irrigation areas, the pasture herbage from those areas shall be analysed to determine the cause, and appropriate corrective measures shall be implemented to the satisfaction of the Northland Regional Council.
- 17 The application rate of the irrigation system shall be measured during commissioning of the system to ensure that the application rate does not exceed 10 mm per hour or the near saturated hydraulic conductivity of the soil, whichever is the higher.
- 18 The Consent Holder shall monitor the quality of the stormwater in the storage ponds at not greater than two monthly intervals for at least two years after commencement of stormwater irrigation. Thereafter, the frequency of stormwater quality monitoring may be changed in accordance with Condition 24 of this Consent. The Consent Holder shall submit to the Northland Regional Council for approval a Stormwater Monitoring Programme detailing how the stormwater testing will be undertaken, including sampling and testing techniques [which may be coordinated with the Monitoring Programme for stormwater discharge to the coastal marine area]. The testing determinands shall include:
 - (i) BOD
 - (ii) Suspended Solids
 - (iii) Resin Acids
 - (iv) pH
 - (v) Sodium, Calcium, Magnesium and Potassium
 - (vi) Nitrate, TKN, Ammoniacal Nitrogen
 - (vii) Total Phosphorus and Dissolved Reactive Phosphorous
 - (viii) Electrical Conductivity
- 19 The Consent Holder shall supply to the Council annually [or sooner upon the written request of the Northland Regional Council], after the commencement of stormwater irrigation, the analytical results from the stormwater quality monitoring.
- 20 The Consent Holder shall install at least three [3] groundwater monitoring wells to the satisfaction of the Council, for the purpose of monitoring the groundwater levels and groundwater quality upgradient, directly downgradient of the areas spray irrigated, and downgradient of the stormwater storage pond.
 - a) Prior to the commencement of spray irrigation the Consent Holder shall establish the baseline groundwater quality upgradient, directly downgradient of the areas spray irrigated, and downgradient of the stormwater storage pond. Baseline sampling shall incorporate representative quarterly monitoring over at least a twelve [12] month period. The results of this analysis shall be provided to the Northland Regional Council at least twenty [20] working days prior to the commencement of spray irrigation. The testing determinands shall include:

- (i) Resin Acids
 - (ii) pH
 - (iii) Major Cations and Anions
 - (iv) Nitrate, Ammoniacal Nitrogen
 - (v) Dissolved Reactive Phosphorous
 - (vi) Electrical Conductivity
 - b) The Consent Holder shall monitor the groundwater levels and quality upgradient, directly downgradient of the areas spray irrigated, and downgradient of the stormwater storage pond at not greater than three [3] -monthly intervals for at least two [2] years after commencement of stormwater irrigation.
- 21 At least twenty [20] working days prior to the commencement of spray irrigation, the Consent Holder shall submit to the Northland Regional Council for approval a Groundwater Monitoring Programme detailing how the groundwater testing will be undertaken, including sampling and testing techniques. The testing determinands shall include:
- (i) Resin Acids
 - (ii) pH
 - (iii) Major Cations and Anions
 - (iv) Nitrate, Ammoniacal Nitrogen
 - (v) Dissolved Reactive Phosphorous
 - (vi) Electrical Conductivity
- 22 The Consent Holder shall supply to the Northland Regional Council the results of the groundwater quality monitoring at not greater than three-monthly intervals for at least two years after commencement of stormwater irrigation.
- 23 The Consent Holder shall submit to the Northland Regional Council a Groundwater Monitoring Programme detailing how the quantitative statistical analysis of the monitoring data will be undertaken in order to detect changes in groundwater quality over time
- 24 The Northland Regional Council, in consultation with the Consent Holder, shall review the Consent Holder's Stormwater and Groundwater Monitoring Programmes and the results of the monitoring at 2, 5, 10 and 20 years after the commencement of this Consent for the purposes of reviewing sampling and testing methods, control site selection criteria, testing determinands, statistical tests for significant differences and testing frequencies.
- 25 The Consent Holder shall meet the reasonable costs of the reviews, Northland Regional Council inspections and monitoring.

- 26 The Consent Holder shall carry out, or commission at its own expense, within twelve [12] months of commencement of this consent, a study of the Blacksmiths Creek catchment for the purpose of identifying practical measures for improving the water quality of Blacksmiths Creek. The Consent Holder shall submit to the Northland Regional Council for its approval an outline programme for the study before the study commences. If the study concludes that a wetland is a suitable and feasible option, the Consent Holder shall make available an area to be agreed between it and the Northland Regional Council, of approximately 0.5 hectares, of its land for the purpose of enabling wetland treatment of water flows in Blacksmiths Creek.

ISSUED at Whangarei this Eleventh Day of June 2006

Allan Richards
Coastal Consents Team Leader

NOTE 1 This consent is as issued by the Environment Court in November 1999 with the exception of a Section 125 extension to the lapsing period that was granted on 9 May 2006. New wording to "Date of lapsing of consent (if not given effect to):"
(Note added 11 June 2006)

Decision # 16 - Northland Regional Council : Discharge Permit No. 2

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Thirty five (35) years

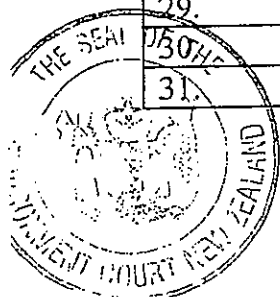
Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: Discharge of particulate matter and contaminants into the air in the course of construction and port operations.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

	Description
1.	Pt Lot 5 DP 51845
2.	Lot 1, 2, Pt 4 DP 51845
3.	Lot 1 DP 47603
4.	Lot 2 DP 47603
5.	Lot 3 & 4 DP 47603 & Allot 291 Ruakaka Parish
6.	Lot 5 DP 47603
7.	Lot 6 DP 47603
8.	Lot 6 DP 43643 & Lot 7 DP 47603
9.	Lot 8 DP 47603
10.	Lot 9 DP 47603
11.	Lot 11 DP 47603
12.	Lot 12 DP 47603
13.	Lot 13 DP 47603
14.	Lot 6 DP 51845
15.	Lot 16 DP 47603
16.	Lots 2, 3, 4, 5 DP 43643
17.	Lot 3 DP 51845
18.	Lot 1 DP 52380
19.	Lot 1 DP 53892
20.	Sec 1 Blk VIII Ruakaka SD
21.	Lot 1 DP 43643
22.	Lot 10 DP 47603
23.	Lot 15 DP 47603
24.	Sect 63 Blk VII Ruakaka SD
25.	Lot 1 DP 168926
26.	Lot 1 DP 65603
27.	Lot 1 DP 54490
28.	Lot 1 DP 57552
29.	Section 39 Block VII Ruakaka SD Sect 1 SO Plan 44270
30.	Portions of Papich, Marsden Point and One Tree Point Roads
31.	Crown Land comprising foreshore and seabed to be reclaimed

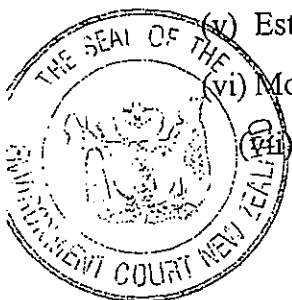


STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Northland Regional Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.
4. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
5. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at four (4) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

6. The Consent Holder shall comply with the following air quality emission standards at the site boundary, or as otherwise determined under Condition 10 of this Consent:
 - (i) Inhalable Particulate = $120\mu\text{g}/\text{m}^3$ [24hr average]
 $40\mu\text{g}/\text{m}^3$ [annual average]
 - (ii) Deposited Particulate = $4\text{g}/\text{m}^2$ [30 day mean]
 $<4\text{g}/\text{m}^2$ [above background non-urban 30 day mean]
7. At least twenty [20] working days prior to the commencement of port construction works, the Consent Holder shall submit to the Northland Regional Council for approval a Dust Management Plan for both construction and operation of the port and its related activities. The Dust Management Plan shall detail the means by which discharges to air will be minimised and the air quality standards imposed by this consent are to be achieved and include the following matters:
 - (i) Dust control cleaning and maintenance systems;
 - (ii) Housekeeping and general cleaning programme;
 - (iii) Dust suppression measures for stockpiles (including sand dredgings stockpiles) and unpaved areas;
 - (iv) Storage, handling and transportation of dry cargo;
 - (v) Establishment and maintenance of wind protection measures;
 - (vi) Monitoring and reporting;
 - (vii) Community Liaison Group comments on the plan and the Consent Holder's

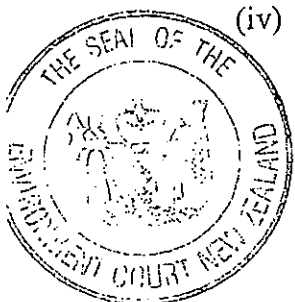


response.

The Northland Regional Council shall, within twenty [20] working days of receipt of the plan notify the Consent Holder of its approval of the plan or, failing approval, of the respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application. The Consent Holder may, at any time, submit variations to the approved plan to the Northland Regional Council together with comments of the Community Liaison Group and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers of approval under this condition and the same time limit shall apply save that, where the variation is minor, the Northland Regional Council shall notify its approval or otherwise of the proposed variation with 5 working days.

The Dust Management Plan may be reviewed after the first year of operation at the request of the Consent Holder

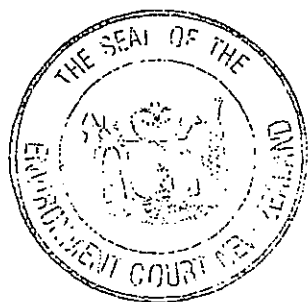
8. The Dust Management Plan shall include all mitigation measures recommended in evidence relating to:
 - covered storage of fine material;
 - enclosed conveyors;
 - regular cleaning of paved surfaces;
 - controlling carryout of mud and dirt onto paved roads;
 - wet suppression of unpaved areas;
 - limiting vehicle speed;
 - covering fine material contained in trucks;
 - provision of planted wind protection;
 - use of wind break fencing, binding products and grass plantings on the reclamation area;
 - ship loading and unloading.
9. The Consent Holder shall not undertake any discharges of dust to air which have objectionable or offensive effects beyond the boundary of the Consent Holder's premises.
10. Particulate and dust emissions shall be monitored in the vicinity of the site(s) during the exercise of this consent as follows:
 - (i) At least four [4] monitoring sites shall be established, including a background site located approximately 1 kilometre from the port. The other sites shall be located to the north east, south east close to the refinery boundary, and south west of the port, at approximately 500m separation distance.
 - (ii) Dust deposition monitoring shall be carried out at all four [4] monitoring sites, while total suspended particulate (TSP) shall be measured at two of the sites (north-east and background site).
 - (iii) Dust deposition monitoring should be carried out on monthly programme according to ISO DIS 4222.2 or by other methods approved by the Northland Regional Council .
 - (iv) TSP is to be measured by means of high volume air sampler on a one [1] day in six [6] routine, or more frequently, if required to investigate specific complaints.



- (v) In the event that concerns regarding health effects arise, ambient PM10 measurements shall be carried out using methods approved by the Northland Regional Council.

The Northland Regional Council, in consultation with the Consent Holder, shall, in the event that the Consent Holder consistently operates within the air quality emission standards specified by this consent review the requirements of this condition 12 months after the Consent Holder commences port operations and may undertake such a review at yearly intervals thereafter.

11. The Consent Holder shall ensure that all dust suppression systems used for mitigation purposes are water based. No oils are to be applied to any surface for dust suppression purposes, including paved and unpaved roads, stockpiles, yards and construction areas.
12. The Consent Holder shall provide all dust deposition and total suspended particulate (TSP) monitoring records to the Northland Regional Council within five (5) working days of the receipt of results. Where results indicate an exceedance of conditions, a written explanation of the probable cause(s) and any remedial measures taken shall accompany those results.
13. The Consent Holder shall log all air discharge complaints received in respect of the port construction and operation (including, dust, odour, smoke and vehicle emissions). The log shall include the date, time, position and nature of the complaint; the name, address and telephone number of the complainant (if available); details of the key operating parameters and the remedial action taken to prevent further incidents from occurring. The log shall be made available to the Northland Regional Council and interested parties on request, and include the designation of clearly defined responsibilities for undertaking any remedial actions required.
14. If monitoring results, or complaints related to dust emissions, indicate that discharges of particulate matter or dust are excessive, the Consent Holder shall, as soon as is reasonably practicable, implement such remedial actions as are reasonably required to suppress dust, and monitor the effects of any subsequent dust and dust suppression methods introduced as the Northland Regional Council requires.



Decision #22 - Whangarei District Council : Land Use Consent No. 8

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Unlimited

Date of lapsing of consent (if not given effect to): Ten (10) years from date of commencement

Purpose of Consent: The construction and use of a water taxi facility including access road and public carpark, barge terminals, and public toilets on the eastern edge of the reclamation, as shown on Development Plan Ref.96055-1 Revision E dated 9 April 1997 and Dwg D60-3-002 7 April 1997.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

	Description
1.	Crown land comprising foreshore and seabed to be reclaimed

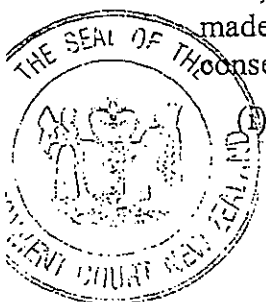
STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with any approved Construction/Management Plan.
2. The Consent Holder shall submit to the Whangarei District Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Whangarei District Council at least ten (10) working days in advance of the date of the commencement of activities associated with this consent.
4. The Consent Holder shall pay all administration charges associated with this consent prior to work commencing.
5. The Whangarei District Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at twelve (12) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

6. The Consent Holder shall not place litter and other debris arising from the exercise of this consent in a position where it may enter the coastal marine area.
7. Where construction and use are not otherwise covered by the operative transitional District Plan, until such time as the new District Plan is operative and formal zoning provisions are made, and except where otherwise indicated in conditions granted with respect to this consent, the rules relating to :

bulk and location requirements



- (ii) maximum height of buildings
- (iii) location of buildings (yards)
- (iv) minimum distance from the sea

and the performance standards relating to:

- (i) landscaping and appearance
- (ii) air pollution
- (iii) glare
- (iv) noise
- (v) vibration
- (vi) dust
- (vi) soil and water protection
- (vii) use of hazardous substances

as contained under the Marsden Point Special Industrial Zone provisions of the operative district plan shall apply.

8. The Consent Holder shall ensure that the spill of light onto any residentially zoned land or measured at any rural dwelling shall not exceed 10 lux and shall submit a Lighting Management Plan to the Whangarei District Council for approval at least twenty [20] working days prior to any night-time work commencing. The Lighting Management Plan shall detail the positions and technical specifications of all exterior light sources and indicate the means by which this standard is to be achieved. The Lighting Management Plan shall include comments of the Community Liaison Group on the plan and the Consent Holder's response to these.
9. The noise level (L10) as measured within any residentially zoned boundary or the notional boundary of any existing rural dwelling shall not exceed the following limits:

All Days:

0700am - 1000pm 55dBA L10

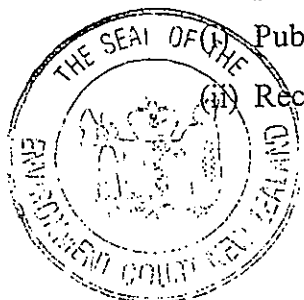
10.00pm - 0700 am 45dBA L10

10.00pm - 0700am 65 dBA Lmax

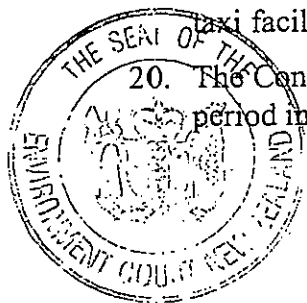
The noise levels shall be measured and assessed in accordance with the requirements of NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environmental Sound

10. The Consent Holder shall not exceed the recommended upper noise limits described in *NZS6803P:1984 The Measurement and Assessment of Noise from Construction, Maintenance, and Demolition Work*. Such noise shall be measured and reported in accordance with this Standard. Where this Standard refers to noise limits in *NZS6802:1991 Assessment of Environmental Sound*, then these noise limits shall apply.
11. Following consultation with the Community Liaison Group, the Consent Holder shall submit to the Whangarei District Council for approval, at least twenty [20] working days prior to the commencement of any site works, a Comprehensive Landscape Plan generally in accordance with the landscape proposal submitted by the Consent Holder in support of its application for resource consents, for the whole area, including:

- (i) Public access to the harbour edge
- (ii) Recreational area on waterfront



- (ii) Buffer strip to Blacksmiths Creek
 - (iii) Stormwater and silt detention systems
 - (iv) Shelter planting to road corridor
 - (v) A planted amenity strip of 5m width (in order to achieve a continuous, dense vegetative screening effect) along the eastern side of the transport corridor (adjoining the western side of Marsden Point Road) from where it will meet the Consent Holder's land, south to the intersection of Marsden Point and One Tree Point Roads. Such landscape plantings are to be implemented either concurrently with the development of the transport corridor, or prior to the development of the industrial zoned land adjoining the western side of the proposed transport corridor, whichever is the sooner.
 - (vi) A concept plan for the provision of an amenity planting strip along the northern side of One Tree Point Road between the intersection of that road with Marsden Point Road and Blacksmiths Creek. The concept plan shall outline the anticipated timeframes for planting, and species proposed, in order to achieve effective vegetative screening of the adjoining industrial zoned land while minimising the potential for conflict to arise with property access points, power lines, buildings and other services.
 - (vii) Specimen trees along parts of the foreshore edge
12. The Consent Holder shall implement the approved Comprehensive Landscape Plan at least twelve [12] months prior to the commencement of operation of the facility.
 13. The Consent Holder shall provide the Whangarei District Council with details of building form and colour prior to any application for building consent being lodged. The visual impact of buildings is to be minimised by the appropriate use of colour, building form, roof lines, and structure compatible with its setting.
 14. The Consent Holder shall supply the Whangarei District Council with a copy of the Dust Management Plan prepared for the Northland Regional Council, and copies of all air quality monitoring reports forwarded to the Northland Regional Council.
 15. The Consent Holder shall not undertake any discharges of dust to air which have objectionable or offensive effects beyond the boundary of the Consent Holder's premises.
 16. Facilities may not be used until a water supply and wastewater and sewage disposal system to a design approved by the Whangarei District Council [including, as necessary, upgrading costs for connection to Council's water supply and/or sewerage system to the extent that those costs relate to upgrading work intended to serve the building authorised by this consent having regard to other users of the Council's system] is installed.
 17. The Consent Holder shall be responsible for the construction and maintenance of the public toilets.
 18. The Consent Holder shall maintain public access to and ensure operation is able to continue for the water taxi operation during construction.
 19. The Consent Holder shall provide and maintain a passenger weather shelter at the water taxi facility.
 20. The Consent Holder shall erect adequate signage during the earthworks construction period in the vicinity of the site advising the public of construction activity and noting any



special precautions that should be taken.

21. The Consent Holder shall provide, construct and maintain an access strip of not less than 10m width for public vehicular access to the eastern side of the reclamation. This access strip shall be constructed to a standard that conforms with the Council's Class F Service Lane, Urban Roads requirement as specified in its draft Environment Engineering Standards 1998.

The Consent Holder shall provide, construct and maintain a restricted access strip of not less than 6m useable width along the eastern side of the reclamation to the water taxi landing with provision for restricting access in accordance with s.237B of the RMA. This access strip shall be constructed to a standard that conforms with the Council's Category B (Urban Privateway Cross Sections) access requirement as specified in its draft Environmental Engineering Standards 1998



attached to this application being a plan prepared by Simpson Shaw & Co reference no 96055-1 ("the development plan") and on the plans in the Assessment of Effects on the Environment accompanying this application.

(b) In the Coastal Marine Area

Marsden Point below Mean High Water Springs adjacent to Papich Road and extending eastwards up to and slightly beyond the existing Northland Port Corporation jetty. The area is shown on the development plan and on the plans in the Assessment of Effects on the Environment accompanying this application.

Legal Description

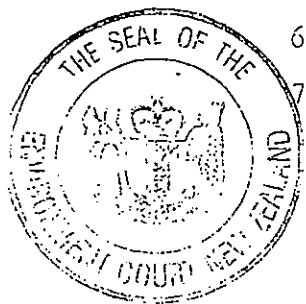
The legal descriptions of the areas subject of these applications are as follows:

Coastal Marine Area

Except for approximately 80m² in the vicinity of the proposed barge terminal, the area is covered by a deemed coastal permit derived from Designation 493 in the Whangarei District Council Transitional District Plan Whangarei County Section 1987, Map 28 and Map 1, sheet 14

Land

	<u>Title</u>	<u>Description</u>	<u>Area(ha)</u>
1	31B/968	Pt lot 5 DP 51845	55.707
2	7C/228	Lot 1, 2, Pt 4 DP 51845	5.3620
3	1825/15	Lot 1 DP 47603	0.0824
4	1825/16	Lot 2 DP 47603	0.0812
5	5D/1475	Lot 3 & 4 DP 47603 & Allot 291 Ruakaka Parish	0.2881
6	2042/48	Lot 5 DP 47603	0.0812
7	1851/11	Lot 6 DP 47603	0.0812

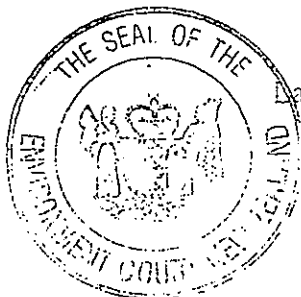


8	1B/857	Lot 6 DP 43643 &	
		Lot 7 DP 47603	0.1621
9	64D/523	Lot 8 DP 47603	0.0812
10	1837/43	Lot 9 DP 47603	0.0812
11	1871/19	Lot 11 DP 47603	0.0812
12	1920/99	Lot 12 DP 47603	0.0812
13	2032/82	Lot 13 DP 47603	0.0812
14	3B/388	Lot 6 DP 51845	0.0920
15	1837/44	Lot 16 DP 47603	0.0812
16	1931/89	Lots 2, 3, 4, 5 DP 43643	0.3238
17	31C/50	Lot 3 DP 51845	0.4755
18	3B/10	Lot 1 DP 52380	4.0478
19	5C/446	Lot 1 DP 53892	8.0937
20	10B/670	Sec 1 Blk VIII Ruakaka SD	5.7136
21	1620/23	Lot 1 DP 43643	0.0809
22	1825/18	Lot 10 DP 47603	0.0812
23	1825/17	Lot 15 DP 47603	0.0812
24	16A/57	Sect 63 Blk VII Ruakaka SD	59.9794
25	95C/994	Lot 1 DP 168926	41.7886
26	22D/1444	Lot 1 DP 65603	0.4046
27	7B/1104	Lot 1 DP 54490	0.8096
28	13B/922	Lot 1 DP 57552	0.3726
29	88C/755	Section 39 Block VII	
		Ruakaka SD Sect 1	
		SO Plan 44270	<u>37.0379</u>
		<u>Total area of land titles</u>	<u>221.7148 ha</u>

the roads to be stopped as shown on the application plan have no present legal description.

4. Types of Resource Consents Sought

Land Use Consents



~~NORTHLAND PORT CORPORATION (NZ) LIMITED, P O BOX 848, WHANGAREI
(C/ M POYNTER, BOFFA MISKELL LTD., P O BOX 250, WHANGAREI)~~

**NORTHPORT LIMITED and NORTHLAND PORT CORPORATION (NZ) LIMITED,
P O BOX 848, WHANGAREI**

Date of commencement of consent: As provided in section 116 of the RMA 1991 (the Act)

Date of expiration of consent: Thirty-five (35) years

Date of lapsing of consent (if not given effect to): Seven (7) years from date of commencement

Purpose of Consent: In the course of operation of the port to discharge stormwater runoff via the stormwater collection and treatment system to Marsden Bay, when the on-land stormwater storage pond facilities reach their design discharge level and when volumes of stormwater and/or land drainage conditions do not allow on-land disposal to irrigation areas

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.
Schedule A:

A.	Crown land comprising foreshore and seabed
----	--

STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the approved Construction/Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.

4. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, at twelve (12) monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

5. The Consent Holder shall ensure that stormwater discharged from the stormwater collection and treatment system to the coastal marine area during the operation of the port shall not cause the water quality of the receiving waters immediately outside of the mixing zone as shown on **NRC Plan No 3259** to fall below the following standards:

- (i) The temperature shall not be changed by more than 3°C.
- (ii) The pH shall not be changed by more than 0.2.
- (iii) The concentration of dissolved oxygen shall not be reduced below 80% saturation.
- (iv) The visual clarity (as measured using a black disk or Secchi disk) shall not be reduced by more than 20% of the median background visual clarity at the time of measurement
- (v) The hue shall not be changed by more than 10 Munsell units of the median background hue at the time of measurement.
- (vi) The light penetration in water deeper than 0.5 z_{eu} shall not be changed by more than 10%, nor shall the light penetration in water shallower than 0.5 z_{eu} be reduced by more than 20% of the median background euphotic depth at the sediment bed at the time of measurement.

[z_{eu} is the euphotic depth, defined as the depth at which photosynthetically available radiation [PAR] is reduced to 1% of the level at the water surface].

- (vii) There shall be no conspicuous oil or grease film, scums or foams, floatable or suspended materials, or emissions of objectionable odours.
- (viii) The concentrations of the following metals shall not exceed the following limits:

Total copper 5 milligrams per cubic metre
Total lead 5 milligrams per cubic metre
Total zinc 50 milligrams per cubic metre

- (ix) Based on not less than ten [10] samples collected within any thirty [30] day period, the median concentration of faecal coliform bacteria shall not exceed 14 per 100 millilitres, nor shall the 90 percentile concentration exceed 43 per 100 millilitres.
- (x) There shall be no destruction of aquatic life by reason of a concentration of toxic substances.

6. During each period when stormwater is discharged from the storage pond, the suspended solids concentration in the stormwater at the point of discharge shall not exceed:
 - (i) a median concentration of 50 g/m³ for 100% of the time;
 - (ii) a maximum concentration of 100 g/m³ for 95% of the time.
7. At least twenty [20] working days prior to the commencement of construction of the stormwater treatment system, the Consent Holder shall prepare, and submit to the Northland Regional Council for approval, a discharge and receiving water monitoring programme for the purpose of establishing compliance with the above standards. For the first twelve [12] month period after the stormwater treatment system begins discharging, the receiving waters shall be monitored at not greater than two-monthly intervals.
8. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
 - (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Northern Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
9. The Consent Holder shall notify the Council once the stormwater storage pond reaches its design discharge level, andΨ shall then commence stormwater monitoring as follows:
 - (i) Monitoring of the stormwater storage pond water shall be carried out at not greater than six monthly intervals. On each monitoring occasion a single discrete sample shall be taken immediately adjacent to the stormwater storage pond outlet. Samples shall be tested for toxicity using not less than three representative marine species. The choice of toxicity test species and test endpoints to be measured shall be submitted to the Council for approval at least twenty [20] working days prior to stormwater sampling. For each of the three [3] toxicity tests the EC₂₅ (the concentration of stormwater estimated to produce a toxic effect in 25% of the test organisms) shall be greater than the equivalent of a 200-fold dilution of the stormwater. The dilution water used for toxicity tests shall be an uncontaminated sample of Whangarei Harbour water, collected on an incoming tide at the harbour entrance, at a point agreed to by the Council.
 - (ii) The concentrations of faecal and total coliform bacteria shall be measured in the settlement and storage pond water samples.
 - (iii) The results of stormwater toxicity monitoring shall be reported to the Council within one month of each sampling occasion.
10. The stormwater ponds shall be maintained free of floatable solids, oil and grease, and foams, and shall not emit objectionable odours.

11. In the event that the nature of materials handled through the port introduce environmental risks not associated with those materials identified in the application for this consent, the Northland Regional Council may, according to Condition 4 of this consent, review the conditions of this consent for the purpose of imposing suitable additional conditions.
12. The Northland Regional Council, in consultation with the Consent Holder, shall review the Consent Holder's monitoring programme and the results of that monitoring between 6 and 8 months, 12 and 16 months, 5 and 6 years, and 10 and 11 years after the commencement of this consent for the purpose of reviewing monitoring methods, sites and frequencies. Any changes to the monitoring programme shall be subject to the approval of the Northland Regional Council. The Consent Holder shall meet the reasonable costs of these reviews.

ISSUED at Whangarei this Twenty-eighth day of August 2001

**TRANSFER TO: NORTHPORT LIMITED and
 NORTHLAND PORT CORPORATION (NZ) LIMITED**

TRANSFER DATE: 28 MAY 2002

BLH ATTACHMENT 2

Please Quote File: 5055

13 April 2010

Northport Limited
C/O DLA Phillips Fox
PO Box 160
Shortland Street
Auckland 1140

Private Bag 9021
36 Water Street
WHANGAREI 0140
New Zealand

Phone: (09) 438 4639
Freephone: 0800 002 004
Environmental Hotline:
0800 504 639
Fax: (09) 438 0012
Email: mailroom@nrc.govt.nz

www.nrc.govt.nz

Dear Sir or Madam

**MINOR CORRECTION TO RESOURCE CONSENT DECISION CON20090505532 –
NORTHPORT LIMITED**

Pursuant to Section 133A of the Resource Management Act 1991 ("the Act"), and acting under delegated authority from the Council, I have authorised a minor correction to resource consent CON20090505532. The correction relates to the following (shown in bold):

Condition 2: The Consent Holder shall make an underwater examination of the diffusers and pipelines at least once every two years, and take such measures as are necessary to ensure that the diffusers operates as designed and that all the stormwater discharges, **except for the emergency overflow**, pass through the diffusers.

Heading of Condition 4: Notwithstanding any other condition, the exercise of this consent shall **not** result in any of the following effects on coastal water quality **the water** at or beyond the mixing zone, as shown on **Northland Regional Council** Plan No: 3259A:

Condition 5: The quality of **the treated** stormwater **as measured at any outlet discharged** from the storage and settlement pond system **by the pumps** shall meet the following:

- (a) A pH within the range of 6.5 to 9.0;
- (b) A total suspended solids median concentration **not greater than of** 50 grams per cubic metre and a 95 percentile concentration **not greater than of** 100 grams per cubic metre.

I understand that you are in agreement with this correction wording.

The corrected copy of the consent is **enclosed** for your records. To avoid confusion with the consent documents we recommend that you dispose of the consent document dated 19 March 2010, as it is superseded by the enclosed document.

If you have any queries regarding this correction, please contact Jan-Arie Jongkees of our Whangarei office.

Yours faithfully



Allan Richards
Acting Consents Senior Programme Manager



Resource Consent

Pursuant to the Resource Management Act 1991, the Northland Regional Council (hereinafter called "the Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, C/O DLA PHILLIPS FOX, PO BOX 160, SHORTLAND STREET, AUCKLAND 1140

To discharge stormwater associated with the operation of a port after treatment within a storage and settlement pond system to the Whangarei Harbour via an existing outlet structure at location co-ordinates 1733997E 6033711N, on Crown Land comprising foreshore and seabed

Note: All location co-ordinates in this document refer to Geodetic Datum 2000, New Zealand Transverse Mercator Projection.

Subject to the following conditions:

1. The stormwater discharge outlet structure at the Marsden Point port terminal berthface shall be in general accordance with the attached drawings entitled "Marsden Point Port Development Stage 1 Stormwater Outfall" prepared by Civil Structural, drawing number 9101101 SO 33^A, and entitled "Northport Development Layout at Western End of Wharf" prepared by Northport, drawing number D60-30-06-01-015 dated June 2002 (**attached**).

Advice Note: *The drawings attached to this consent are reduced copies and therefore may not be to scale and may be difficult to read. In the event that compliance and/or enforcement action is to be based on compliance with the attached drawings, it is important that the original drawings are sighted and used. The Council holds an electronic copy of these drawings and can be viewed at the Council's Whangarei Office.*

2. The Consent Holder shall make an underwater examination of the diffuser and pipelines at least once every two years, and take such measures as are necessary to ensure that the diffuser operates as designed and that all the stormwater discharges, except for the emergency overflow, pass through the diffuser.
3. A report on all such examinations and action taken to remedy defects, as required under Condition 2, shall be forwarded to Council Monitoring Manager within one month of the examination being completed.

4. Notwithstanding any other condition, the exercise of this consent shall not result in any of the following effects on coastal water quality at or beyond the mixing zone, as shown on Northland Regional Council Plan No: 3259A:

- (a) The temperature shall not be changed by more than 3°C;
- (b) The pH shall not be changed by more than 0.2;
- (c) The concentration of dissolved oxygen shall not be reduced below 80% saturation;
- (d) The visual clarity shall not be reduced by more than 20% of the median background visual clarity at the time of measurement, as measured by black disk or an authorised alternative method;
- (e) The hue shall not be changed by more than 10 Munsell units of the median background hue at the time of measurement;
- (f) There shall be no conspicuous oil or grease films, scums or foams, or floatable or suspended materials, or emissions of objectionable odour;
- (g) There shall be no destruction of natural aquatic life by reason of a concentration of toxic substances; and
- (h) The concentrations for the following determinands shall not be exceeded;

Determinands	Concentration in milligrams per cubic metre
Total copper	1.3
Total lead	4.4
Total zinc	15

5. The quality of stormwater discharged from the storage and settlement pond system by the pumps shall meet the following:

- (a) A pH within the range of 6.5 to 9.0;
- (b) A total suspended solids median concentration not greater than 50 grams per cubic metre and a 95 percentile concentration not greater than 100 grams per cubic metre.

6. The stormwater storage and settlement pond system shall, as far as is practicable, be maintained free of floatable solids, oil and grease, and foams, and shall not emit objectionable odours.

7. To minimise the potential for the contamination of stormwater by natural wood chemicals, the Consent Holder shall, as far as is practicable, maintain log storage areas, internal drains and any debris traps, so that they are free of wood material that is being stored on-site.

8. Sediment collected from the maintenance of the stormwater system, including internal drains and any debris traps, shall be disposed off at a site that is authorised to accept such wastes. The Consent Holder shall forward to the Council Monitoring Manager within two weeks of the disposal of any such material, details of the quantity of material disposed off and the location of where the material has been disposed off.

9. The Consent Holder shall surrender resource consent CON20060505510 before 1 May 2010.
10. The Consent Holder shall notify the Council Monitoring Manager as soon as practicable once the stormwater storage and settlement pond system reaches its design discharge level and shall then commence stormwater monitoring in accordance Schedule 1 (**attached**). The Consent Holder may make changes to Schedule 1 with the written approval of the Council Monitoring Manager.
11. The Consent Holder shall notify the Council Monitoring Manager in writing of any proposed change(s) to the materials handled through the Port Terminal as detailed in the application, at least one week prior to the proposed change(s) occurring.

Advice Note: *The current Port Terminal activities as described in the application are for forestry products, containers, and fertiliser & coal products. The Council will need to consider any proposed change(s) to the new materials(s) handled and determine whether the conditions of consent require reviewing as a result of the proposed change(s) due to a change in the nature or quantity of contaminants discharged.*


12. Where from any cause a contaminant (including fuel) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
 - (a) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (b) Immediately notify the Council by telephone of an escape of contaminant; and
 - (c) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (d) Report the escape to the Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
13. The Council may in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of these consents. Such notice may be served annually during the month of March. The review may be initiated for any one or more of the following purposes:
 - (a) To deal with any adverse effects on the environment that may arise from the exercise of the consents and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consents and/or as a result of the Council's monitoring of the state of the environment in the area;
 - (b) To require the adoption of the Best Practicable Option to remove or reduce any adverse effect on the environment;
 - (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consents;
 - (d) To deal with any change(s) to the materials handled through the Port Terminal. (Notice may be served at any time for this reason.); and

- (e) To deal with any material inaccuracies that may be found in the information made available with the application. (Notice may be served at any time for this reason.)

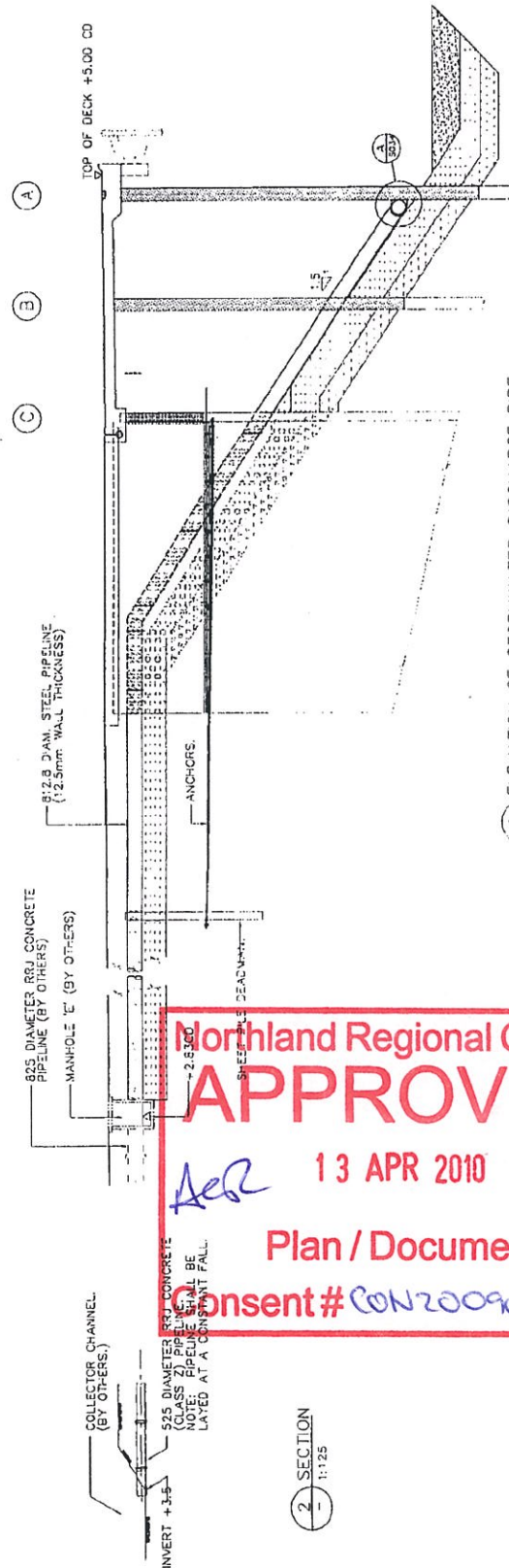
The Consent Holder shall meet all reasonable costs of any such review.

EXPIRY DATE: 2 DECEMBER 2034

This consent is granted this Thirteenth Day of April 2010 under delegated authority from the Council by:



Allan Richards
Acting Senior Consents Programme Manager



1) ELEVATION OF STORMWATER DISCHARGE PIPE

FOR REVIEW

MARSDEN POINT
PORT DEVELOPMENT
STAGE 1

STORMWATER OUTFALL

CIVIL STRUCTURAL
9101101 S0334

Northland Regional Council
APPROVED

13 APR 2010

Plan / Document

Consent # CON20090505532

RESOURCE CONSENT CON20090505532
for
Northport Ltd
Stormwater Mixing Zone

SCHEDULE 1

MONITORING PROGRAMME – RESOURCE CONSENT CON20090505532

The Consent Holder shall undertake the monitoring as follows:

1 WATER QUALITY OF DISCHARGES FROM THE STORMWATER SETTLEMENT AND STORAGE POND SYSTEM

1.1 Routine Water Monitoring for Discharges from the stormwater settlement and storage pond to Whangarei Harbour

The stormwater system and discharges shall be monitored in accordance with Table 1 attached below

If any of the following determinands in the stormwater being discharged to the coastal marine area exceed the Action Values specified in Table A, the Consent Holder will notify the NRC within two weeks of receiving the sample result and investigate the source of the contaminant and advise the NRC as to the findings of the investigation and any management response.

Table A

Determinands	Action values: Concentration in milligrams per cubic metre
Total Aluminium	5
Total copper	13
Total lead	44
Total zinc	150
PAHs	
– Acenaphthene	58
– Anthracene	0.1
– Benzo(α)anthracene	0.18
– Benzo(α)pyrene	0.1
– Fluoranthene	10
– Fluorene	30
– Napthalene	500
– Phenanthrene	6
– Pyrene	0.25

Note: ANZECC for PAH, 99% protection level as recommended in Section 8.3.7.7 and also CEQG (Canadian aquatic guidelines). For aluminium, ANZECC 8.3.7 Marine guidelines recommend 0.5 mg/m as an indicative low reliability figure.

Values in Table A are intended to act as an early warning to identify if concentrations are increasing relative to previously documented monitoring values/trends and warrant investigation notwithstanding that they may be well below levels of environmental concern taking into account mixing and dilution.

TABLE 1: SCHEMATIC MONITORING DIAGRAM –

Location	Sampling Frequency	Parameters	Criteria	Notes
Point of discharge from treatment pond system	First discharge per season, and two other discharge events each year			Advice NRC when ponds reach design discharge level for the first time each year prior to discharge occurring
	Three samples spaced evenly over each day (operational hours) until discharge has ceased. First sample to be taken as close as possible to when discharge first occurs.	TSS, VSS, NTU and pH	TSS as in Condition 5(b)	T and DO are considered not useful in this situation as they will reflect conditions intrinsic to the wetland and in any event cannot have any influence on water quality in this particular marine receiving environment.
	Taken with first sample from first discharge event only.	Al, Cu, Pb, Zn, PAH, and resin acids. Total N and Total P to be included if fertiliser products have been stored on site in the previous season.	<u>Action values</u> see table A in 1.1 above. Resin acids, Total N and P concentrations will be assessed against available literature and previous concentrations to determine potential for adverse effects. All parameters to be assessed for any increasing trends over time.	If the resin acid results for the first discharge of the season are below any applicable ANZECC effect threshold after theoretical mixing, resin acids need not be further analysed in that season.
	One-off under existing regime	WETT (Toxicity Testing)	As specified in point 1.3 below	One further WETT will be undertaken under the present port conditions. The need for any further WETT will be considered only if new port operations introduce new contaminant(s) into the stormwater.
Pond Influent	To be done with "First discharge per season" referred to above	T, pH, DO, TSS, Cu, Pb, Zn, resin acids, phenols, PAH, VSS	Trend data only, no compliance limits.	Test to be used as an indication of pond effectiveness under different conditions eg size of storm, contributing area

TABLE 1: SCHEMATIC MONITORING DIAGRAM –

Location	Sampling Frequency	Parameters	Criteria	Notes
Point of discharge from treatment pond system	First discharge per season, and two other discharge events each year			Advice NRC when ponds reach design discharge level for the first time each year prior to discharge occurring
	Three samples spaced evenly over each day (operational hours) until discharge has ceased. First sample to be taken as close as possible to when discharge first occurs.	TSS, VSS, NTU and pH	TSS as in Condition 5(b)	T and DO are considered not useful in this situation as they will reflect conditions intrinsic to the wetland and in any event cannot have any influence on water quality in this particular marine receiving environment.
	Taken with first sample from first discharge event only.	Al, Cu, Pb, Zn, PAH, and resin acids. Total N and Total P to be included if fertiliser products have been stored on site in the previous season.	<u>Action values</u> see table A in 1.1 above. Resin acids, Total N and P concentrations will be assessed against available literature and previous concentrations to determine potential for adverse effects. All parameters to be assessed for any increasing trends over time.	If the resin acid results for the first discharge of the season are below any applicable ANZECC effect threshold after theoretical mixing, resin acids need not be further analysed in that season.
	One-off under existing regime	WETT (Toxicity Testing)	As specified in point 1.3 below	One further WETT will be undertaken under the present port conditions. The need for any further WETT will be considered only if new port operations introduce new contaminant(s) into the stormwater.
Pond Influent	To be done with "First discharge per season" referred to above	T, pH, DO, TSS, Cu, Pb, Zn, resin acids, phenols, PAH, VSS	Trend data only, no compliance limits.	Test to be used as an indication of pond effectiveness under different conditions eg size of storm, contributing area

1.2 Pumping Hours

The Consent Holder shall measure the pumping hours, the date, the time, and the quantity of water when the discharge to Whangarei Harbour occurs.

Advice Note: *The application states that the approximately average volume of stormwater to be discharged is assessed at 200,000 cubic metres per annum. The size of the discharge pipe and the proposed capacity of the pumps limit the pumped discharge rate to approximately 2,520 cubic metres per hour.*

1.3 Wett Method

The WETT method for toxicity analyses shall be undertaken on not less than three representative marine species, including at least one algae, one invertebrate, and one fish. The choice of toxicity test species, dilutions, test endpoints to be measured, and "toxicity effect" shall be submitted to the Council for approval at least twenty working days prior to stormwater sampling. For each of the three [3] toxicity tests the EC₂₅ (the concentration of stormwater estimated to produce a toxic effect in 25% of the test organisms) shall be greater than the equivalent of a 200-fold dilution of the stormwater. The dilution water used for toxicity tests shall be an uncontaminated sample of Whangarei Harbour water, collected on an incoming tide at the harbour entrance, at a point agreed to by the Council. There shall be no significant toxicity after a 200-fold dilution of the stormwater. For the purposes of this condition "significant toxicity" is defined as no more than a 25% toxic effect measured in the most sensitive test species used. Testing of the samples shall be carried out in accordance with the methodology outlined in the NIWA document entitled "Standard Methods for Whole Effluent Toxicity Testing: Development and Application" dated November 1998.

- 1.4 The pH and TSS results taken in accordance with Table 1 will be recorded in an ongoing spreadsheet a copy of which shall be forwarded to the Council Monitoring Manager as required by Condition 2 below. Any results recorded which do not achieve the criteria included in Condition 5 shall be reported to the Council Monitoring Manager together with an explanation within seven days of their receipt by Northport.

2 REPORTING

- 2.1 The Consent Holder shall forward to the Council Monitoring Manager by 31 August each year an annual report for the previous period 1 July to 30 June detailing the results of the monitoring required by Section 1 of this monitoring programme and an assessment of compliance with the conditions of consent.

3 REVIEW

The Regional Council, in conjunction with the Consent Holder, may undertake a review of the monitoring programme every two years. The review will take into account the Consent Holders monitoring results, any monitoring undertaken by the Regional Council and the level of development within the catchment areas. The Consent Holder shall meet the reasonable costs of any such review.

4 FIELD MEASUREMENTS, RECORDS, SAMPLE COLLECTION, SAMPLE TRANSPORT, DETECTION LIMITS, AND LABORATORY REQUIREMENTS

4.1 Records

A record of rainfall conditions preceding and during sampling shall be kept. This record shall be based on a nearby rainfall recording site agreed by the Council.

4.2 Sample Collection

All samples collected as part of this monitoring programme shall be collected using standard methods and approved containers.

4.3 Sample Transport

All samples collected as part of this monitoring programme shall be transported in accordance with standard procedures and under chain of custody to the laboratory.

4.4 Detection Limits

The detection limits for the analysis of metals in sediment and water samples collected shall be equivalent to, or better than, those specified below:

Metal	Sediment samples (milligrams per kilogram)	Water samples (milligrams per cubic metre)
total copper	2	1.0
total lead	0.4	0.2
total zinc	4	2.0
total arsenic	2	N/A
total cadmium	0.1	N/A
total chromium	2	N/A

4.5 Laboratory Requirements

All samples collected as part of this monitoring programme shall be analysed at a laboratory with registered quality assurance procedures (see definition below), and all analyses shall be conducted using standard methods.

Registered quality assurance procedures are procedures that ensure that the laboratory meets good management practices and would include registrations such as ISO 9000, ISO Guide 25, and Ministry of Health Accreditation.

Decision #2 - Recommendation to the Minister of Conservation: Coastal Permit No. 2

Date of commencement of consent: As provided in Section 119(7) of the RMA 1991 (the Act).

Date of expiration of consent: Unlimited.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: To reclaim approximately 5.2 ha of seabed, as shown on Northport Development Berth 3 & 4 Plan Ref. D60-00-069, Issue 3 dated 24 December 2003, including the deposition of dredged material, disturbance of the seabed, and building of rock retaining walls [including any diversion of seawater as a consequence of building the retaining walls and the reclamation].

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising foreshore and seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to work commencing.
3. The Consent Holder shall notify the Northland Regional Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Northland Regional Council within ten [10] working days following the date of the completion of all works and activities associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
6. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA for the purposes specified therein, or to address significant unanticipated adverse effects, during the twenty [20] working days following six [6] monthly intervals starting from the notified date of the commencement of works associated with this consent.

7. The Consent Holder shall maintain all structures covered by this consent in good order and repair. Maintenance works authorised by this consent shall be routine maintenance and repair to the exterior walls of the reclamation consistent with the scale and form of the initial approved reclamation.
8. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

9. At least twenty [20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a Construction Management Plan with which it shall comply and which shall provide the following information:

- (i) A description of proposed works, together with drawings;
- (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
- (iii) A breakdown of the project into construction packages for later submission in greater detail;
- (iv) Community liaison arrangements;
- (v) Contingency response plan;
- (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments; and
- (vii) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan.

The Northland Regional Council shall, within twenty [20] working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, or with the conditions of this consent. Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted to the Northland Regional Council prior to commencement of work set out in the plan.

10. At least twenty [20] working days before reclamation works commence on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Northland Regional Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:
 - (i) Dredging activities;
 - (ii) Perimeter dyke construction;
 - (iii) Geotextile lining of bund wall;

- (iv) Pile driving activities;
- (v) Dust control measures;
- (vi) Noise controls proposed;

and shall include:

- (vii) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
 - (viii) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan;
 - (ix) Plans and specifications providing sufficient detail to show compliance with the resource consent;
 - (x) Monitoring procedures where applicable;
 - (xi) Reporting procedures where applicable.
11. The Northland Regional Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application, and the conditions of this consent.
- Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report resubmitted to the Northland Regional Council prior to commencement of the works described in the report.
12. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Northland Regional Council, together with comments from the Community Liaison Group, the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Northland Regional Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
13. All material dredged during the capital dredging programme shall be placed in the reclamation or deposited on land at Marsden Point presently owned by the Consent Holder or Northland Port Corporation (NZ) Ltd.
14. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
15. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [NRC CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

16. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape;
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Northland Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
17. All works in connection with the construction of the reclamation (including marine activities such as ship movements, loading and unloading) shall be undertaken in a manner which minimises adverse effects on:
- (i) New Zealand Refining Company's [NZRC] jetties; and
 - (ii) The safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.
18. The Consent Holder shall carry out at its own expense a study to determine current speeds and directions in the vicinity of NZRC's jetties within six [6] months following completion of the reclamation works. The results of these studies shall be forwarded to the Northland Regional Council and shall be made publicly available.
19. The Consent Holder shall, immediately upon completion of the reclamation works associated with the consent, notify in writing [and shall include a scale plan of the completed reclamation works]:
- Nautical Information Advisor
LINZ
Private Box 5501
WELLINGTON
- Maritime Safety Authority
P O Box 27 006
WELLINGTON
20. The Consent Holder shall provide the Northland Regional Council with a copy of the plan of survey submitted to the Minister of Conservation under Section 245 of the Resource Management Act 1991.
21. At least twenty [20] working days prior to the commencement of any works, the Consent Holder shall submit to the Northland Regional Council full design drawings for the discharge system with specifications confirming the adequacy of the system to meet the conditions imposed by this consent on decant water discharges.

22. The Consent Holder shall carry out, or commission at its own expense, monitoring of beach profiles for a distance of not less than 500m each side of the port reclamation, at not greater than six [6] monthly intervals for a period of ten [10] years following completion of the reclamation. The results of this monitoring shall be reported to the Northland Regional Council immediately following completion of each survey.
23. The Consent Holder shall ensure that all reclamation fill shall be from the dredged turning basin unless otherwise approved by the Northland Regional Council.
24. The Consent Holder shall ensure that all quarried rock used to construct bund walls is clean prior to placement and will not leach contaminants into the Coastal Marine Area.
25. At least twenty [20] working days prior to the commencement of the discharge of decant water commences the Consent Holder shall submit a Monitoring Programme design to the Council. The Monitoring Programme shall be adequate to establish that during discharge of decant water the following standards are met:
 - (i) The suspended solids concentration in the decant discharge at the point where it leaves the reclamation area during each discharge period shall not exceed 300g/m³ for 95% of the samples or for 95% of the time.
 - (ii) The mixing zone for decant water discharge shall extend 800m up- and down-current and 500m to the north of the decant water outfall.
- 25A. During the decant discharge, visual checks shall be carried out daily and in the event that such a check shows evidence of conspicuous sediment or discolouration in the water column, testing shall be carried out to ensure that visual clarity [as measured using a black disc or Secchi disc] in the receiving water at the down-current edge of the mixing zone shall not be reduced by more than 20% of the median background visual clarity at the time of measurement. The details of the visual checks, including how they will be recorded, and the visual clarity testing shall be included in the Monitoring Programme as required by Condition 25.
- 25B
 - (a) The results of each monitoring event undertaken pursuant to Conditions 25 and/or 25A shall be reported to the Northland Regional Council within one week of monitoring being completed, or within 24 hours of any non-compliance. The Northland Regional Council reserves the right to require additional monitoring in the event of non-compliance with standards.
 - (b) Monitoring at the mixing zone boundary undertaken pursuant to Conditions 25 and/or 25A shall continue until such time as the Northland Regional Council is satisfied that the perimeter walls of the reclamation are sealed and no further seepage from reclaimed material is detected.
26. Prior to the exercise of this consent the Consent Holder shall submit to the Northland Regional Council a management plan including details of proposed dredged material disposal sites, drainage and contour levels.
27. The Northland Regional Council shall within twenty [20] working days of receipt of the plan, notify the Consent Holder of any respects in which the plan fails to comply with information or evidence supplied by the Consent Holder in support of its application.

28. The Consent Holder may, at any time, submit variations to the management plan, together with any comments of the Community Liaison Group, and the Consent Holder's response to those comments. Any variation shall be subject to the Northland Regional Council's powers under this condition, and the same time limits shall apply, save that where the variation is minor, the Northland Regional Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
29. The Northland Regional Council, in consultation with the Consent Holder, shall review the Consent Holder's monitoring programme and the results of that monitoring between 6 and 8 months, 12 and 16 months, 5 and 6 years, and 10 and 11 years after the commencement of this consent for the purpose of reviewing monitoring methods, sites and frequencies. Any changes to the monitoring programme shall be subject to the approval of the Northland Regional Council. The Consent Holder shall meet the reasonable costs of these reviews.
30. The Consent Holder shall ensure that all stormwater diversion and drainage channels, including flood flowpaths, are maintained substantially free of litter and debris.
31. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

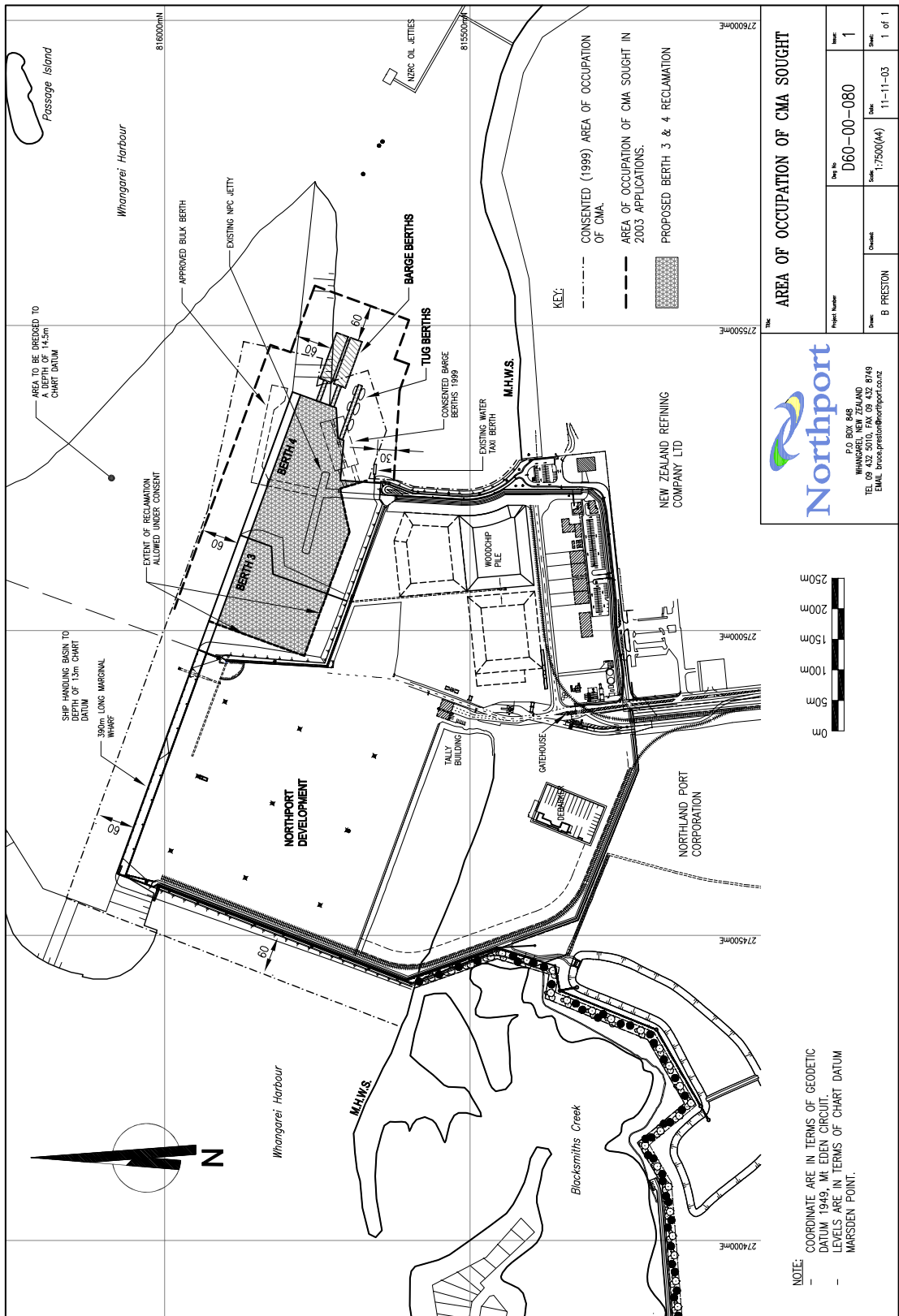
Between 10pm and 7am construction noise shall be measured cumulatively with Port noise activities using the L_{eq} and L_{max} descriptors.

32. As part of the **Construction Management Plan** the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person.
33. The Acoustic Design Report shall include a formal project noise management plan that provides for all of those matters set out in Annex E of NZS 6803:1999 *Acoustics – Construction Noise*. All matters identified in the plan shall be adhered to during the construction programme. The plan shall be of sufficient detail to be able to demonstrate that compliance with the above noise limits, monitoring and mitigation measures will be achieved at all times. The report shall detail as a minimum:
 - (i) the reasonable potential for cumulative noise emissions from the site;
 - (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;

- (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase levels at the locations under consideration; and
 - (iv) any comments of the Community Liaison Group and the responses to these.
- 34. At least twenty [20] working days prior to the commencement of construction the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council an Operational Noise Management Plan. This plan shall include:
 - (i) the frequency and content of training and ongoing education that is to be given to management and workers including contractors at the port;
 - (ii) how checks are to be made on the impulse noise emissions at night including monitoring and rectification;
 - (iii) how complaints are to be received and actioned on a 24hr basis; and
 - (iv) the proposed times, duration and location of monitoring (The times that are selected shall be of sufficient quantity to provide a check on the variability of noise from the port, including various combinations of ship and ship loading activities that are likely to occur).
- 35. The Acoustic Design Report and Noise Management Plan shall:
 - (a) demonstrate how the noise limits are to be complied with on an ongoing basis measures required to prevent noise (including impulsive noise) being generated unreasonably; and
 - (b) include proposals for the development and trial of a system for the self detection at the Port of significant impulse noise. The object of the system shall be to alert contractors and workers at the Port to significant impulse noise as it occurs in a way that assists in improving impulse noise management and reduces the level of noise generated by the operations in question. If trials are successful the Consent Holder shall implement such a system. If trials are unsuccessful the Consent Holder shall endeavour to identify and implement an alternate means of achieving the same objective. The results of the trial and other actions to be reported to the Community Liaison Group.
- 36. All reports on the noise monitoring and mitigation measures shall be submitted to the Northland Regional Council and Whangarei District Council and shall be provided to the Community Liaison Group.

Advice Note:

- 1. The Consent Holder is advised that noise and landscaping conditions relating to the reclamation once formed are attached to the Whangarei District Council land use consents.



Decision #3 - Recommendation to the Minister of Conservation: Coastal Permit No. 3

Date of commencement of consent: As provided in Section 119(7) of the RMA 1991 (the Act).

Date of expiration of consent: Thirty five [35] years.

Date of lapsing of consent (if not given effect to): Ten [20] years from date of commencement.

Purpose of Consent: To erect and place new wharves and related structures for new berths 3 and 4 in the Coastal Marine Area abutting the reclamation, and use these for port-related purposes.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to the commencement of works associated with this consent.
3. The Consent Holder shall notify the Northland Regional Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Northland Regional Council within ten [10] working days following the date of the completion of all activities associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
6. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA for the purposes specified therein, or to address significant unanticipated adverse effects, during the twenty 20 working days following six [6] monthly intervals starting from the notified date of the commencement of works associated with this consent.

7. The Consent Holder shall maintain all structures covered by this consent in good order and repair. Maintenance works authorised by this Consent shall be routine maintenance and repair consistent with the scale and form of the initial approved structures.
8. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

9. At least twenty [20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a Construction Management Plan with which it shall comply and which shall provide the following information:

- (i) A description of proposed works, together with drawings;
- (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
- (iii) A breakdown of the project into construction packages for later submission in greater detail;
- (iv) Community liaison arrangements;
- (v) Contingency response plan;
- (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments;
- (vii) Confirmation that the New Zealand Refining Company has been supplied a copy of the Plan;and

The Northland Regional Council shall, within twenty [20] working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, or with the conditions of this consent. Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted to the Northland Regional Council prior to commencement of work set out in the plan.

10. At least twenty [20] working days before construction commences on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Northland Regional Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:

- (i) Pile driving activities;
- (ii) Noise controls proposed;

and shall include:

- (iii) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
 - (iv) Plans and specifications providing sufficient detail to show compliance with the resource consent;
 - (v) Monitoring procedures where applicable;
 - (vi) Reporting procedures where applicable; and
 - (vii) Confirmation that the New Zealand Refining Company has been supplied a copy of the Plan.
11. The Northland Regional Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.
- Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report resubmitted to the Northland Regional Council prior to commencement of the works described in the report.
12. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Northland Regional Council, together with comments from the Community Liaison Group, the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Northland Regional Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
13. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
14. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [NRC CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.
- The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.
15. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and

- (iii) Report the escape to the Northland Regional Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
- 16. The Consent Holder shall ensure that all stormwater diversion and drainage channels, including flood flowpaths, are maintained substantially free of litter and debris.
- 17. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.

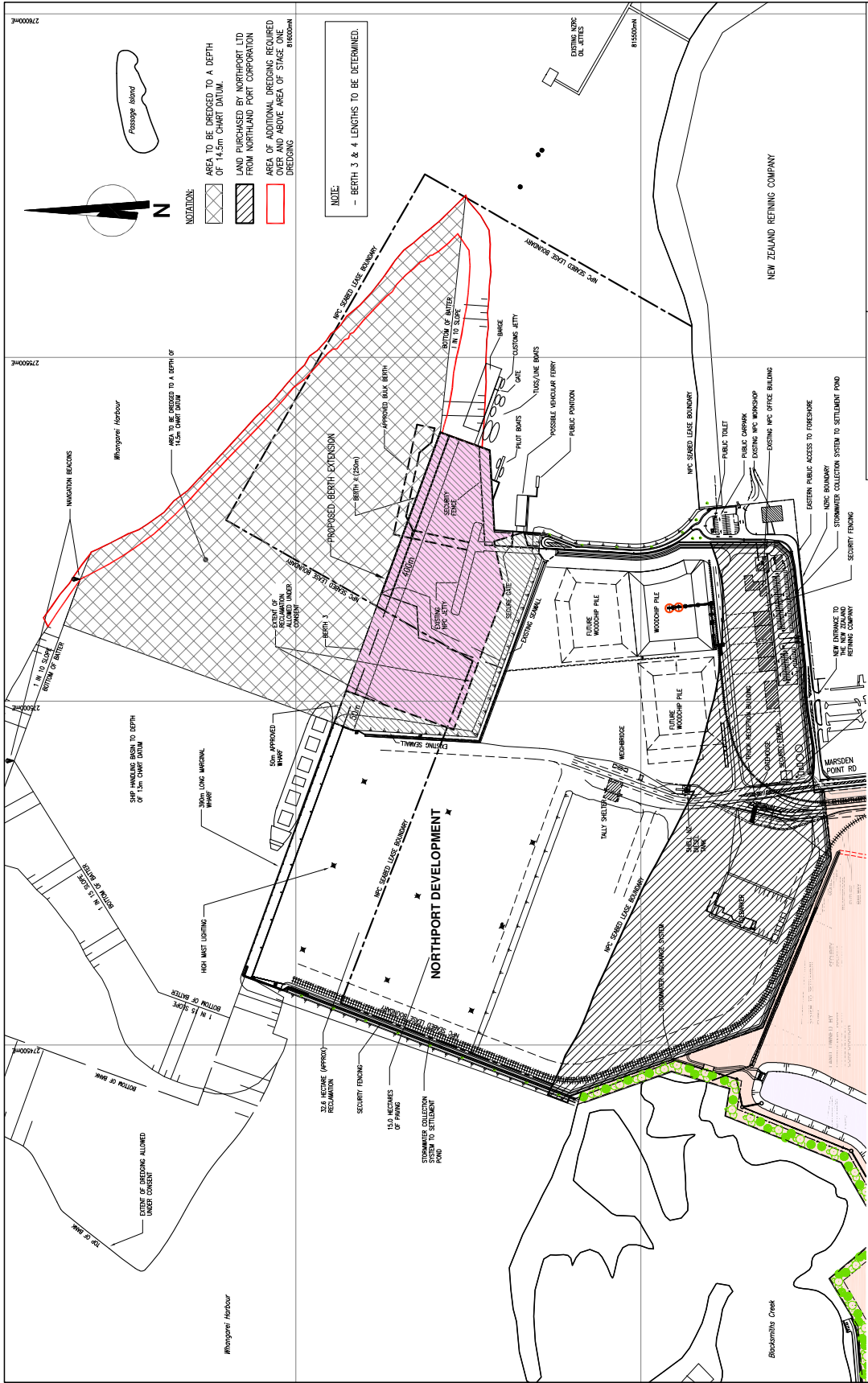
- 18. As part of the **Construction Management Plan** the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person.
- 19. The Acoustic Design Report shall include a formal project noise management plan that provides for all of those matters set out in Annex E of NZS 6803:1999 *Acoustics – Construction Noise*. All matters identified in the plan shall be adhered to during the construction programme. The plan shall be of sufficient detail to be able to demonstrate that compliance with the above noise limits, monitoring and mitigation measures will be achieved at all times. The report shall detail as a minimum:
 - (i) the reasonable potential for cumulative noise emissions from the site;
 - (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
 - (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase levels at the locations under consideration; and
 - (iv) any comments of the Community Liaison Group and the responses to these.
- 20. At least twenty [20] working days prior to the commencement of construction the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council an Operational Noise Management Plan. This plan shall include:

- (i) the frequency and content of training and ongoing education that is to be given to management and workers including contractors at the port;
- (ii) how checks are to be made on the impulse noise emissions at night including monitoring and rectification;
- (iii) how complaints are to be received and actioned on a 24hr basis; and
- (iv) the proposed times, duration and location of monitoring (The times that are selected shall be of sufficient quantity to provide a check on the variability of noise from the port, including various combinations of ship and ship loading activities that are likely to occur).

21. The Acoustic Design Report and Noise Management Plan shall:

- (a) demonstrate how the noise limits are to be complied with on an ongoing basis measures required to prevent noise (including impulsive noise) being generated unreasonably; and
- (b) include proposals for the development and trial of a system for the self detection at the Port of significant impulse noise. The object of the system shall be to alert contractors and workers at the Port to significant impulse noise as it occurs in a way that assists in improving impulse noise management and reduces the level of noise generated by the operations in question. If trials are successful the Consent Holder shall implement such a system. If trials are unsuccessful the Consent Holder shall endeavour to identify and implement an alternate means of achieving the same objective. The results of the trial and other actions to be reported to the Community Liaison Group.

22. All reports on the noise monitoring and mitigation measures shall be submitted to the Northland Regional Council and Whangarei District Council and shall be provided to the Community Liaison Group.



NOTE:
- COORDINATES ARE IN TERMS OF GEODETIC DATUM 1949,
MA EDEN CIRCUIT.
- LEVELS ARE IN TERMS OF CHART DATUM.

NORTHPORT DEVELOPMENT
BERTH 3 & 4

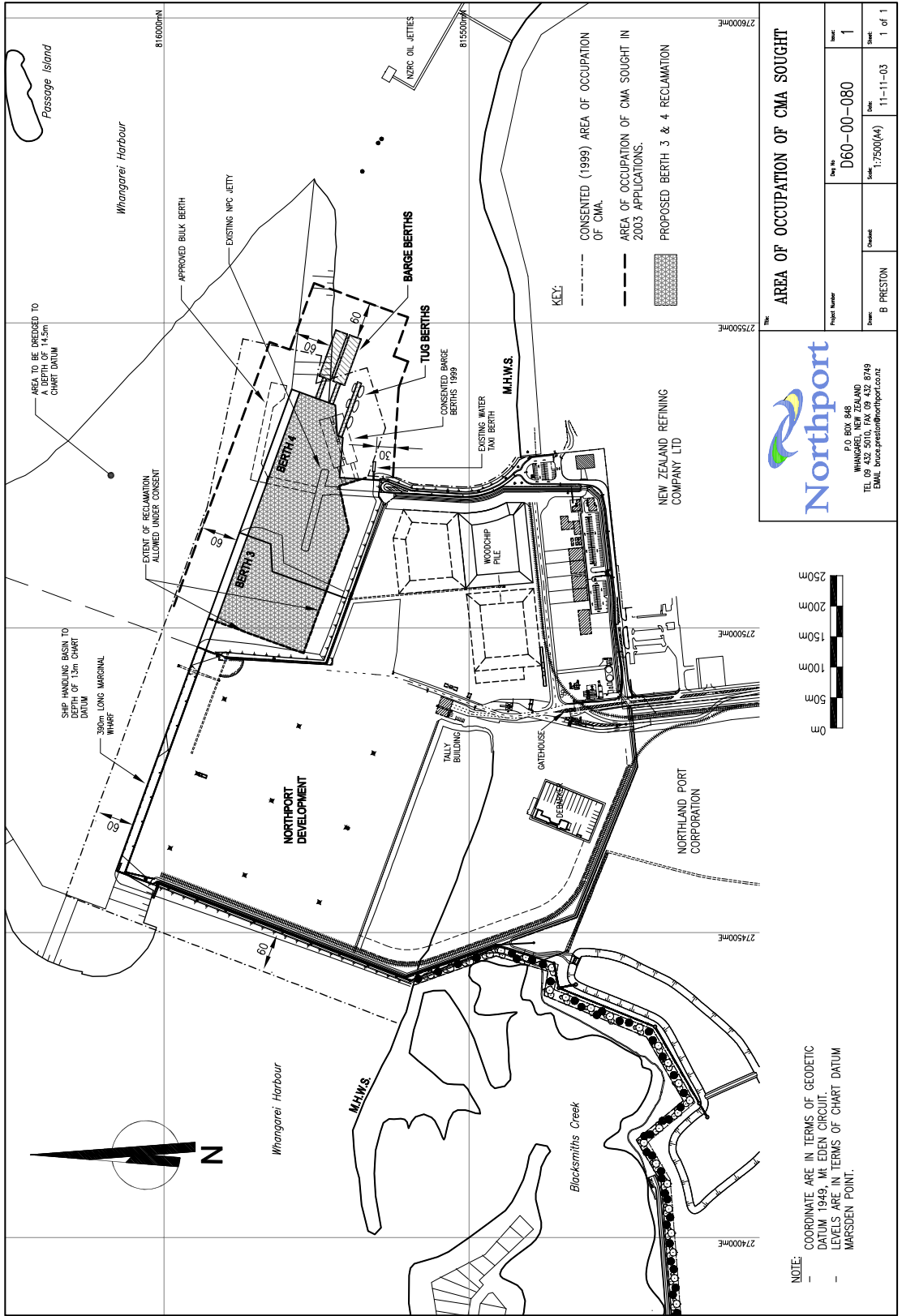


P.O. BOX 848
WHANGAREI, NEW ZEALAND
TEL 09 432 5010, FAX 09 432 5749
E-MAIL: northport@northport.co.nz

Drawn By	Issue No	Issue Date	Issue
B. PRESTON	D60-00-069	DEC 2003	3

ISSUE	DATE	DETAILS	APPROD	BY
3	24-12-03	FERRY AND PONTON AREA REVISED		CJB
2	29-10-03	AREA NOT DREDGED TO DATE EASTERN END DREDGE BASIN ADDED		EMP
1	18-9-03	NPC LAND TRANSFERRED TO NPL ADDED, NOTES ADDED TO WHARF EXTENSIONS		EMP
0	1-5-03	ISSUED		EMP

FORM 100 (1)



Decision #4- Northland Regional Council:
Coastal Permit No. 4
Resource Consent:

Pursuant to the Resource Management Act 1991, The Northland Regional Council (hereinafter called "The Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, P O BOX 44, RUAKAKA

Date of commencement of consent: As provided in Section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Ten [10] years.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: To alter the existing jetty by demolishing any part of it not authorised under NRC consent number CON19960505505.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall notify the Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
3. The Consent Holder shall notify the Council within ten [10] working days following the date of the completion of all activities associated with this consent.
4. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

5. The Consent Holder shall pay all Crown charges set by the Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.

6. At least twenty [20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Council a Construction Management Plan with which it shall comply and which shall provide the following information:
- (i) A description of proposed works, together with drawings;
 - (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
 - (iii) A breakdown of the project into construction packages for later submission in greater detail;
 - (iv) Community liaison arrangements;
 - (v) Contingency response plan;
 - (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments; and
 - (vii) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan.

The Council shall, within twenty [20] working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, and the conditions of this consent.

Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted the Council prior to commencement of work set out in the plan.

7. At least twenty [20] working days before construction commences on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:
- (i) Dust control measures;
 - (ii) Noise controls proposed;
- and shall include:
- (iii) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
 - (iv) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan;
 - (v) Plans and specifications providing sufficient detail to show compliance with the resource consent;
 - (vi) Monitoring procedures where applicable;
 - (vii) Reporting procedures where applicable.

8. The Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report submitted the Council prior to commencement of the works described in the report.

9. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Council, together with comments from the Community Liaison Group, the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.

10. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.

11. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

12. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:

- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
- (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (iii) Report the escape to the Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.

13. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.

Decision #4- Northland Regional Council:
Coastal Permit No. 4
Resource Consent:

Pursuant to the Resource Management Act 1991, The Northland Regional Council (hereinafter called "The Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, P O BOX 44, RUAKAKA

Date of commencement of consent: As provided in Section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Ten [10] years.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: To alter the existing jetty by demolishing any part of it not authorised under NRC consent number CON19960505505.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall notify the Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
3. The Consent Holder shall notify the Council within ten [10] working days following the date of the completion of all activities associated with this consent.
4. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

5. The Consent Holder shall pay all Crown charges set by the Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.

6. At least twenty [20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Council a Construction Management Plan with which it shall comply and which shall provide the following information:
- (i) A description of proposed works, together with drawings;
 - (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
 - (iii) A breakdown of the project into construction packages for later submission in greater detail;
 - (iv) Community liaison arrangements;
 - (v) Contingency response plan;
 - (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments; and
 - (vii) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan.

The Council shall, within twenty [20] working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, and the conditions of this consent.

Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted the Council prior to commencement of work set out in the plan.

7. At least twenty [20] working days before construction commences on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:
- (i) Dust control measures;
 - (ii) Noise controls proposed;
- and shall include:
- (iii) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
 - (iv) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan;
 - (v) Plans and specifications providing sufficient detail to show compliance with the resource consent;
 - (vi) Monitoring procedures where applicable;
 - (vii) Reporting procedures where applicable.

8. The Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report submitted the Council prior to commencement of the works described in the report.

9. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Council, together with comments from the Community Liaison Group, the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.

10. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.

11. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

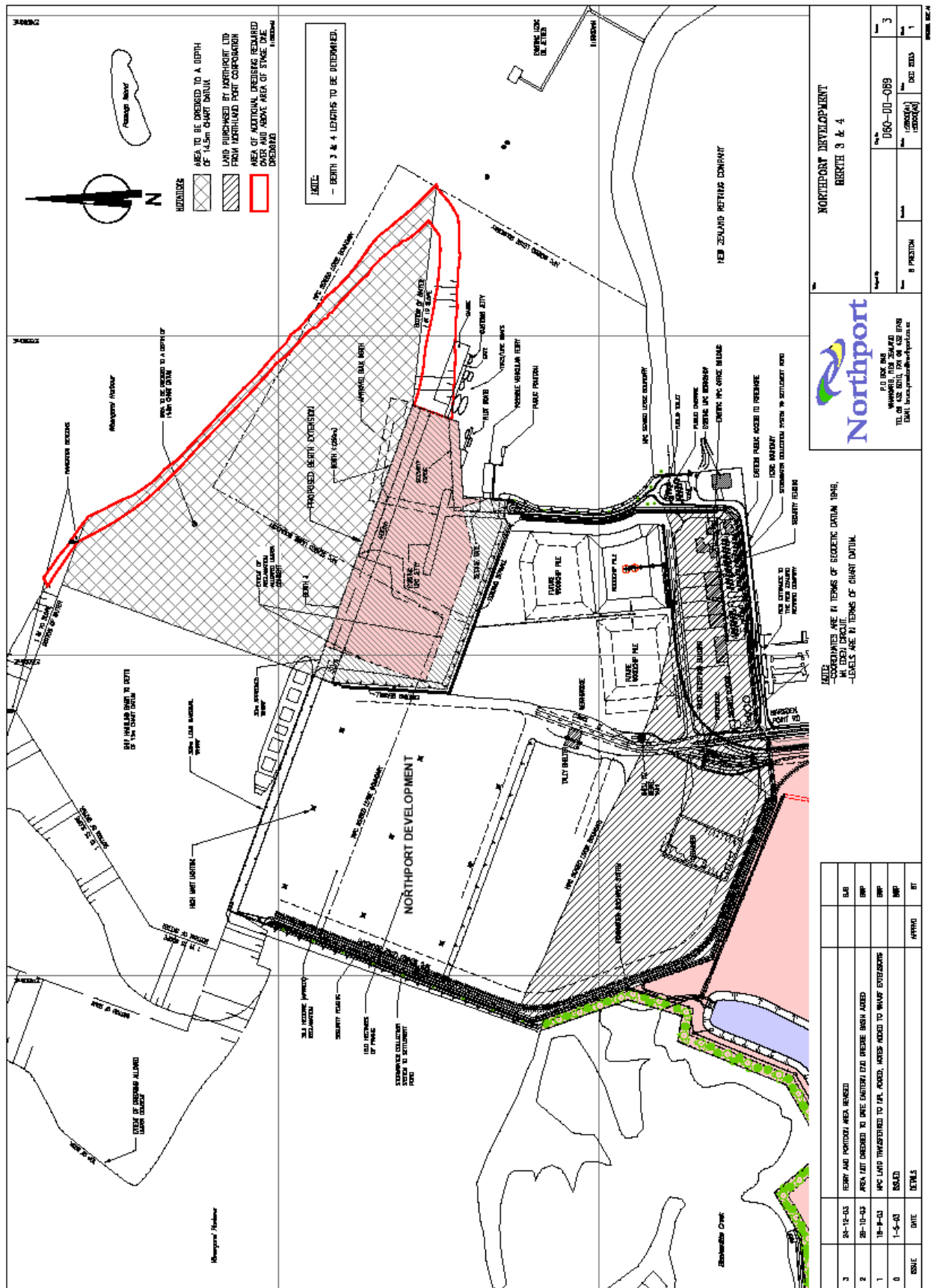
12. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:

- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
- (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
- (iii) Report the escape to the Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.

13. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.



Decision #6 Northland Regional Council:
Coastal Permit No. 6
Resource Consent:

Pursuant to the Resource Management Act 1991, The Northland Regional Council (hereinafter called "The Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, P O BOX 44, RUAKAKA

Date of commencement of consent: As provided in Section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Thirty five [35] years.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: Erection, placement and use of structures for barge berths, tug berths and a water taxi landing and facilities on the eastern edge of the reclamation as shown on Northport Development Berths 3 & 4 Plan ref. D60-00-069 Issue 3 dated 24 December 2003 (Appendix 9.1)

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall submit to the Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Council within ten [10] working days following the date of the completion of all activities associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.

6. The Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA for the purposes specified therein, or to address significant unanticipated adverse effects, during the twenty [20] working days following six (6) monthly intervals starting from the notified date of the commencement of works associated with this consent.
7. The Consent Holder shall maintain all facilities covered by this consent in good order and repair. Maintenance works authorised by this Consent shall be routine maintenance and repair consistent with the scale and form of the initial approved structures.
8. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

9. At least twenty [20] working days prior to construction works commencing the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Council a Construction Management Plan with which it shall comply and which shall provide the following information:
 - (i) A description of proposed works, together with drawings;
 - (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
 - (iii) A breakdown of the project into construction packages for later submission in greater detail;
 - (iv) Community liaison arrangements;
 - (v) Contingency response plan;
 - (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments;
 - (vii) Confirmation that the New Zealand Refining Company has been supplied a copy of the Plan; and

The Council shall, within twenty working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, and the conditions of this consent.

Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted to the Council prior to commencement of work set out in the plan.

10. At least twenty [20] working days before construction commences on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:

- (i) Pile driving activities;
- (ii) Dust control measures;
- (iii) Noise controls proposed;

and shall include:

- (iv) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
- (v) Plans and specifications providing sufficient detail to show compliance with the resource consent;
- (vi) Monitoring procedures where applicable;
- (vii) Reporting procedures where applicable;
- (viii) Confirmation that the New Zealand Refining Company has been supplied a copy of the Plan.

The Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report resubmitted to the Council prior to commencement of the works described in the report.

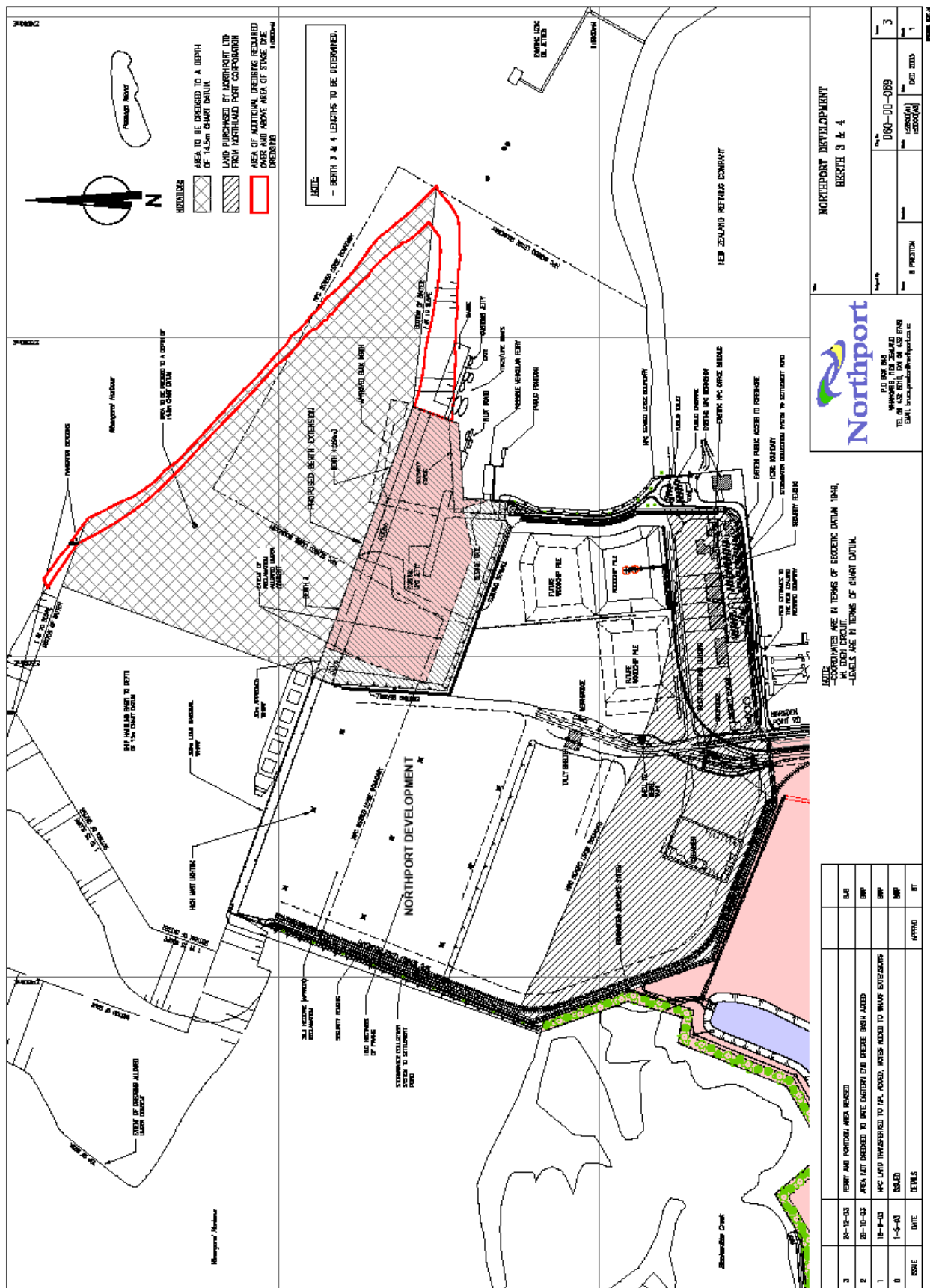
11. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Council, together with comments from the Community Liaison Group, and the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
12. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
13. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

14. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
 - (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Council within one week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
15. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.



Decision #8 - Northland Regional Council:
Coastal Permit No. 8
Resource Consent:

Pursuant to the Resource Management Act 1991, The Northland Regional Council (hereinafter called "The Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, P O BOX 44, RUAKAKA

Date of commencement of consent: As provided in Section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Thirty five [35] years.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement

Purpose of Consent: Disturbance of the seabed by maintenance dredging of the turning basin within the design capital dredging depth of 14.5m below Chart Datum as shown on Northport Development Berth 3 & 4 Plan Ref. D60-00-069 Issue 3 dated 24 December 2003, and removal of associated sand, shingle and other material.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall notify the Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
3. The Consent Holder shall notify the Council within ten [10] working days following the date of the completion of all activities associated with this consent.
4. The Consent Holder shall pay all Crown charges set by the Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.
5. The Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA for the purposes specified therein, or to address significant unanticipated adverse effects, during the twenty [20] working days following six [6] monthly intervals starting from the notified date of the commencement of works associated with this consent.

6. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

7. At least twenty [20] working days prior to the commencement of maintenance dredging the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Council a Construction Management Plan with which it shall comply and which shall provide the following information:

- (i) A description of proposed works;
- (ii) A programme including a timetable, sequence of events and expected duration of the proposed works;
- (iii) Plans and specifications providing sufficient detail to show compliance with the resource consent, including monitoring and reporting procedures;
- (iv) Community liaison arrangements;
- (v) The Community Liaison Group's comments on the Plan and the Consent Holder's response to these comments;
- (vi) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan.

The Council shall within twenty [20] working days of receipt of the plan notify the Consent Holder of any the respects in which the plan fails to comply with information or evidence supplied by the Consent Holder in support of its application, and the conditions of this consent.

Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted the Council prior to commencement of works set out in the plan.

8. The Consent Holder may, at any time, submit variations to the Construction Management Plan, together with any comments of the Community Liaison Group, the Consent Holder's response to those comments and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Council's powers under this condition, and the same time limits shall apply, save that where the variation is minor, the Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
9. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
10. All works in connection with the maintenance of the dredge basin (including marine activities such as any vessel movements, loading and unloading) shall be undertaken in a manner that minimises adverse effects on:
 - (i) New Zealand Refining Company's Marsden Point jetties; and

- (ii) the safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.
- 11. The Council reserves the right to modify the timing of monitoring associated with the exercise of all coastal permits for the Marsden Point deep water port so that any effects of the maintenance dredging can be measured and assessed.
- 12. All maintenance dredging, including any operations consequent upon the excavation and transportation of dredged material, shall be carried out in a manner that minimises the suspension of sediment into the water column so that the following standards are met immediately outside of a 400 metre radius of the point of dredging:
 - (i) The visual clarity (as measured using a black disk or Secchi disk) of harbour water shall not be reduced by more than 20% of the median background visual clarity at the time of measurement.
 - (ii) There shall be no conspicuous scums or foams, floatable or suspended material in the harbour waters.
- 13. During periods of maintenance dredging, visual checks shall be carried out daily and in the event that such a check shows evidence of conspicuous change in visual clarity in the water column testing shall be carried out and reported in accordance with Condition 14.
- 14. The results of each monitoring event shall be reported to the Council within one week of monitoring being completed, or within 24 hours of any non-compliance. The Council reserves the right to require additional monitoring in the event of non-compliance of standards.
- 15. When any maintenance dredging is carried out, the Consent Holder shall record the periods of dredging, the method of dredging and the quantities of material dredged (in cubic metres), and shall submit these records together with post-dredging sounding plans to the Council within ten [10] working days after the maintenance dredging work is completed.
- 16. All material during maintenance dredging shall be deposited on land at Marsden Point presently owned by the Consent Holder or Northland Port Corporation (NZ) Ltd. Should this result in a decant discharge to the harbour the discharge shall be sampled at the point of entry to harbour at not greater than weekly intervals and tested for suspended solids content. The frequency of the sampling required by this condition may be varied with the approval of the Northland Regional Council. This content shall not exceed 300g/m³ for 95% of the samples or for 95% of the time.
- 17. Any dredged material that is not required by the Consent Holder for reclamation purposes should be stockpiled and made available for a reasonable period for any beach nourishment purposes in the Whangarei Harbour and Bream Bay environs. For the purposes of this condition, the "reasonable period" shall be determined in consultation with the Northland Regional Council having regard to:
 - i) Whether any beach renourishment project has been identified;
 - ii) The amount of dredged material likely to be required for any such project;

- iii) Whether a resource consent for the project is held or can reasonably be obtained.

Before removing any dredged material that has been stockpiled, the Consent Holder shall advise the Northland Regional Council of the pending removal.

Notwithstanding the above, stockpiling of material will not be required if the above criteria are not met when the relevant dredging is occurring.

18. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [CON 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

19. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Council within one [1] week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
20. All maintenance works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.

21. As part of the **Construction Management Plan** the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person.
22. The Acoustic Design Report shall include a formal project noise management plan that provides for all of those matters set out in Annex E of NZS 6803:1999 *Acoustics – Construction Noise*. All matters identified in the plan shall be adhered to during the construction programme. The plan shall be of sufficient detail to be able to demonstrate that compliance with the above noise limits, monitoring and mitigation measures will be achieved at all times. The report shall detail as a minimum:
 - (i) the reasonable potential for cumulative noise emissions from the site;
 - (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
 - (iii) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase levels at the locations under consideration; and
 - (iv) any comments of the Community Liaison Group and the responses to these.
23. Prior to any dredge operation occurring between the hours of 10pm and 7am:
 - (i) The dredge shall be monitored to demonstrate compliance with construction noise limits cumulatively with port noise activities.
 - (ii) The monitoring shall be undertaken by a suitably qualified and experienced person who must prepare a Compliance Report detailing the noise emissions from the dredge measured at a distance of 100 metres in four quadrants generally on the axes of the vessel.
 - (iii) The Compliance Report must:
 - (a) detail the operating mode of the dredge and any measures that have been put in place for noise mitigation; and
 - (b) predict the noise levels at measurement locations 1 to 4 inclusive [refer Hegley Acoustic Consultants report October 2003 - Northport Development Noise Monitoring Sites] using the various dredge locations that will result in the maximum noise exposure at each location; and
 - (c) describe the port noise levels assumed in the assessment (based on the busy operation of the port), the distances involved; and
 - (d) set out the methodology used in arriving at any conclusion that noise limits will be complied with.
 - (iv) The Consent Holder shall submit the Compliance Report to the Northland Regional Council and the Whangarei District Council at least twenty [20] working days prior to any requirement to operate the dredge between the hours of 10pm and 7am.

24. Subsequent to commencing dredging between the hours of 10pm and 7am, dredge noise shall be monitored to demonstrate compliance with the construction noise limits. The monitoring shall include times when the port is busy and shall be of sufficient duration and frequency to demonstrate that dredge noise is complying with the limits as the dredge moves around the area to be dredged.

If the noise limits are not met then dredging shall cease immediately between 10pm and 7am until mitigation measures are instigated and it can again be demonstrated to Council that the dredging can be made to comply.

25. At least twenty [20] working days prior to the commencement of dredging the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council an Operational Noise Management Plan. This plan shall include:

- (i) the frequency and content of training and ongoing education that is to be given to management and workers including contractors at the port; and
- (ii) how checks are to be made on the impulse noise emissions at night including monitoring and rectification; and
- (iii) how complaints are to be received and actioned on a 24hr basis; and
- (iv) the proposed times, duration and location of monitoring (The times that are selected shall be of sufficient quantity to provide a check on the variability of noise from the port, including various combinations of ship and ship loading activities that are likely to occur).

26. The Acoustic Design Report and Noise Management Plan shall demonstrate how the noise limits are to be complied with on an ongoing basis including:

- (a) measures required to prevent noise (including impulsive noise) being generated unreasonably, and;
- (b) proposals for the development and trial of a system for the self detection at the Port of significant impulse noise. The object of the system shall be to alert contractors and workers at the Port to significant impulse noise as it occurs in a way that assists in improving impulse noise management and reduces the level of noise generated by the operations in question. If trials are successful the Consent Holder shall implement such a system. If trials are unsuccessful the Consent Holder shall endeavour to identify and implement an alternate means of achieving the same objective. The results of the trial and other actions to be reported to the Community Liaison Group.

27. All reports on the noise monitoring and mitigation measures shall be submitted to the Council and Whangarei District Council and shall be provided to the Community Liaison Group.

**Decision #9- Northland Regional Council:
Certificate of Compliance No. 1**

Certificate of Compliance

Section 139 of the Resource Management Act 1991

This is to certify that pursuant to Section 139 of the Resource Management Act 1991 the proposals described in the schedule below are permitted activities in accordance with the Plans of the Northland Regional Council and in compliance with Section 15(1) of the Resource Management Act.

SCHEDULE

Person Requesting the Certificate:	Northport Ltd P O Box 44 Ruakaka
Date Request Received:	6 November 2003
Description of the Proposal:	The discharge of water [including stormwater] to the Whangarei Harbour during construction of the reclamation and associated wharf structure.

Signed by:

AUTHORISER

date

Note:

- ***The information provided by the applicant in support of the request for this Certificate has been relied upon. Any error or omissions within that supporting information identified after the issue of this certificate may render this certificate null and void.***
- ***This Certificate of Compliance does not in anyway negate the need to comply with any enactment, regulation or the like.***

Decision #1 - Recommendation to the Minister of Conservation: Coastal Permit No. 1

Date of commencement of consent: As provided in Section 119(7) of the RMA 1991 (the Act).

Date of expiration of consent: Fifteen [15] years

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: Disturbance of the seabed by excavation (capital dredging) to allow an extension beyond the dredged area authorised by existing consent NLD96 5055(02) and the deepening of approximately 17.5 hectares of the existing dredged area from RL -13m to RL -14.5m (Chart Datum) as shown on Northport Development Berth 3 & 4 Plan Ref. D60-00-069 Issue 3 dated 24 December 2003.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this permit and in the plans and other information submitted by the applicant.

Schedule A:

1.	Crown land comprising seabed
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STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with the Construction Management Plan.
2. The Consent Holder shall submit to the Northland Regional Council full copies of all final design drawings at least twenty [20] working days prior to commencement of works associated with this consent.
3. The Consent Holder shall notify the Northland Regional Council at least ten [10] working days in advance of the date of the commencement of works associated with this consent.
4. The Consent Holder shall notify the Northland Regional Council within ten [10] working days following the date of the completion of all works associated with this consent.
5. The Consent Holder shall pay all Crown charges set by the Northland Regional Council under Section 36 of the Resource Management Act 1991, including charges relating to any transfer of the consent, and to any changes to consent conditions.

6. The Northland Regional Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA for the purposes specified therein, or to address significant unanticipated adverse effects, during the twenty [20] working days following six [6] monthly intervals starting from the notified date of the commencement of works associated with this consent.
7. The Consent Holder shall ensure that copies of this consent are provided to the person who is to carry out the work, prior to construction. A copy of the consent shall be held on site.

SPECIAL CONDITIONS OF CONSENT:

8. The Consent Holder shall pay a financial contribution to the Northland Regional Council of up to \$10,000 per annum to the Harbour Improvement Fund established by Condition 11 on Coastal Permit No. 2 [NLD96 5055 (02)] for projects approved under that condition. The first such additional contribution to be paid twelve [12] months after the date on which the construction of the port expansion works authorised by this consent commence for a period of ten [10] years. The purpose of the fund is to enable improvements to the health of the Whangarei Harbour, including its flora and fauna.
9. At least twenty [20] working days prior to construction works commencing, the Consent Holder shall, to the extent that the information has not already been supplied in an overall project management plan for the Marsden Point deep water port, submit to the Northland Regional Council a Construction Management Plan with which it shall comply, and which shall provide the following information:
 - (i) A description of proposed works, together with drawings;
 - (ii) A construction programme including a timetable, sequence of events and expected duration of all proposed works;
 - (iii) A breakdown of the project into construction packages for later submission in greater detail;
 - (iv) Community liaison arrangements;
 - (v) Contingency response plan;
 - (vi) Community Liaison Group (CLG) comments on the Plan and the Consent Holder's response to those comments;
 - (vii) Confirmation that the New Zealand Refining Company has been supplied a copy of the Plan; and
10. The Northland Regional Council shall, within twenty working days of receipt of the plan notify the Consent Holder of any respects in which the plan fails to comply with the information or evidence supplied by the Consent Holder in support of its application, or with the conditions of this consent. Any such deficiencies shall be remedied by the Consent Holder and the Construction Management Plan resubmitted to the Northland Regional Council prior to commencement of work set out in the plan.

11. At least twenty [20] working days before construction commences on any package of work identified in the Construction Management Plan, the following additional information shall be supplied to the Northland Regional Council in a Design and Construction Report with which it shall comply and which shall cover, where appropriate:

- (i) Dredging activities;
- (ii) Perimeter dyke construction;
- (iii) Geotextile lining of bund wall;
- (iv) Pile driving activities;
- (v) Dust control measures;
- (vi) Noise controls proposed;

and shall include:

- (vii) Community Liaison Group (CLG) comments on the Report and the Consent Holder's response;
- (viii) Confirmation that the New Zealand Refining Company has been supplied with a copy of the Plan;
- (ix) Plans and specifications providing sufficient detail to show compliance with the resource consent;
- (x) Monitoring procedures where applicable; and
- (xi) Reporting procedures where applicable.

The Northland Regional Council shall, within twenty [20] working days of receipt of the additional information, notify the Consent Holder of any further the respects in which it fails to comply with the information or evidence supplied by the Consent Holder in support of its application.

Any such deficiencies shall be remedied by the Consent Holder and the Design and Construction Report resubmitted to the Northland Regional Council prior to commencement of the works described in the report.

12. The Consent Holder may, at any time, submit variations to the Construction Management Plan or any Design and Construction Reports to the Northland Regional Council, together with comments from the Community Liaison Group, the Consent Holder's response to those comments, and confirmation that the New Zealand Refining Company has been supplied with a copy of the variations. Any variation shall be subject to the Northland Regional Council's powers under this condition and the same time limits shall apply save that, where the variation is minor, the Northland Regional Council shall notify its acceptance or otherwise of the proposed variation within five [5] working days.
13. All material dredged during the capital dredging programme shall be placed in the reclamation or deposited on land at Marsden Point presently owned by the Consent Holder or Northland Port Corporation (NZ) Ltd.

14. All works in connection with the construction of the dredge basin (including marine activities such as ship movements, loading and unloading) shall be undertaken in a manner that minimises adverse effects on:
- (i) New Zealand Refining Company's [NZRC] Marsden Point jetties; and
 - (ii) the safe and efficient use of Whangarei Harbour in the vicinity of Marsden Point.
15. The Consent Holder shall carry out, at its own expense, a study to determine current speeds and directions in the vicinity of NZRC's jetties within six [6] months following completion of the capital dredging works. The results of these studies shall be forwarded to the Northland Regional Council and shall be made publicly available by the Consent Holder.
- The Consent Holder shall make available to the Northland Regional Council the results of all bathymetric studies undertaken in agreement with the NZRC and the results made publicly available. In the event that they indicate unanticipated adverse effects, the conditions of this consent may be reviewed as *per* Standard Condition 6 above.
16. The Consent Holder shall, immediately upon completion of the capital dredging works associated with this consent, notify in writing [and shall include a scale plan of the completed works]:
- Nautical Information Advisor
LINZ
Private Box 5501
WELLINGTON
- Maritime Safety Authority
P O Box 27 006
WELLINGTON
17. The Consent Holder shall keep the Coastal Marine Area free of litter and other debris arising from the exercise of this consent.
18. Where from any cause a contaminant (including fuel or sewage) associated with the Consent Holder's operations escapes otherwise than in conformity with this consent, the Consent Holder shall:
- (i) Immediately take such action or execute such work as may be necessary to stop and/or contain such escape; and
 - (ii) Take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from the escape; and
 - (iii) Report the escape to the Northland Regional Council within one [1] week of its occurrence and the steps taken or being taken to clean up, remedy any adverse effects and prevent any recurrence of such escape.
19. Dredging shall be carried out using the appropriate design of cutter head and operation to minimise suspension of sediment into the water column to the extent that:

- (i) The visual clarity (as measured using a black disk or Secchi disk) of harbour water shall not be reduced by more than 20% of the median background visual clarity at the time of measurement; and
 - (ii) There shall be no conspicuous scums or foams, floatable or suspended material in harbour water, as a result of dredging immediately outside of a 400 metre radius of the point of dredging.
20. During dredging, visual checks shall be carried out daily and in the event that such a check shows evidence of conspicuous change in visual clarity in the water column, testing shall be carried out in accordance with Condition 21.
21. The results of each monitoring event shall be reported to the Northland Regional Council within one week of monitoring being completed, or within 24 hours of any non-compliance. The Council reserves the right to require additional monitoring in the event of non-compliance with Condition 20 above.
22. All construction works shall be designed and conducted to ensure that noise from those activities does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provision of NZS6803:1999 Acoustics-Construction Noise.

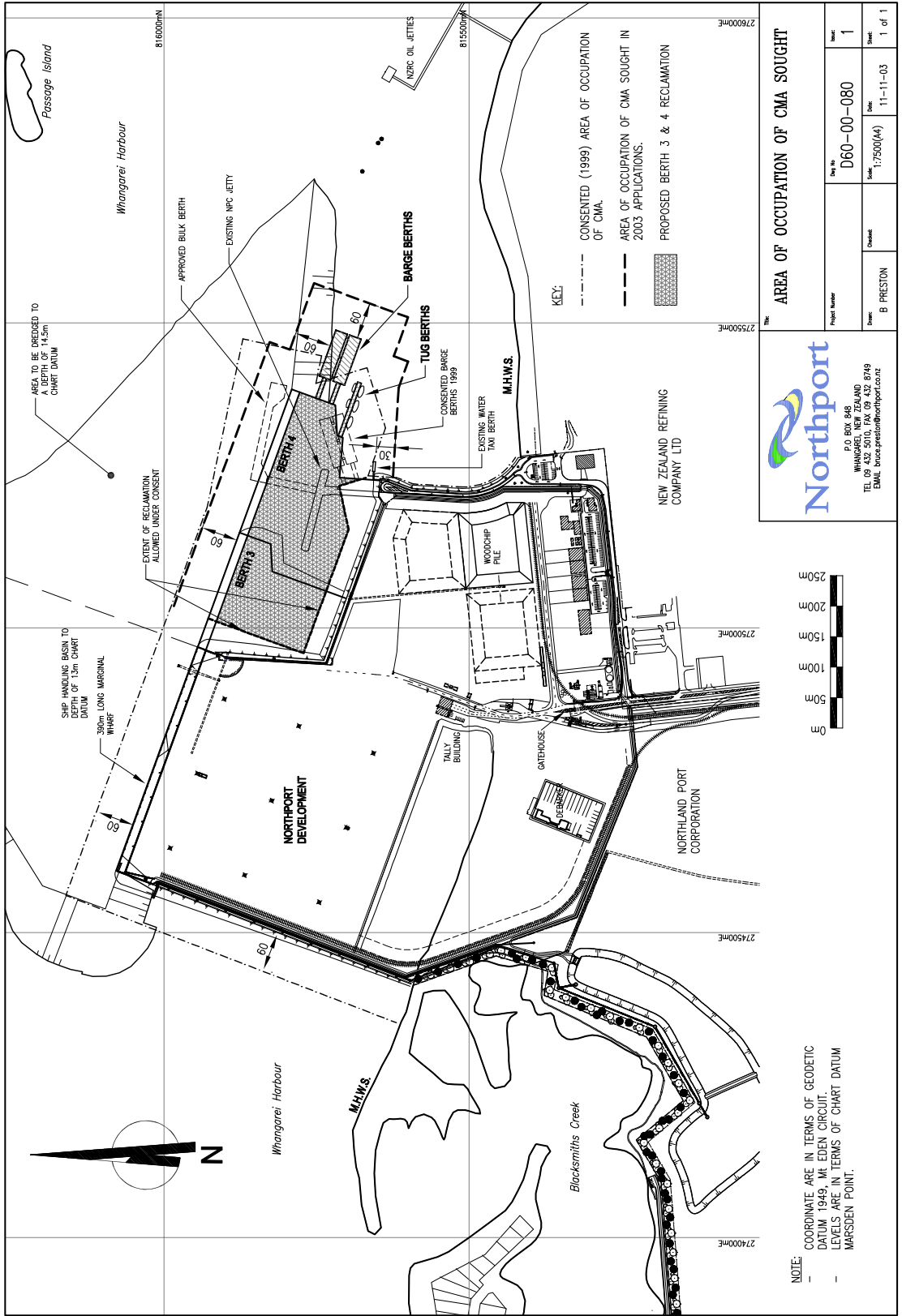
At Dwellings in Residential or Rural Area						
Time Period	Weekdays (dBA)		Saturdays (dBA)		Sundays and public holidays (dBA)	
	L _{eq}	L _{max}	L _{eq}	L _{max}	L _{eq}	L _{max}
0700 – 0730	55	75	45	75	45	75
0730 – 1800	70	85	70	85	55	85
1800 – 2000	65	80	45	75	45	75
2000 – 0700	45	65	45	65	45	65

Between 10pm and 7am construction noise shall be measured cumulatively with port noise activities using the L_{eq} and L_{max} descriptors.

23. As part of the **Construction Management Plan**, the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council, at least twenty [20] working days prior to exercising this Consent, an Acoustic Design Report, prepared by a suitably qualified and experienced person.
24. The Acoustic Design Report shall include a formal project noise management plan that provides for all of those matters set out in Annex E of NZS 6803:1999 *Acoustics – Construction Noise*. All matters identified in the plan shall be adhered to during the construction programme. The plan shall be of sufficient detail to be able to demonstrate that compliance with the above noise limits, monitoring and mitigation measures will be achieved at all times. The report shall detail as a minimum:

- (i) the reasonable potential for cumulative noise emissions from the site;
 - (ii) the means by which noise emissions from the site will be minimised and maintained below the noise performance standards specified in this consent;
 - (iv) any variation in sound propagation arising from the topography and characteristics of the area, taking into account meteorological conditions that would increase levels at the locations under consideration; and
 - (v) any comments of the Community Liaison Group and the responses to these.
25. Prior to any dredge operation occurring between the hours of 10pm and 7am:
- (i) The dredge shall be monitored to demonstrate compliance with construction noise limits cumulatively with port noise activities.
 - (ii) The monitoring shall be undertaken by a suitably qualified and experienced person who must prepare a Compliance Report detailing the noise emissions from the dredge measured at a distance of 100 metres in four quadrants generally on the axes of the vessel.
 - (iii) The Compliance Report must:
 - (a) detail the operating mode of the dredge and any measures that have been put in place for noise mitigation;
 - (b) predict the noise levels at measurement locations 1 to 4 inclusive [refer Hegley Acoustic Consultants report October 2003 - Northport Development Noise Monitoring Sites] using the various dredge locations that will result in the maximum noise exposure at each location;
 - (c) describe the port noise levels assumed in the assessment (based on the busy operation of the port), the distances involved; and
 - (d) set out the methodology used in arriving at any conclusion that noise limits will be complied with.
 - (iv) The Consent Holder shall submit the Compliance Report to the Northland Regional Council and the Whangarei District Council at least twenty [20] working days prior to any requirement to operate the dredge between the hours of 10pm and 7am.
26. Subsequent to commencing dredging between the hours of 10pm and 7am, dredge noise shall be monitored to demonstrate compliance with the construction noise limits. The monitoring shall include times when the port is busy and shall be of sufficient duration and frequency to demonstrate that dredge noise is complying with the limits as the dredge moves around the area to be dredged.
- If the noise limits are not met then dredging shall cease immediately between 10pm and 7am until mitigation measures are instigated and it can again be demonstrated to Council that the dredging can be made to comply.
27. At least twenty [20] working days prior to the commencement of dredging the Consent Holder shall submit to the Northland Regional Council and the Whangarei District Council an Operational Noise Management Plan. This plan shall include:

- (i) the frequency and content of training and ongoing education that is to be given to management and workers including contractors at the port;
 - (ii) how checks are to be made on the impulse noise emissions at night including monitoring and rectification;
 - (iii) how complaints are to be received and actioned on a 24hr basis; and
 - (iv) the proposed times, duration and location of monitoring (The times that are selected shall be of sufficient quantity to provide a check on the variability of noise from the port, including various combinations of ship and ship loading activities that are likely to occur).
28. The Acoustic Design Report and Noise Management Plan shall:
- (a) demonstrate how the noise limits are to be complied with on an ongoing basis measures required to prevent noise (including impulsive noise) being generated unreasonably; and
 - (b) include proposals for the development and trial of a system for the self detection at the Port of significant impulse noise. The object of the system shall be to alert contractors and workers at the Port to significant impulse noise as it occurs in a way that assists in improving impulse noise management and reduces the level of noise generated by the operations in question. If trials are successful the Consent Holder shall implement such a system. If trials are unsuccessful the Consent Holder shall endeavour to identify and implement an alternate means of achieving the same objective. The results of the trial and other actions to be reported to the Community Liaison Group.
29. All reports on the noise monitoring and mitigation measures shall be submitted to the Northland Regional Council and Whangarei District Council and shall be provided to the Community Liaison Group.
30. Within four [4] years after completion of capital dredging associated with the 3rd berth development the consent holder shall commission an expert marine biologist to provide a report identifying an area or areas where maintenance dredging has not been undertaken and is unlikely to be required and the extent of natural re-colonisation of marine life of life in those area. The report shall include recommendations as to whether the consent holder should undertake the trial provision of coarse shell or similar substrate within an identified trial area to assist with re-colonisation. The consent holder shall submit to the NRC a copy of the report and shall, if so required by the NRC, implement the recommendations as to a trial in the report and shall in consultation with the NRC agree the area to be trialled, the subsequent monitoring required and any extension of the area if the trial proves sufficiently beneficial. If no action is taken as a result of the initial report, a review of the initial findings will be undertaken at five [5] yearly intervals after dredging, unless and until two consecutive reviews confirm that natural colonization would not be materially assisted by the trial.



**Decision #10- Northland Regional Council:
Certificate of Compliance No. 2**

Certificate of Compliance

Section 139 of the Resource Management Act 1991

This is to certify that pursuant to Section 139 of the Resource Management Act 1991 the proposals described in the schedule below are permitted activities in accordance with the Plans of the Northland Regional Council and in compliance with Section 15(1) of the Resource Management Act.

SCHEDULE

Person Requesting the Certificate: Northport Ltd
P O Box 44
Ruakaka

Date Request Received: 6 November 2003

Description of the Proposal: The discharge of dust into the air arising from the movement of materials on the new reclamation and wharves which have a dust producing capacity.

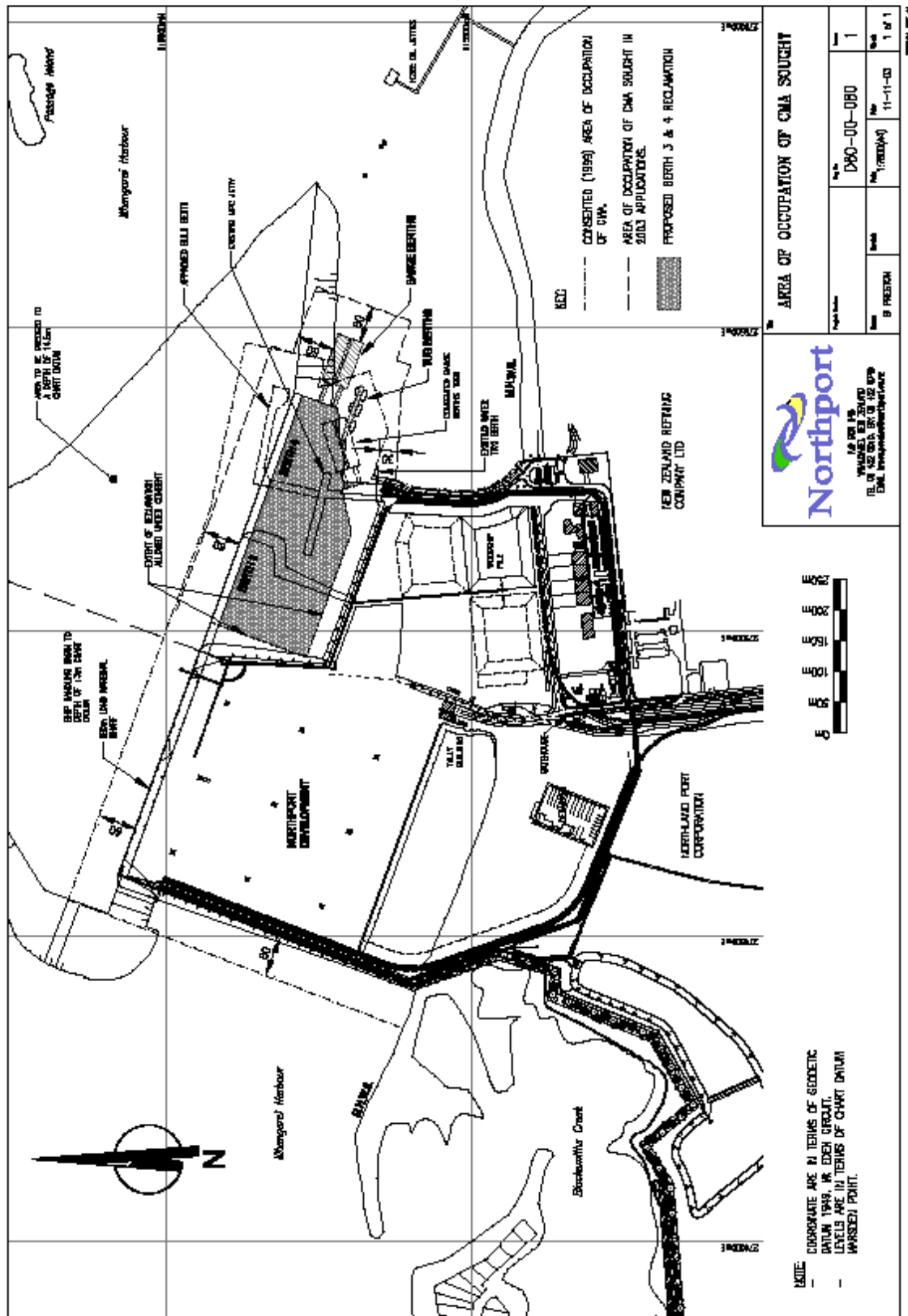
Signed by:

AUTHORISER

date

Note:

- ***The information provided by the applicant in support of the request for this Certificate has been relied upon. Any error or omissions within that supporting information identified after the issue of this certificate may render this certificate null and void.***
- ***This Certificate of Compliance does not in anyway negate the need to comply with any enactment, regulation or the like.***



Decision #11 - Whangarei District Council : Land Use Consent No. 1

Resource Consent:

Pursuant to the Resource Management Act 1991, The Whangarei District Council (hereinafter called "The Council") does hereby grant a Resource Consent to:

NORTHPORT LIMITED, P O BOX 44, RUAKAKA

Date of commencement of consent: As provided in Section 116 of the RMA 1991 (the Act).

Date of expiration of consent: Unlimited.

Date of lapsing of consent (if not given effect to): Ten [10] years from date of commencement.

Purpose of Consent: The use of land for port and port-related activities as shown on Northport Development Berths 3 & 4 Plan Ref.D60-00-069, Issue 3 dated 24 December 2003, and as described in the accompanying Assessment of Effects on the Environment [AEE] and associated plans and drawings.

Legal Description of Land: The relevant parts of the land described in Schedule A (below), otherwise as more specifically described in this consent and in the plans and other information submitted by the applicant.

Schedule A:

	Description
1.	Crown land comprising seabed to be reclaimed

STANDARD CONDITIONS OF CONSENT:

1. The Consent Holder shall undertake all authorised activities in general accordance with the descriptions and plans submitted with the application or as modified in evidence, and shall carry out all works in accordance with any Construction Management Plan.
2. The Consent Holder shall notify the Council at least ten [10] working days in advance of the date of the commencement of activities associated with this consent.
3. The Consent Holder shall pay all administration charges associated with this consent prior to work commencing.
4. The Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the RMA, for the purposes specified therein or to address significant unanticipated adverse effects, during the twenty [20] working days following twelve [12] monthly intervals starting from the notified date of the commencement of works associated with this consent.

SPECIAL CONDITIONS OF CONSENT:

5. For the purposes of this consent, until such time as the proposed Whangarei District Plan is operative and the relevant zoning provisions of the Marsden Point Port Environment apply, and except where otherwise indicated in conditions granted with respect to this consent, all those relevant provisions of the proposed Plan relating to the Marsden Point Port Environment shall apply.

6. The Consent Holder shall use the forum provided by the Community Liaison Group established in connection with the original port development under Coastal Permit No. 3 [NRC 20030505503] to address relevant community concerns and needs arising from the exercise of resource consents for the development and operation of the extension to the port at Marsden Point.

The Consent Holder will meet quarterly with representatives of Patuharakeke Hapu to review progress and operation of the project and to review monitoring results.

7. The Consent Holder shall ensure that all activities on the site (except construction activities where the noise limits differ from those below) to which this consent applies, are designed and conducted so that the following noise limits are not exceeded at any point, within any residential zone or within the notional boundary of any existing rural dwelling:

07.00am – 10.00pm	55dBA L ₁₀
10.00pm – 07.00am	45dBA L ₁₀
10.00pm – 07.00am	65dBA L _{max}

All noise emissions from the port shall be measured cumulatively.

The noise levels shall be measured in accordance with NZS6801:1999 *Acoustics - Measurement of Environmental Sound* and assessed in accordance with NZS6802:1991 *Assessment of Environmental Sound*.

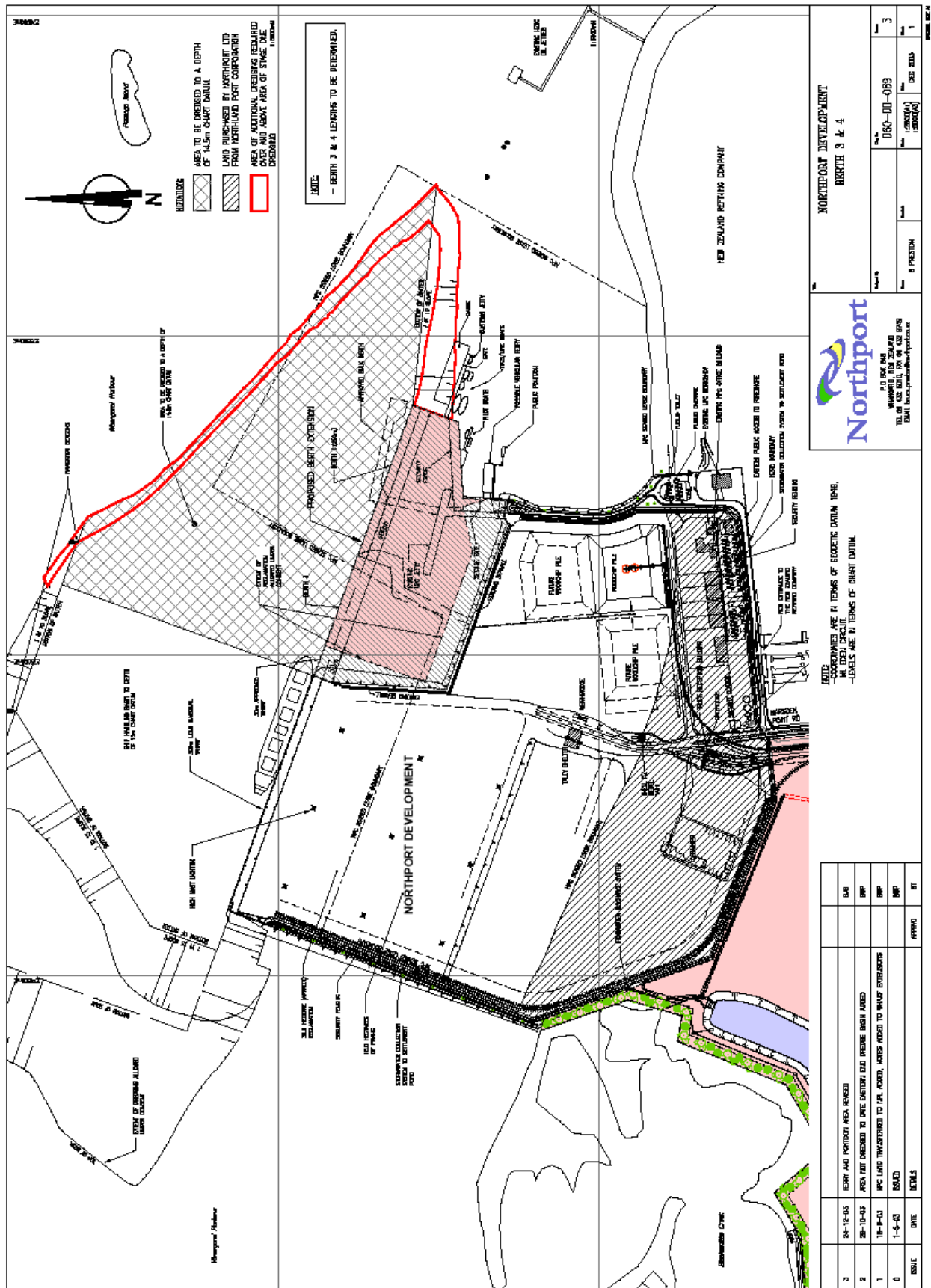
8. The Consent Holder shall:
- (i) ensure that the spill of light onto any residentially zoned land or measured at any rural dwelling shall not exceed 10 lux; and
 - (ii) use its best endeavours to minimise light spill beyond its land boundaries and/or port structures; and
 - (iii) submit a Lighting Management Plan to the Council at least twenty [20] working days prior to any night-time operation of the lights authorised by this consent. The Lighting Management Plan shall:
 - (a) detail the positions and technical specifications of all exterior light sources and indicate the means by which this standard is to be achieved; and
 - (b) include comments of the Community Liaison Group on the plan and the Consent Holder's response to these.

9. The Consent Holder shall submit to the Council, at least twenty [20] working days prior to commencement of any site works, a detailed landscape planting plan for the edge of the proposed development between the water taxi berth and the proposed tug berths comprising a strip of planting not less than 2m wide.
10. All planting shall utilise indigenous plants that have been grown from genetic stock from the ecological district that the site is located within. Species selection shall draw upon plants that are naturally found in rocky, coastal habitats.
11. All vegetation shall be planted and maintained in accordance with good horticultural and ecological practice. Any dead vegetation shall be replaced with plants of the same or compatible species.
12. The Consent Holder shall, if reasonably practicable, implement the detailed landscape planting plan prior to the commencement of the operation of the facility, having regard to the construction programme and planting season.
13. The Consent Holder shall provide the Council with details of building form and colour (by British Standard specification) prior to any application for building consent being lodged. The visual impact of buildings (excluding lamp standards) is to be minimised by appropriate use of colour, building form, roof lines and structure compatible with its setting.

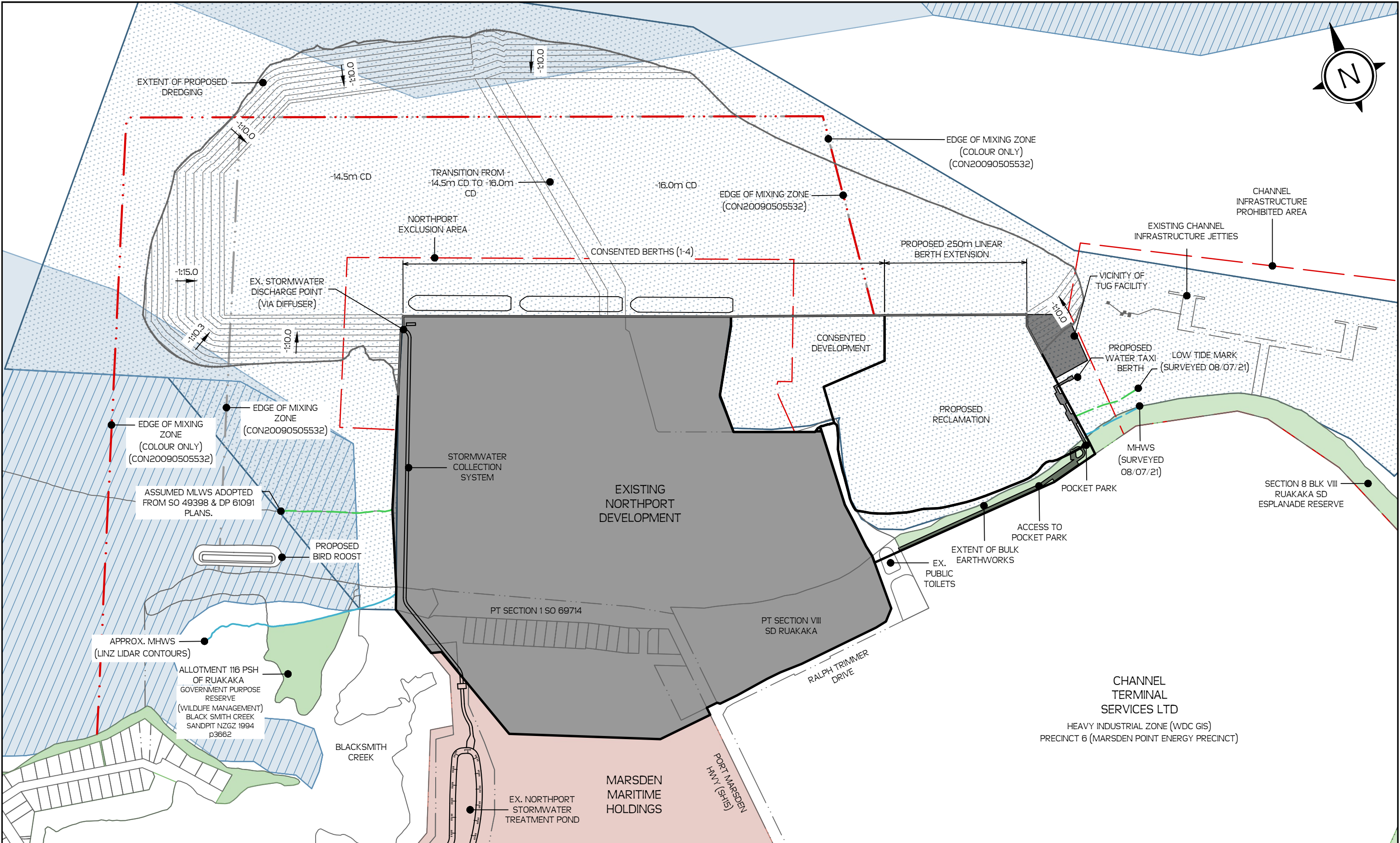
Advice Note:

As regards the possibility of a rail link being established in the future from Northport at Marsden Point to Oakleigh, or vice versa, to connect with the national network, Northport, while not being in a position to facilitate such an outcome, remains supportive of the ultimate realisation of this endeavour.

The Marsden Point port design incorporates provision for rail if required in the future. The Consent Holder has advised its intention to hold the land intended for provision of rail for a minimum period of ten [10] years from the date on which port operations commenced.



BLH ATTACHMENT 3



TITLE			
NORTHPORT EXPANSION (BERTH 5)			
DATE	JULY 2023	SCALE	1:6000 @A3
NO.	014656a	SHEET	1/1

CLIENT		
NORTHPORT		
MARSDEN POINT		
B	10.07.23	TEXT AMENDMENTS - BH/TM
A	05.07.23	FIRST ISSUE - BH/TM
REV	DATE	DESCRIPTION
REF. DATA:		

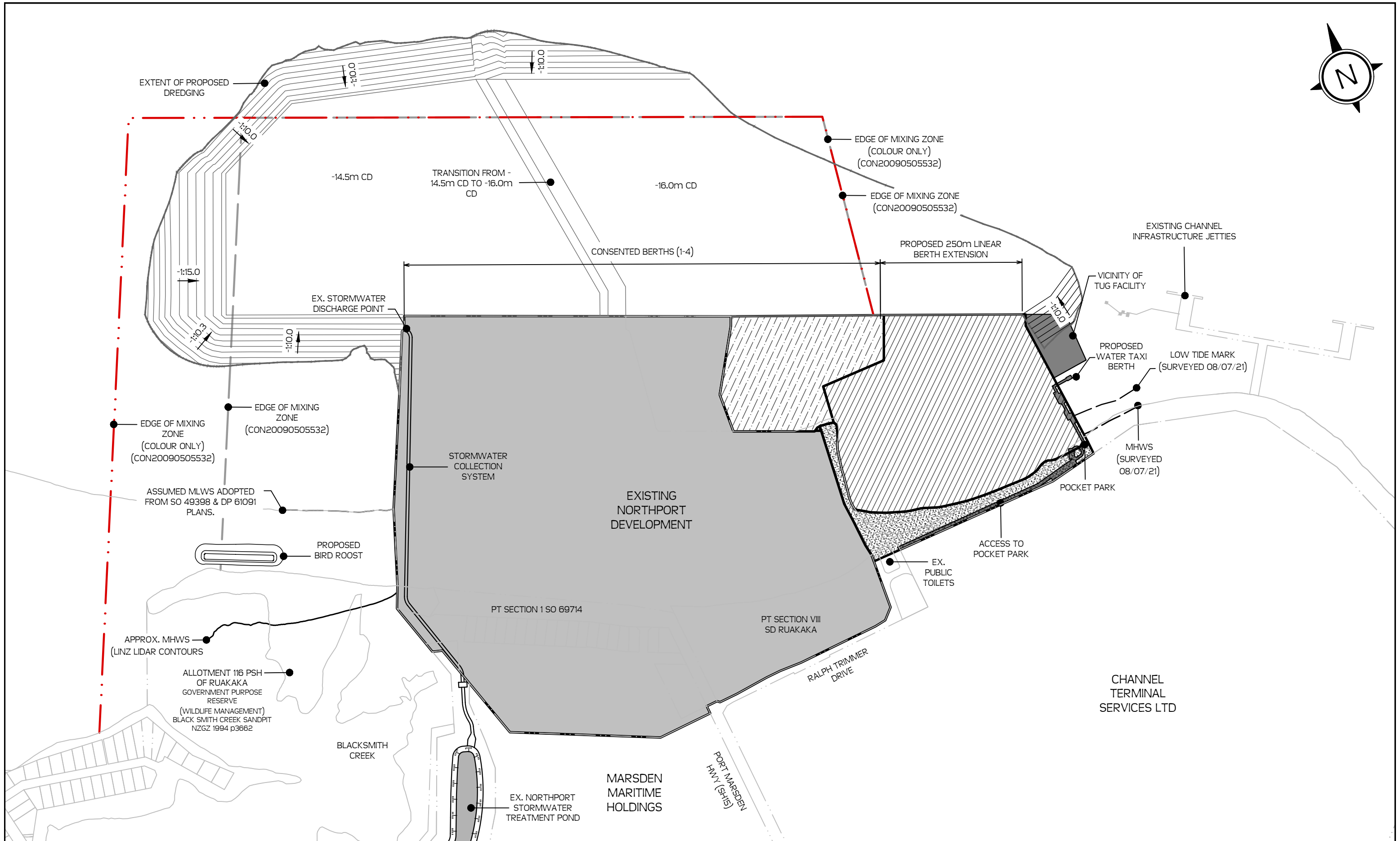
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- BOUNDARIES SOURCED FROM QUICKMAP. COORDINATES IN TERMS OF MOUNT EDEN 2000.

KEY:			
	SIGNIFICANT BIRD AREA (PROPOSED REGIONAL PLAN)		PORT ZONE - PORT MANAGEMENT (AREA B) (WHANGAREI DISTRICT PLAN)
	SIGNIFICANT ECOLOGICAL AREA (PROPOSED REGIONAL PLAN)		NATURAL OPEN SPACE ZONE (ESPLANADE RESERVE) (WHANGAREI DISTRICT PLAN)
	MARS DEN POINT PORT ZONE (PROPOSED REGIONAL PLAN)		PORT ZONE - PORT OPERATIONS (AREA A) (WHANGAREI DISTRICT PLAN)

Ph: 09 438 3563
7 Selwyn Ave, Whangarei

PO Box 191, Whangarei 0140
www.reyburnandbryant.co.nz



TITLE			
NORTHPORT EXPANSION (BERTH 5)			
DATE	JULY 2023	SCALE	1:6000 @A3
NO.	014656	SHEET	1/1

CLIENT		
NORTHPORT		
MARSDEN POINT		
B	10.07.23	TEXT AMENDMENTS - BH/TM
A	06.07.23	FIRST ISSUE - BH/TM
REV	DATE	DESCRIPTION
REF. DATA:		

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- BOUNDARIES SOURCED FROM QUICKMAP. COORDINATES IN TERMS OF MOUNT EDEN 2000.

KEY:	
	PARCEL BOUNDARY
	CONSENTED DEVELOPMENT (NOT YET CONSTRUCTED)
	PROPOSED RECLAMATION
	EXTENT OF BULK EARTHWORKS
	EXISTING NORTHPORT DEVELOPMENT

Ph: 09 438 3563

7 Selwyn Ave, Whangarei

PO Box 191, Whangarei 0140

www.reyburnandbryant.co.nz

BLH ATTACHMENT 4
