

NORTHLAND REGIONAL COUNCIL & WHANGĀREI DISTRICT COUNCIL OFFICER REPORT

COUNCIL REFERENCES:	Northland Regional Council: APP.005055.38.01 Whangārei District Council: LU2200107
REPORTING PLANNER:	Blair Masfield (NRC) and Stacey Sharp (WDC), Consultant Planners, Beca
APPLICANT:	Northport Limited (Northport)
PROPOSAL SUMMARY:	To construct, operate, and maintain an expansion of the existing Northport facility to operate a high density container terminal.
LOCALITY:	Ralph Trimmer Drive and Coastal Marine Area, Marsden Point, Whangārei
LEGAL DESCRIPTIONS:	Various – refer Section 2
LOCATION CO-ORDINATES:	At or about location co-ordinates 1734782.44, 6033286.99 <i>All location co-ordinates in this document refer to Geodetic Datum 2000, New Zealand Transverse Mercator Projection.</i>
DURATION SOUGHT:	35 years duration sought for coastal, discharge, and water permits
LODGE MENT DATE:	6 October 2022
NOTIFICATION DATE:	2 November 2022
CLOSE OF NOTIFICATION PERIOD:	15 December 2022
RELEVANT STATUTORY PLANNING INSTRUMENTS:	<ul style="list-style-type: none">▪ Resource Management Act 1991 (RMA)▪ New Zealand Coastal Policy Statement (NZCPS)▪ Regional Policy Statement for Northland (RPS)▪ Proposed Regional Plan for Northland – Appeals Version (PRP-AV)▪ Operative Regional Coastal Plan for Northland (RCP)▪ Whangārei District Plan – Operative in Part (WDP-OP).
BUNDLED ACTIVITY STATUS:	Discretionary Activity.

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EXECUTIVE SUMMARY

1. Northport Limited ('Northport') have applied for a suite of resource consents from the Northland Regional Council ('NRC') and Whangārei District Council ('WDC') to construct, operate, and maintain an expansion of the existing Northport facility. Northport seek to enable the transition of its existing facility into a high-density container terminal.
2. The existing Northport facility consists of three berths (Berths 1 – 3), with a fourth berth (Berth 4) consented but not yet constructed. The proposed expansion seeks to construct a fifth berth (Berth 5) to adjoin (consented, but not yet constructed) Berth 4, which involves:
 - a. Reclaiming approximately 11.7ha of Coastal Marine Area ('CMA') to form land for the proposed berth and container terminal;
 - b. Extending the existing wharf a further 250m along the northern face of the proposed reclamation to form an extension to the consented (but not yet constructed) Berth 4; and
 - c. Undertaking bulk earthworks and filling within an area of approximately 2ha above Mean High Water Springs ('MHWS') to the east of the existing Port facility, including over the existing dune system and Esplanade Reserve.
3. The application made to the NRC provides for approximately 11.7ha of reclamation and associated coastal structures, 1.72million cubic metres of capital dredging and associated disposal and maintenance dredging, riparian earthworks, construction and operational stormwater discharges, creation of a sandbank high-tide bird roost, and ancillary coastal structures for tug berths and a public water taxi/fishing pontoon.
4. The application to the WDC seeks consent to undertake Port Activities on the proposed reclamation, apply the Port Zone permitted building height limits on proposed Berth 5, manage Port noise under the Port Noise Standards (NZS 6809:1999) rather than the Whangārei District Plan – Operative in Part on proposed Berth 5 and across the existing Port, undertake earthworks and vegetation clearance (including removing Public Trees), and erect new buildings (a new public toilet) within permitted coastal setbacks.
5. Northport also propose to surrender three existing resource consents that manage the existing Port stormwater management system and place controls on Port operations (including relating to operational noise and landscaping). The requirements of these three consents are proposed to be incorporated into these resource consent applications. Some of the land use consents sought by Northport therefore apply to the existing Port area and operations, as well as the future land within on the proposed reclamation area.
6. Discretionary resource consents are sought from each Council, and the bundled application holds a Discretionary activity status overall. The applications were subject to joint public notification, with a total of 227 submissions being received by the Councils (following one submission being withdrawn). A summary of those submissions is provided as an attachment (**Appendix B**) to this report. One submitter amended their submission prior to this report being prepared.
7. This s42A planning report assesses the extent of adverse and positive effects that may arise from the proposal and considers the relevant planning provisions of the New Zealand Coastal Policy Statement('NZCPS'), Regional Policy Statement for Northland ('RPS'), Proposed Regional Plan – Appeals Version ('PRP-AV'), Operative Regional Coastal Plan ('RCP'), and Whangārei District Plan – Operative in Part ('WDP-OP').

8. Overall, the proposal is assessed as generating some positive effects and adverse effects range from negligible to significant.

Effects	Applicant's Conclusions	Council Conclusions
Cultural	N/A	Significant
Coastal Processes	More than minor	Negligible – More than minor
Navigation and Safety	Negligible	Minor
Archaeology and Heritage	Negligible	Negligible
Marine Mammals	Less than minor	Less than minor
Marine Ecology	Less than minor – significant	Less than minor - significant
Terrestrial Ecology	Less than minor – minor	Less than minor
Avifauna	Less than minor – minor	No more than minor
Terrestrial Noise	Reasonable	Reasonable
Landscape, Natural Character, and Amenity	Less than minor – significant	Less than minor – significant
Economics	Positive	Positive
Recreation	Less than minor – significant	Less than minor – significant
Stormwater	-	Minor
Transport	No more than minor	No more than minor
Air Quality	Negligible to minor	Less than minor

9. The relevant policy framework can be distilled into four themes:
- Management of environmental effects;
 - Tangata whenua;
 - Infrastructure; and
 - Reclamation and allocation of coastal space.
10. On the whole, the Applicant has promulgated an assessment and mitigation package that effectively manages the wide range of consequential effects to an acceptable level and Council experts have proposed additional or modified conditions to address residual effects, in a way that responds to and demonstrates policy consistency.
11. There are five areas where better definition of effects, additional mitigation effort or agreement on proposed mitigation is necessary to address areas to a level that achieves policy consistency. These areas are:
- Marine ecology accumulative effects;
 - Avifauna cumulative effects;
 - Recreational mitigation;
 - Landscape effects on the closest ONL; and
 - Cultural effects.
12. Relevant Tangata Whenua provisions flow from Part II of the Resource Management Act 1991 ('RMA') down through all the statutory hierarchy of relevant documents and into the non-statutory Hapū Management Plans. At this point in the process the only information available

to inform a policy assessment is the CVA and CEA prepared on behalf of the Patuharakeke Iwi Trust Board and the Iwi / Hapū submitters discussed above. This information indicates significant and unmitigated adverse cultural impacts and a proposal basis (reclamation) that is culturally offensive. This causes policy consistency issues.

13. Recognition of the role infrastructure provides for community wellbeing is reflected in a number of policy provisions through the hierarchy of relevant documents. This ranges from Infrastructure generally, to Regionally Significant Infrastructure which the Port is identified as in the RPS, to specific and strong policy support for Ports in the NZCPS and via the Port zones in the PRP-AV and WDP-OP. There is little difference in opinion on consistency with the relevance supportive parts of these provisions to the proposal. Any potential inconsistency generally links to effects, discussed above.
14. The policy tests for using the method of reclamation to provide for the activity have been satisfied, however in the absence of demand for the activity to occupy coastal space, a lack of national direction and commitment to Northlands role in the upper north island freight task and supporting freight infrastructure (road, rail, coastal shipping), and customary marine title claims to this space, there is uncertainty that the Northport expansion satisfies the policy tests for allocation of this scarce coastal space.
15. In summary, there are a range of effect areas that would benefit from further evidence and expert interaction to assist with concluding on policy consistency, particularly marine ecology and tangata whenua / cultural, and further evidence to demonstrate efficient use and need for the allocation of coastal space. If the above can be adequately resolved then there is a likely consenting pathway, if not it is more difficult to see a pathway to the granting of consents.
16. Should the Hearings Panel determine that consents can be granted for both NRC and WDC applications, a suite of recommended conditions of consent have been prepared for each Council, attached to this report as **Appendix D**. Further expert engagement would assist through the pre-hearing phase to refine many of these conditions.
17. Further information / evidence, expert conferencing and engagement regarding conditions, that would benefit a hearings determination have been set out at the end of this report.

1. INTRODUCTION

1.1 Statements of Qualifications and Experience

1.1.1 Blair Masefield – Reporting Planner for NRC

19. My name is Blair Masefield and I hold the role of Technical Director – Planning / Northland Branch Manager at Beca, Whangārei. I obtained a Bachelor Resource and Environmental Planning (Hons.) from Massey University and have 20 years’ experience as a practicing planner, primarily in consultancy but also in Local Government in New Zealand and London. I was employed by the Auckland Regional Council as a Coastal Consents Specialist and in this role dealt primarily with consenting and compliance of major land transport and maritime developments.
20. I was an author on one of the many studies looking into alternate locations for Ports of Auckland, prepared an erosion management strategy for Refining NZ, lead a mangrove management programme for NRC and drafted the NRC Marinas and Moorings strategy. I have just completed a role facilitating Iwi/hapū engagement and input and advising on consenting pathways for a single stage business case on a dry dock at Marsden Point.
21. In my role acting for an Applicant, I was part of the planning team for the Waterview Tunnels and Marine Causeway Board of Inquiry RoNS project and was lead planner securing the designations and resource consents for AMETI (Panmure – Pakuranga) multi modal corridor and PenLink (Silverdale -Whangaparaoa new road). I provided planning evidence on behalf of Refining NZ (now Channel Infrastructure NZ) through the Whangārei District Council’s Urban and Services plan change process and have prepared a land use and subdivision application for a multi-lot residential development at Reotahi.
22. In my role acting as Council(s) reporting planner over the last seven years, I have reported on the Refining NZ regional permit reconsenting and Waka Kotahi Warkworth to Wellsford designation and regional consents in the RMA approvals phase. In the construction phase I continue to deal with outline plans, management plans, construction consents / variations and conditions interpretations for implementation of the City Rail Link project.
23. I am a full member of the New Zealand Planning Institute and abide by the Institute’s code of ethics. While this is not an Environment Court hearing, I abide by the Courts code of conduct for the purpose of this consent process and hearing and have recently read the Courts 2023 Practice Note dated 1 December 2022, particularly section 9 – Code of conduct for expert witnesses.
24. I have visited the site and surroundings, both land and seaside, on many occasions.

1.1.2 Stacey Sharp – Reporting Planner for WDC

25. My name is Stacey Sharp and I hold the role of Senior Planner with Beca, Whangārei. I hold a Bachelor of Science (Ecology and Biodiversity) from Victoria University of Wellington and a Postgraduate Diploma in Planning from Massey University.
26. I have seven years’ experience working in various resource management positions for and on behalf of Local Authorities and in private consultancies, predominately based in Northland but working across New Zealand. Majority of my experience relates to consenting projects and policy review and development, both on behalf of Applicants and as a consulting reporting

officer on behalf of Councils. More recently, my role at Beca has focussed on major infrastructure projects and natural resource (including coastal) planning.

27. I have spent five years reporting on Whangārei District Council resource consents as a consultant planner, including developments located at Marsden Point, Ruakākā and within the Whangārei District Plan Port Zone. I contributed to the drafting of the Port Zone provisions on behalf of WDC's District Plan team through the WDC's Urban and Services Plan Changes and the Marsden City Private Plan Change (PC 150) made to Whangārei District Council to enable the development of a new town centre approximately 7km south-west of Northport.
28. I am an associate member of the New Zealand Planning Institute and abide by the Institute's code of ethics. While this is not an Environment Court hearing, I abide by the Courts code of conduct and have recently read the Courts 2023 Practice Note dated 1 December 2022, particularly section 9 – Code of conduct for expert witnesses.
29. I am familiar with the Whangārei and wider Northland context and planning framework and have visited the site and surrounding area on numerous occasions.

1.1.3 Consultant Council Specialists – WDC and NRC

30. Details of relevant qualifications and experience for the respective Council specialists are set out within their technical memorandums, included as **Appendix C**.

1.2 Probity Management

31. The Applicant (Northport Ltd) is part-owned by Marsden Maritime Holdings ('MMH'). MMH is a publicly listed company and the NRC hold approximately 53% of the MMH share capital. NRC have engaged independent consultant planners, Beca, and a suite of independent external specialists (as listed in **Section 6.4** of this report) to report on the application. Decision making functions have been duly delegated to independent RMA commissioners pursuant to Section 34 and 34a of the RMA for these applications.
32. During the time that Beca Planners and Environmental Specialists have been appointed by the Councils to prepare this Section 42A report, Northport has engaged Beca engineers to assist with the investigations and detailed design for Berth 4. Berth 4 is the subject of a granted but unimplemented resource consent. This perceived conflict was shared with the consent managers of the Councils, the Applicant and its representatives, and with the representative for Patuharakeke Hapū Trust Board. A Probity Management Plan was then put in place to isolate the Beca people working on each commission and is available on request.
33. An initial Marine Ecology Assessment was prepared in support of the proposal by a now retired 4-Sight ecologist and the Applicant has engaged the services of a 4-Sight cultural advisor. During the course of the consent processing phase 4Sight was acquired by SLR. SLR specialists were engaged by the Councils to assess Terrestrial and Underwater Noise and Marine Mammal effects. 4Sight/SLR has a probity management plan in place. It is understood that the Applicant is no longer relying on 4Sight/SLR for their marine ecology expertise, but the cultural advisor will be providing evidence.
34. The Councils have commissioned NIWA to provide coastal modelling and marine ecology expertise. NIWA has also made a submission on the application, primarily concerning their interests in a Bream Bay fish farm. The submission was prepared by the NIWA legal counsel and there is no internal NIWA interaction between the experts and Counsel.

35. During the preparation of the s42A report Mr Masfield was engaged by the Ministry of Transport to lead Iwi/Hapū engagement on development of a single stage business case for a dry dock and marine management facility at Marsden Point. The dry dock formed a part of the applicant's proposal during the pre-lodgement phase but was removed from the scope of this application at lodgement. In this role Mr Masfield interacted with representatives of Ngāti Wai Iwi Trust Board, Patuharakeke Iwi Trust Board and Te Parawhau Hapū who are submitters on this proposal and had no direct interaction with the applicant.

1.3 Adequacy of Information

36. The applications were lodged with both the NRC and WDC on 6 October 2022. At the request of the Applicant, the application was publicly notified on 4 November 2022. In conjunction with the notification process, Council requested further information pursuant to Section 92(1) of the RMA on 19 December 2022. Following a review of submissions received and receipt of Council specialist initial assessments, further information requests were made on 2 February and 5 July 2023. Formal responses were received from the Applicant dated 21 February, 21 and 27 April, 8 May, and 13 July 2023.
37. It is considered that the application is supported by adequate information to determine the application in accordance with Section 104(6) of the RMA. This report does however identify several matters that require addressing prior to or at the time of the hearing to assist the Commissioners in considering the extent of some of the identified effects and to inform the drafting of consent conditions.
38. A summary of post-lodgement and post-notification proposal amendments is provided in **Section 6.3** of this report. It is recorded that the proposal is not considered to have changed or have been revised in any substantive form or scale during the processing of the application before the Councils.

1.4 Report Format and Methodology

39. A large number of technical assessments were provided in support of the applications to both Councils, along with an Assessment of Environmental Effects ('AEE') prepared in accordance with the requirements of the RMA. This report has been prepared to avoid any undue repetition of descriptions and reference is therefore made to information in the application and specialist memorandums where appropriate, as is provided for under Section 42A(1A) of the RMA.
40. Where there is agreement on any particular matters, including technical assessments, this is identified in this report. Where there are any points of disagreement or difference in professional opinion, these are identified and the relevant points of difference of approach, assessment, or conclusions are detailed.
41. Assessment of the proposed activities requires reference to a number of sections of the RMA and provisions in various planning documents. Unless considered necessary, reference will be made to the section and/or planning provision without a copy of that section or provision being included in the report in full.
42. While lodged as two applications to each Council, this report is presented as a single document addressing both the Regional and District Council consenting matters together. If printed, this report should be reproduced in colour.

2. PROPOSAL

2.1 Overview

43. Northport have applied to the NRC and WDC for resource consent to construct, operate, and maintain an expansion of the existing Northport facility located at Ralph Trimmer Drive, Marsden Point.

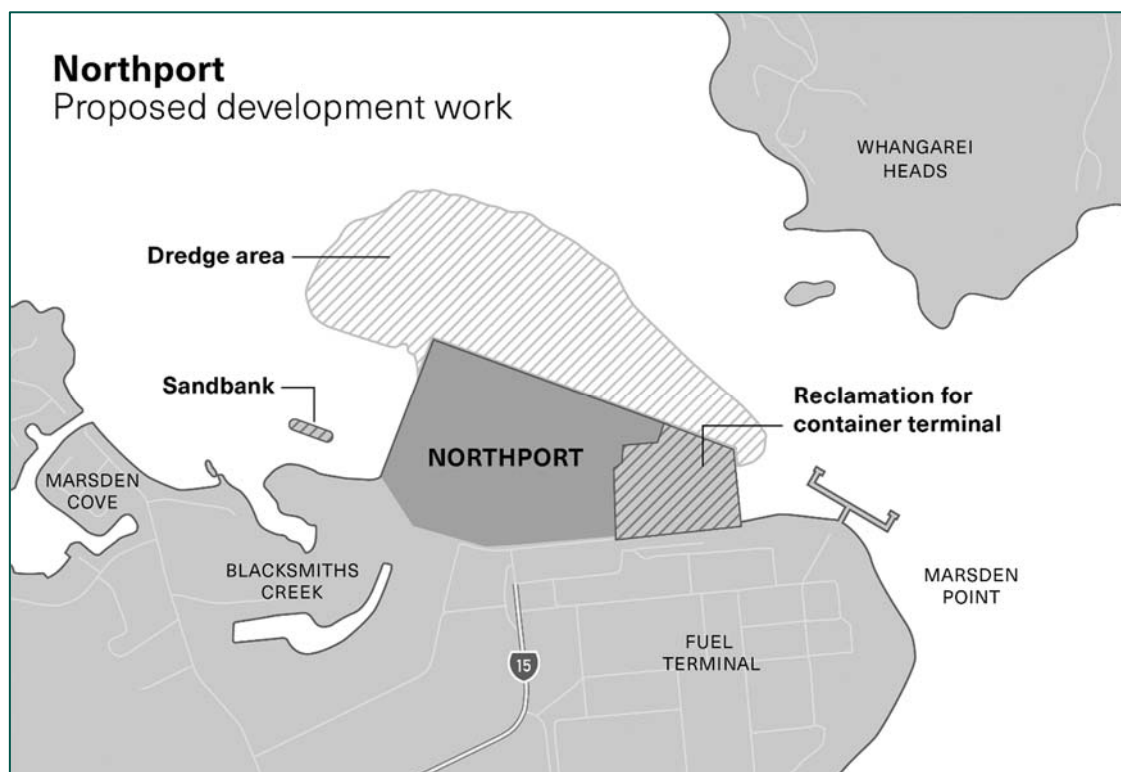


Figure 2-1: Plan showing the location of the proposal (source: Northport).

44. The proposal seeks to enable the expansion of Northport's existing facilities to increase freight storage and handling capacity and support Northport's transition into a high-density container terminal.
45. The Applicant also proposes to surrender¹ three existing consents² that manage the existing Port stormwater management system and place controls on operational noise, and landscaping requirements. These requirements are proposed to be incorporated into this resource consent application. Some of the land use consents sought by Northport therefore apply to the existing Port area and operations, as well as the future land on the proposed reclamation area.
46. A detailed description of the proposal is set out within Section 3 of the AEE entitled "*Application for resource consents for the expansion of Northport*", prepared by Reyburn and Bryant, dated

¹ Subject to the grant of these Consents

² CON 20090505532 (stormwater discharge), Decision #17 – Whangārei District Council: Land Use Consent No. 3 (Berths 1 – 2), Decision #11 – Whangārei District Council: Land Use Consent No. 1 (Berths 3 – 4).

6 October 2022 and the 29 accompanying appendices of plans and technical assessments prepared in support of the application.

47. Further detail on various components of the proposal is provided in the Applicant's responses to Council's s92 Request for Information letters (and supporting attachments) dated 21 February 2023.

2.2 Reclamation and Wharf for Berth Five and Container Terminal

48. The existing Northport facility consists of three berths (Berths 1 – 3) with a fourth berth (Berth 4) consented, but not yet constructed. The proposed expansion seeks to construct a fifth berth (Berth 5) to adjoin Berth 4, expanding the Port to the east. The expansion involves:
- Reclaiming approximately 11.7ha of Coastal Marine Area ('CMA') to form land for the proposed berth and container terminal (the areas of yellow and purple outside of the red dashed line in **Figure 2-2**);
 - Extending the existing wharf (approximately 35m wide x 250m long) along the northern face of the proposed reclamation to form an extension to the consented (but not yet constructed) Berth 4; and
 - Undertaking bulk earthworks and filling within an area of approximately 2ha above Mean High Water Springs ('MHWS') to the east of the existing Port facility, including over the existing dune system and Esplanade Reserve (area in blue in **Figure 2-2** below).

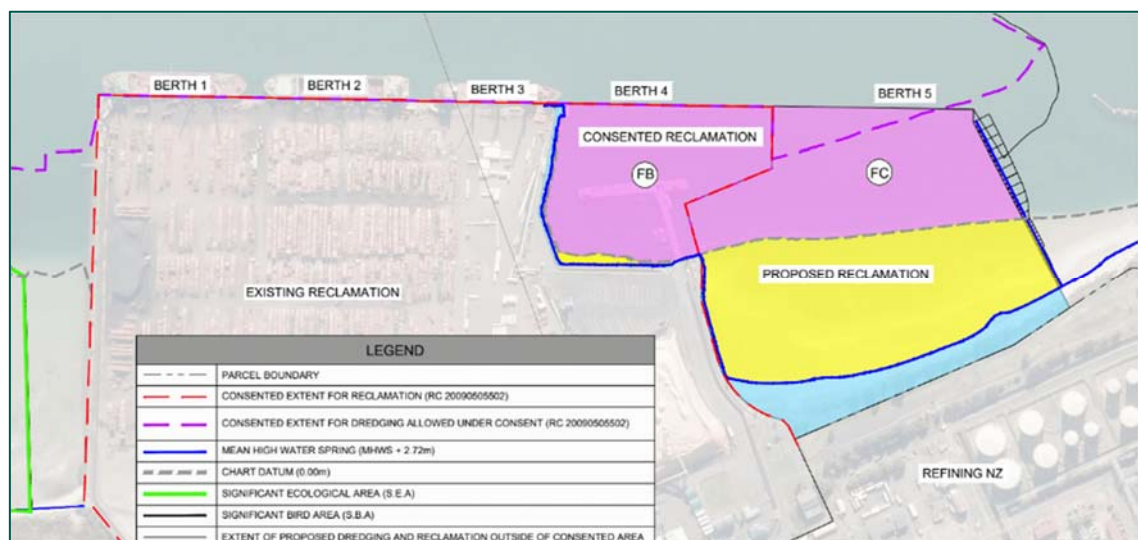


Figure 2-2: Plan showing existing Northport facilities (Berths 1 – 3), the consented but not yet constructed Berth 4, and the proposed Berth 5 (source: Appendix 3: Design Drawings).

49. An open piled marginal wharf with rock revetment will be constructed from the reclamation to the north – see **Figure 2-3** below. To protect the eastern edge of the reclamation, a rock revetment is proposed. In isolated, but undefined locations, the edge of the reclamation may require the construction of a vertical seawall.

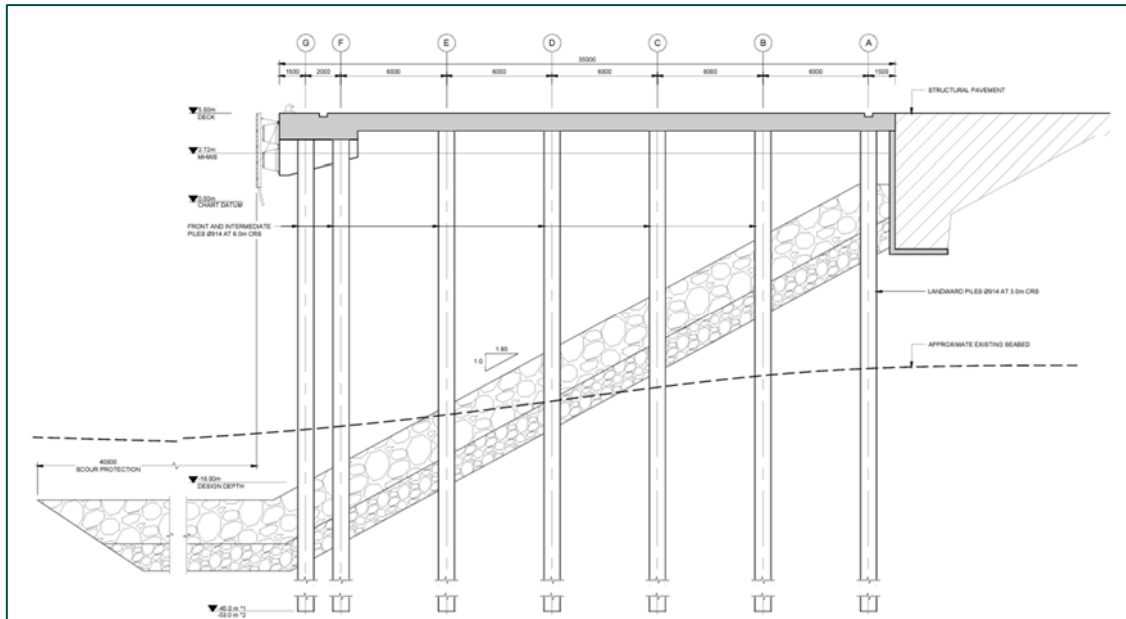


Figure 2-3: Indicative cross-section of proposed wharf structure (source: Appendix 18: Design Report).

50. The finished wharf level will match the existing wharf at 5m above Chart Datum ('CD').
51. The expansion will increase Northport's operating footprint by approximately 13.7ha, to 66.9ha in total. Overall berth length will increase by 250m, to 1,090m in total.³

2.2.1 Construction

52. Construction activities will include:
 - a. Reclamation, using the dredge spoil, with discharge of decant water;
 - b. Dredging, excavation, placement of material, and compaction;
 - c. The construction of seawalls and abutments (above and below MHWS);
 - d. Staging of construction equipment, including piling to create work platforms and install pile gates;
 - e. Pile-driving, using methods including vibro and top-driven impact hammers - this will involve cranes (shore based and/or mounted on jack-up barges), excavators and power packs (generators and hydraulic pumps);
 - f. Placement of formwork, tying reinforcing steel, and laying of ducts and pipework;
 - g. Pouring of concrete for the port deck and discharge of concrete curing water;
 - h. Construction of pavement surfaces;
 - i. Installation of wharf furniture (bollards, fenders etc); and
 - j. Installation of services and other infrastructure on the reclamation area.

³ Figures obtained from the Applicant's Economics Assessment (Appendix 22) and Design Drawings (Appendix 3).

53. Reclamation of the seabed and foreshore and bulk earthworks / filling above MHWS and of the Esplanade Reserve is proposed to be constructed from dredged material, sourced from the expanded swing basin (see next section). Imported material (likely sands and aggregates) will be utilised where required to supplement dredged sand and silts.
54. Section 3.5.5 of the AEE contains a summarised construction methodology for the reclamation, as repeated below. Further details of construction works are contained within the Design Report (Appendix 18 of the AEE).
- a. Establishment of a bund or silt curtain around the perimeter of the reclamation;⁴
 - b. Dredge spoil will be pumped or deposited into the enclosed area as slurry, likely directly from the dredge vessels via a series of pipes and booster pumps;
 - c. Sediments will settle within the enclosed area and decanted water will be pumped from the area and discharged back into the CMA;⁵
 - d. A combi-pile or sheet pile wall will likely be installed across the northern face of the reclamation by marine plant;
 - e. Piling associated with the construction of the wharf will be undertaken from marine plant. Piling will predominantly be carried out via vibro-impact hammers, although impact hammers may be required to complete the works. Support vessels (barges etc.) will be used to supply the piles; and
 - f. Hardfill (comprising crushed rock and gravels) will be placed on the reclamation to create a suitable pavement sub-base.
55. Construction is expected to take approximately three and a half years, including nine months of dredging and two years of pile installation.

2.3 Dredging

2.3.1 Capital Dredging

56. Dredging is proposed to increase the area and depth of the existing swing basin (enabling vessels to manoeuvre and dock at Berths 1 – 4), to extend the existing swing basin to serve proposed Berth 5, to deepen the berthing and associated manoeuvring area of the tug berth facility, and to enable the construction of the reclamation.
57. The proposed dredging extent is shown below in **Figure 2-4**.

⁴ The Applicant anticipates that the bund will predominantly be constructed from rock and crushed aggregate, but that some sections may need to be constructed of sheet piles.

⁵ The AEE notes that a series of internal sedimentation paddocks may be installed to settle finer-grained materials before discharging decanted water back to the CMA.

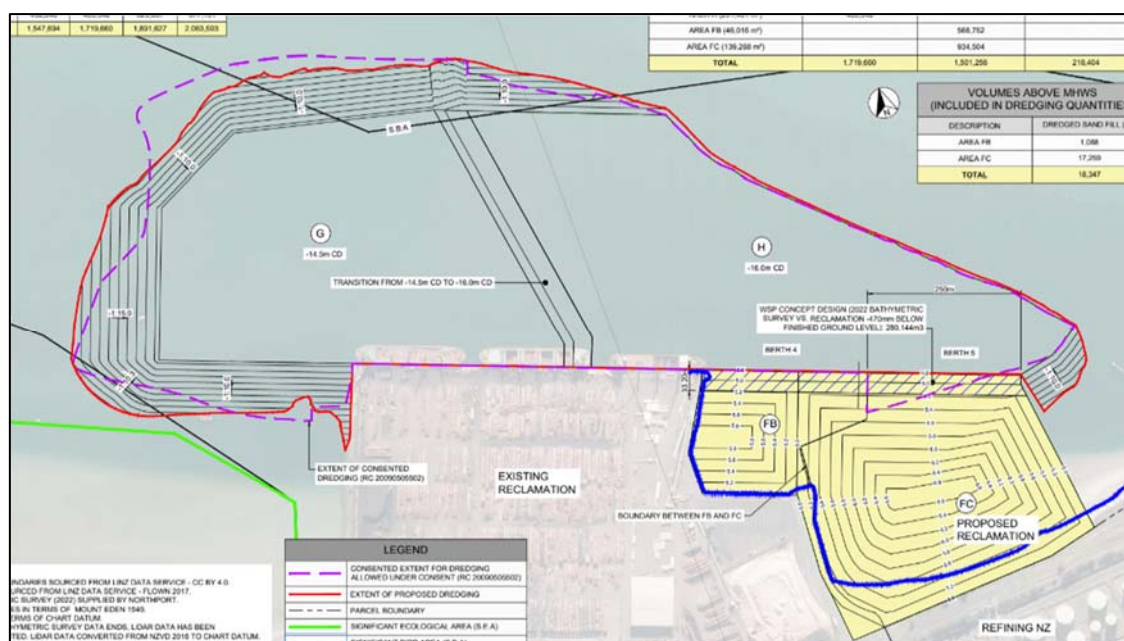


Figure 2-4: Plan showing extent of consented dredging areas (dashed purple line) and proposed dredging areas (red line) (source: Northport design drawings)

58. The existing swing basin will be deepened to -14.5m below CD at the western end and up to -16m below CD at the eastern end. The proposed dredging will increase the depth of the swing basin by approximately 2m from consented levels.⁶ Approximately 1.72 million cubic metres (m³) of material is proposed to be dredged and used to construct the reclamation.
59. Capital dredging is expected to take approximately nine months to complete.

2.3.2 Maintenance Dredging

60. Northport also seek consent to enable maintenance dredging to occur to maintain the depth of the swing basin and tug facility. The Coastal Processes Assessment (Appendix 10 of the AEE) states that up to 285,000m³ of maintenance dredging may need to occur every 5 – 15 years to maintain a navigable draft.
61. There are no details in the application regarding the proposed disposal of maintenance dredge spoil, other than the Coastal Processes Assessment noting it could be used for land-side developments within the Port and for beneficial purposes, such as supplementing the high tide roost which requires top ups of approximately 740m³ material every five years. Consent has not been sought to authorise the disposal of maintenance dredge spoil within the CMA.

2.3.3 Dredging Methodology

62. As detailed in Section 3.6 of the AEE, two dredging methodologies are likely required; one to dredge bulk volumes within the swing basin, and another to dredge finer silts and sediments and to undertake construction-related dredging. The application states that both dredging methodologies have been modelled by Met Ocean to determine potential dredge plumes.

⁶ Section 6.3 of the Applicant's Assessment of Marine Ecological Effects (Appendix 11).

Bulk Dredging (Swing Basin)

- 63. Bulk volume dredging of the swing basin (capital and maintenance) is proposed to be carried out by either using Trailer Suction Hopper Dredgers ('TSHD') or Cutter Suction Dredgers ('CSD'). The Applicant's specialist reports identify that dredge plumes and associated potential environmental effects (including on marine ecology) differ between each dredge type – refer to Section 3.6.2 of the AEE for further detail.
- 64. A TSHD drags a suction head (or heads) along the sea floor and pumps sediments into the vessel's hopper. The solids settle in the hopper once the hopper is full, the ship manoeuvres to the nominated discharge location, re-fluidises the settled sediments, and pumps these off the vessel.
- 65. A CSD uses a rotating cutter head to dislodge sediment from the seafloor and pump sediments directly to the disposal location via a pipe network.
- 66. The application notes that the dredge spoil is proposed to be used (disposed) to construct the reclamation.

Construction Dredging and Finer Silts

- 67. That AEE states that a Backhoe Dredger ('BHD') is proposed to carry out construction (capital) dredging, which involves shaping batter slopes and dredging in close proximity to existing berths and structures. The BHD provides a more accurate dredging kit than the TSHD and CSD proposed to undertake the bulk dredging of the swing basin. The BHD is also proposed to be used to dredge finer silts and sediments from the swing basin.
- 68. A BHD is typically a barge, fixed with a long-reach mechanical excavator (similar to a digger) that excavates material and dumps it into a supporting hopper barge. Once the hopper barges are full, dredged material is transported to shore for disposal/reuse.
- 69. The AEE states that in addition to a typical BHD set up, the Applicant may also use a barge with a crane and clamshell (a type of bucket/scoop that hinges from a crane chain) for these works as they have similar work rates and dredge plumes.

2.3.4 Earthworks and Vegetation Removal

- 70. Earthworks of approximately 28,200m³ (17,300m³ excluding pavement material) are proposed over an area of approximately 23,210m² to construct the proposed reclamation. Approximately 7,200m² (320m long x 10 – 25m wide) of foredune⁷ and several Public Trees will be removed from the Marsden Bay beach and esplanade reserve located to the east of the existing Port.
- 71. The WDP-OP definition of *Public Tree* includes trees over 6m in height or having a girth (measured 1.4m above the ground) greater than 600mm that are located within a road reserve, park or reserve administered by WDC. The exact number or location of public tree removals has not been quantified in the application documentation however it can reasonably be ascertained

⁷ Section 5.4 of the Applicant's Terrestrial Ecological Assessment (Vegetation Removal) dated 05 May 2023, provided as part of the Applicant's s92 response.

that the Public Trees proposed for removal are those located within the Esplanade Reserve to the east of the Port.

2.4 Container Terminal Operations

2.4.1 Activities

72. The proposal seeks to enable the establishment and operation of a Container Terminal on the reclaimed land, which the Applicant's s92 response (dated 21 February 2023) notes as including the following:
- a. Berths/wharves;
 - b. Container handling areas and equipment (cranes, trucks, trains etc.);
 - c. Harbour control facilities;
 - d. Coastguard facilities;
 - e. Biosecurity facilities;
 - f. Boarder control/customs facilities;
 - g. Quarantine facilities;
 - h. Tug and pilot facilities; and
 - i. Offices, workshops, and other facilities to support the above.
73. The Applicant's position that the constituent components of a Container Terminal, as set out above, falls within the WDP-OP definition of *Port Activities* is accepted, noting that the definition applies to land zoned as Port Zone (which the reclamation won't adopt until the time that a Record of Title is issued and a plan change occurs).
74. The Applicant's s92 response also notes that while the primary purpose of the facility is a container terminal, from time-to-time other temporary port uses may need to be accommodated (i.e. cruise ships).
75. Exclusive occupation rights are sought for the proposed Port structures. Consent is also sought to enable construction, operation, and maintenance activities to occur within the CMA, up to 60m seaward of the proposed reclamation and wharf structures. As clarified through the s92 process, the Applicant does not seek exclusive occupation of the CMA within this 60m activity area.

2.4.2 Container Terminal: Design and Capacity

76. As set out in Section 1.1 of the AEE, the Applicant seeks to construct a container terminal sufficient to handle at least 500,000 twenty-foot equivalent containers ('TEUs') per annum, to locate all container services on the new terminal to enable growth and diversification of other freight on the existing Port facility, and to allow for the integration of rail freight following the construction of the Marsden Point spur.
77. No concept plan showing the layout of the container terminal was provided with the application. With regard to freight connections, the Applicant's s92 response noted that road and rail transport is expected to enter and exit the expanded facility from the end of Port Marsden Highway - State Highway 15 ('SH15'), which aligns with the existing road network and rail designation.

78. An artist's impression of the proposed container terminal was included within the Landscape Assessment (Appendix 15 of the AEE), as shown in **Figure 2-5** below.

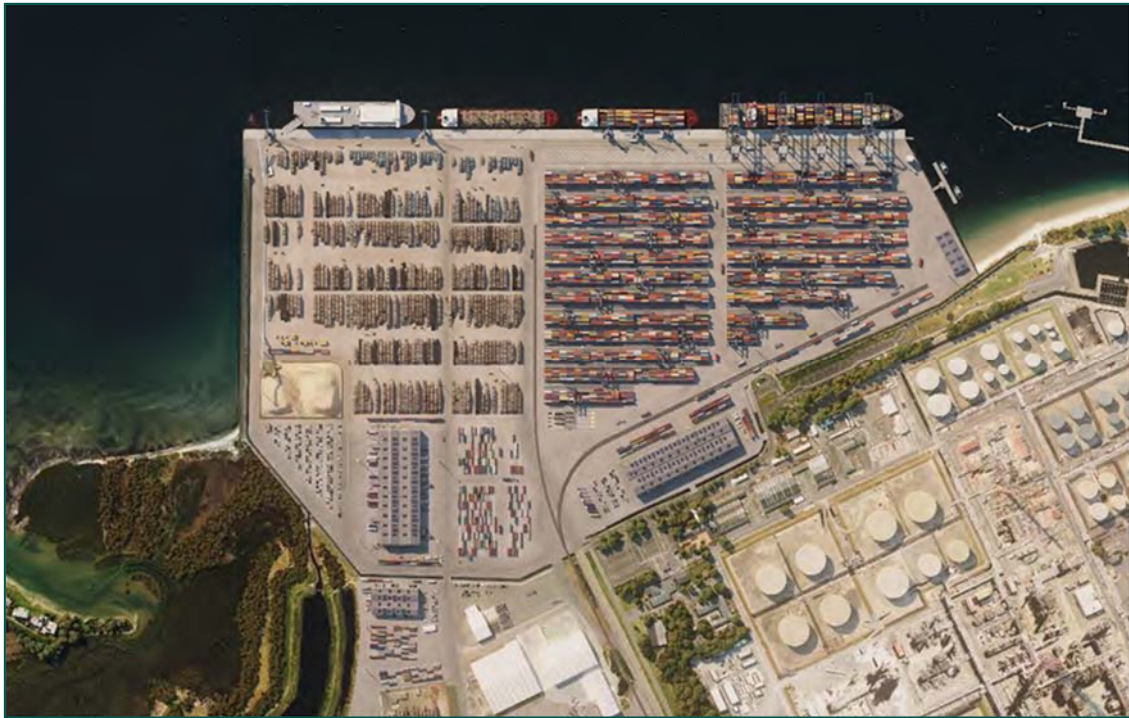


Figure 2-5: Artist impression of expanded Port facility (*Source: Brown Landscape Assessment*)

2.4.3 Land Use Controls: Development and Activities

79. Berths 1 – 3 of the existing Port facility comprise of reclaimed land that is now zoned Port Zone (Port Operations Area A) under the WDP-OP. The land use rules of the Port Zone manage activities and impose bulk and location standards for buildings, major structures, and outdoor areas of storage and stockpiles.
80. Berth 4 is subject to a granted, but not yet implemented, land use consent for activities to be undertaken on its reclamation which includes conditions that impose similar restrictions on activities and development to the Port Zone rules.⁸
81. Until proposed Berth 5 (which will become land following the issue of a RT) is rezoned through a plan change process, the reclaimed land will be innominate and 'zoneless' under the WDP-OP. Until rezoning occurs, Section 87B of the RMA requires that activities and development within Berth 5 are managed via resource consent.

⁸ With regard to activities and bulk and location controls on built development, Condition 5 of Decision #11 – Whangārei District Council: Land Use Consent No. 1 states “until such time as the proposed Whangārei District Plan is operative and the relevant zoning provisions of the Marsden Point Port Environment [the former Port Zone] 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”.

Other conditions control lighting (Condition 8), landscaping (Condition 9 - 12), building form and colour (Condition 13).

82. The application proposes interim land use management controls for proposed Berth 5 as conditions of consent that reflect the permitted height limits of the adjoining Port Zone (Port Operations Area A). The proposed height limits are detailed in **Section 2.6.1** below and apply to buildings, major structures, and areas of outdoor storage and stockpiles.
83. The Applicant seeks consent to enable Port Activities (as defined by the WDP-OP) to be undertaken on Berth 5, subject to the height limits proffered as part of the application. No other development or activity-related restrictions are formally proposed.
84. The WDC assessments have been informed by the scope (i.e. the description of the proposal) set out within the application. WDC assessments do not extend beyond this scope to consider future potential land uses that could be undertaken on berth 5, should it be rezoned as land in the future.⁹ Consideration of these matters are more appropriately considered at the time of any future plan change, where the final zoning form is understood, or as part of a future resource consent application process.

2.4.4 Hours of Operation and Lighting

85. Activities proposed to be undertaken on Berth 5 will occur on a 24-hour basis, as per current operations. The installation and use of artificial lighting is proposed to enable a safe working environment for after-dark operations.
86. The AEE states that details of the proposed lighting layout will depend on the final layout of the storage areas and the type of equipment used to handle cargo. Northport anticipates that the new lighting system will utilise LED technology and lighting poles that have a height of approximately 36m.

2.4.5 Cranes

87. While Mobile Harbour Cranes (**Figure 2-6**) will be used in the short to medium term, in the longer term, Ship to Shore Gantry Cranes (**Figure 2-7**) are proposed across the expanded port area.

⁹ The application seeks to enable *Port Activities* on Berth 5, as defined by the WDP-OP.

In addition to Port Activities, the WDP-OP Port Zone also provides for helicopter facilities (including take-off, fuelling, and service facilities), and plant nurseries as permitted activities in Port Management Area A. A greater range of commercial and industrial land uses are provided for in the Port Management Area B and C environments, including services stations, trade retail, general retails, food and beverage activities etc. These additional activities are not considered to fall within the scope of this application.



Figure 2-6: Existing Mobile Harbour Cranes in use at Northport (source: AEE, Figure 3).



Figure 2-7: Ship to Shore Gantry Cranes in use at the Ports of Auckland (source: AEE, Figure 4).

88. Ship to Shore Gantry Cranes have a height of approximately 83m when in use, and approximately 117m when not in use (the main boom is raised when the cranes are not in use).
89. No maximum number of cranes have been proposed.

2.4.6 Stormwater

90. The existing canal and pond-based stormwater collection and treatment system is proposed to be retained and utilised to capture and treat runoff from the proposed expansion area. The AEE states that, depending on the final design of the expansion, proprietary devices may also be utilised.
91. To cater for the additional flows generated by proposed berth 5, a new perimeter canal is proposed to be constructed along the eastern and southern edge of the proposed reclamation. Slot drains will be installed throughout the berth to direct stormwater from the northern half of the expansion and docks to the canals, which will transport flows to the existing treatment ponds on the adjoining Marsden Maritime Holdings ('MMH') land (Lot 2 DP 504140). Following treatment, stormwater will be discharged to the CMA under the western end of Berth 1, via the existing system.

92. In response to Council's s92 request for information, the proposed stormwater management system was revised to incorporate allowance for climate change in accordance with the WDC Engineering Standards 2022 (Section 4.3.10.1 'Design Rainfall Event' – 20%) ('ES 2022').
93. Northport seeks to re-consent the existing stormwater treatment system covering the existing and proposed port expansion and proposes that the existing NRC stormwater discharge permit (CON20090505532) is surrendered when proposed Berth 5 becomes operational. The conditional requirements (including water quality standards and monitoring requirements) of CON20090505532 are formally proposed, with minor amendments¹⁰, as draft conditions for consent.

2.4.7 Noise

94. Noise will be generated by construction and operational port activities, experienced from both above-ground (terrestrial) and underwater receiving environments. Terrestrial noise is assessed within the Marshall Day Noise Assessment (Appendix 4 of the AEE) and underwater noise is assessed within the Styles Group Underwater Noise Assessment (Appendix 25 of the AEE).

Construction Noise

95. The AEE identifies that the main sources of construction noise (both terrestrial and underwater) are likely to be:
- a. The construction of the reclamation (dredging operations) and the wharf structures (predominantly as a result of piling works);
 - b. The movement of construction trucks; and
 - c. The use of concrete trucks and pumps.
96. The application is made on the basis that construction noise (and vibration) will comply with the permitted standards of the WDP-OP.

Operational Noise

97. Northport seeks to change how operational port noise is managed for activities undertaken on Berths 1 – 4, and for future activities undertaken on proposed Berth 5. The proposal is to manage noise in accordance with the New Zealand Standards for Port Noise (NZS Port Noise) rather than the noise provisions of the WDP-OP.
98. The proposed noise management changes are detailed within section 3.4 of the application and the Marshall Day Noise Assessment (Appendix 4 of the AEE) and in summary, include:

¹⁰ The proposed stormwater conditions seek to enable treatment via an alternative proprietary treatments systems/devices prior to discharge to the CMA, subject to prior certification from Council. The scope of CON20090505532 does not appear to provide for this.

Condition 6 of CON20090505532 also requires that "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". No corresponding condition appears to be proposed as part of this application.

- a. Introduction of a Port Noise Management Plan ('PNMP') that includes controls to minimise port noise through best practice and ongoing community liaison group(s);
 - b. New maximum noise levels; and
 - c. A requirement for Northport to offer noise mitigation (via mechanical ventilation) when monitored or predicted noise reaches a specified level at the façade of a residential unit.
99. The relevant existing (WDP-OP) and proposed (NZS Port Noise) maximum port noise levels¹¹ are shown **Table 1** below.

Table 1: Existing and proposed maximum port noise levels.

Existing WDP-OP Noise Limits		Proposed NZS Port Noise Limits	
Day time (0700 – 2200 hours)	Night time (2200 – 0700 hours)	Day-night (Long Term)	Night-time (Short Term)
55 dB LAeq	45 dB LAeq	58 dB L _{dn} (5-day)	53 dB LAeq (9 hrs)
		61 dB L _{dn} (1-day)	58 dB LAeq (15 min)
	75 dB LA _{Fmax}		75 dB LA _{Fmax}

100. The new noise management framework is proposed to apply to Berth 4 (consented but not yet constructed) and Berth 5 (the proposed expansion) immediately following their respective construction.
101. Northport propose that up until the point that port operations commence on either Berth 4 or Berth 5, the existing noise controls applying to Berths 1 – 3 will remain. Following the commencement of port operations on either Berth 4 or Berth 5, Berths 1 – 3 will also adopt a NZS Port Noise management framework.

2.4.8 Traffic

102. The proposal seeks to utilise existing vehicle accessways and transport infrastructure providing access to/from and within the Port. This includes the SH15 access, slip lanes, security and weighbridge gates at the Port's main entrance and the existing carparking provided adjoining the Northport administration offices (accessed off Ralph Trimmer Drive). No upgrades are proposed to existing accessways.
103. The Applicant's Traffic Impact Assessment (Appendix 27 of the AEE) ('TIA') assumes the proposed expansion of the Northport facility, as enabled by this proposal, will occur by 2033. At full expansion (2033) the TIA anticipates:
- a. Staff numbers will increase by 100, to 400 staff members total;
 - b. The total additional port traffic on SH15 is expected to be 806 trips per day, 142 trips per day as a result of additional staff members;
 - c. Cruise ships will make use of the facility by year five (2023) and up to 30 cruise ships per year are expected to dock at the Port by year 10 (2028), averaging 1,500 passengers per

¹¹ When received in residential zones and at the notional boundary of any residential unit in other zones.

ship. Majority of passengers expected to travel from the Port to their destination by bus; and

- d. No additional car parking is currently delineated on any application plans, although the TIA notes there is sufficient space within the Port facility to accommodate 100 additional car parks. A plan showing a potential additional carparking area was provided as part of the Applicant's s92 response.

2.5 Tug Berthing, Water Taxi / Fishing Pontoon, Public Spaces

- 104. A new berthing facility for tugs, work boats, and pilot vessels is proposed to replace the existing tug wharf at the eastern end of the reclamation. A replacement (publicly accessible) water taxi berth and fishing pontoon is proposed in the same area. Refer **Figure 2-8** below.

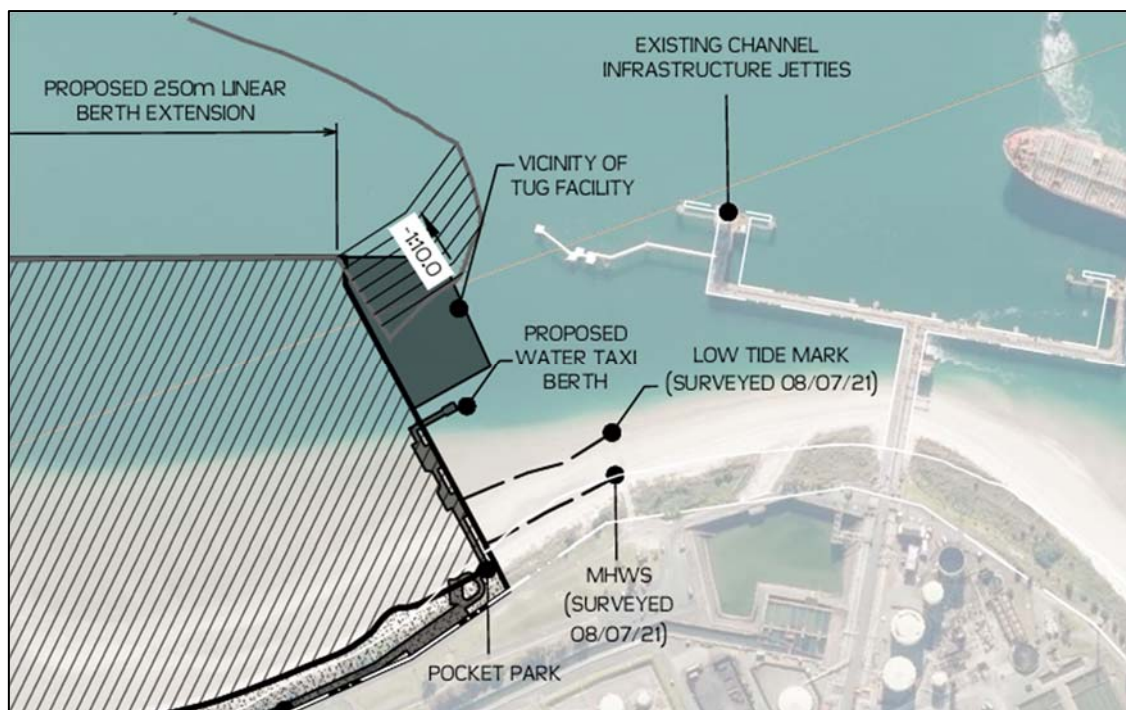


Figure 2-8: Plan showing proposed ancillary features to the east of the proposed reclamation (source: Northport Letter dated 25 October 2022).

- 105. As shown in **Figure 2-9** below, access to the pontoon will be incorporated with a new public park with carpark and toilets (referred to as the Pocket Park henceforth), proposed as mitigation for the loss of the existing Marsden Bay beach and Esplanade Reserve.



Figure 2-9: Proposed Pocket Park (source: Pocket Park Concept Plan – Appendix 6 of the AEE).

2.6 Proposed Mitigation

2.6.1 Overview of Proposed Mitigation

106. In addition to the mitigation details provided within the AEE, further detail on proposed mitigation measures are set out within the Applicant's draft proposed conditions of consent, submitted as part of the s92 response. Proposed mitigation measures are summarised below.

Construction and Operational Management

- a. Preparation and ongoing adherence to the following management plans:
 - i. Port Noise Management Plan;
 - ii. Construction Traffic Management Plan;
 - iii. Construction and Environmental Management Plan, which is to include a Marine Mammal Management Plan and additional provisions relating to avifauna, biosecurity, dust, erosion and sediment control, turbidity monitoring during dredging, and general dredging effects management;
 - iv. Capital and Maintenance Dredging Management Plans;
 - v. Environmental Monitoring and Management Plan;
 - vi. Air Quality Management Plan (operations); and
 - vii. Coastal Processes Shoreline Monitoring, annually for a period of five years following the completion of construction works.
- b. Height limits for buildings and major structures on proposed Berth 5, as per those of the adjoining WDP-OP Port Zone (Management Area A), including:
 - i. Maximum building and major structure height: 20m above deck level;

- ii. Maximum height for public utilities, light towers, silos, aerials, and tanks: 60m above deck level;
- iii. Maximum height for containers: 30m;
- iv. Maximum operational height for cranes: 85m above ground level (noting no maximum height proposed for cranes that are not in operation); and
- v. Storage/stockpile height: 20m above deck level.
- c. Maintenance of a complaints register and the implementation of a Port Noise Liaison Committee

Marine Mammals and Marine Ecology

- a. Establishment of a Marine Mammal Observation Zone (MMOZ) during pile driving extending 800m beyond the proposed location of piling driving activities, with 'stop work' directives for:
 - i. Sightings of terehu (Bottlenose Dolphin), popokanua (Common Dolphin), Kakahi (Orca), or Oioi (Fur Seals) within 200m of active pile driving activities; and
 - ii. Sightings of baleen whales or popoiangore (Leopard Seal) sightings within 800m of active pile driving activities.
- b. Restrictions on pile driving activities; to be undertaken during the hours of daylight and scheduled to minimise impact on marine mammals (avoiding, where practicable, works occurring over successive marine mammal seasons)
- c. Turbidity monitoring during dredging, as detailed further below

Avifauna

- a. Creation of a new high-tide seabird roosting habitat within the inter-tidal area, to the west of the existing port facility (to be established before construction activities commence), with ongoing monitoring and maintenance – refer to **Section 2.6.2** below for further detail
- b. Pre-construction surveys for Kororā (Little Blue Penguin) within the existing eastern boundary riprap revetment, with monitoring of construction works to be undertaken by a qualified coastal ornithologist if Kororā are identified within 10m of the proposed works
- c. Pre-construction surveys for Tōrea pango (Variable Oystercatcher) during breeding seasons (September – March), with monitoring of construction works to be undertaken by a qualified coastal ornithologist if potential Tōrea pango nests are identified within 20m of the proposed works

Terrestrial Ecology

- a. Financial contribution (amount unspecified) to the Bream Bay Coastal Care Trust for the purpose of protecting indigenous duneland vegetation within the Ruakākā area

Stormwater

- a. Construction discharge monitoring of reclamation decant water to the CMA (includes turbidity quality standards)
- b. Operational stormwater discharge monitoring and quality standards, as per Northport's existing resource consents

Recreation

- c. Creation of a new publicly accessible Pocket Park, and water taxi pontoon as described within **Section 2.5** above and generally depicted within the AEE, and retention of the existing fishing jetty on the western edge of the reclamation

Traffic

- a. Monitoring of port traffic and associated impacts on the capacity of the following intersections, with associated upgrade triggers:
 - i. SH15 – Marsden Bay Drive;
 - ii. SH15 – Marsden Point Road; and
 - iii. SH15 – One Tree Point Road

Noise (Terrestrial)

- a. Acoustic mitigation for dwellings experiencing Port noise in excess of 55 dB Ldn (5-day). Possible mitigation options include the installation of mechanical ventilation systems.
107. The mitigation and management controls set out therein form part of the proposal to be considered.
108. The AEE and s92 response state that Northport's engagement with tangata whenua is being undertaken in parallel to this resource consent process. At the time of writing, no proposed conditions of consent addressing cultural matters had been submitted to Council for consideration within this assessment. An updated set of draft conditions (likely to include cultural conditions, turbidity management, and conditions responding to matters raised by submissions) is expected to be provided prior to or at the hearing.¹²

2.6.2 High Tide Bird Roost

109. To mitigate loss of approximately 20,800m² of high tide bird roosting habitat at Marsden Bay beach, a high-tide seabird roosting sandbank is proposed to be constructed in the inter-tidal area, to the west of the existing port facility. This is shown as the 'sand bank' in **Figure 2-1** above and in **Figure 2-10** below.
110. The proposed bird roost measures approximately 120m long x 10m wide, having a total footprint of 5,423m². The area of the roost to remain above the level of MHWS measures approximately 1,217m². The proposed crest height is approximately 0.6m above MHWS and wave overtopping is expected in onshore wind conditions.
111. Section 2.3.4 of the Coastal Processes Assessment identifies that the crest of the proposed roost area (being the area above MHWS available for use) is approximately 9% of the total area of Marsden Bay beach that is proposed to be occupied by the reclamation.

¹² Refer email from Brett Hood to Council officers, dated 21 April 2023.

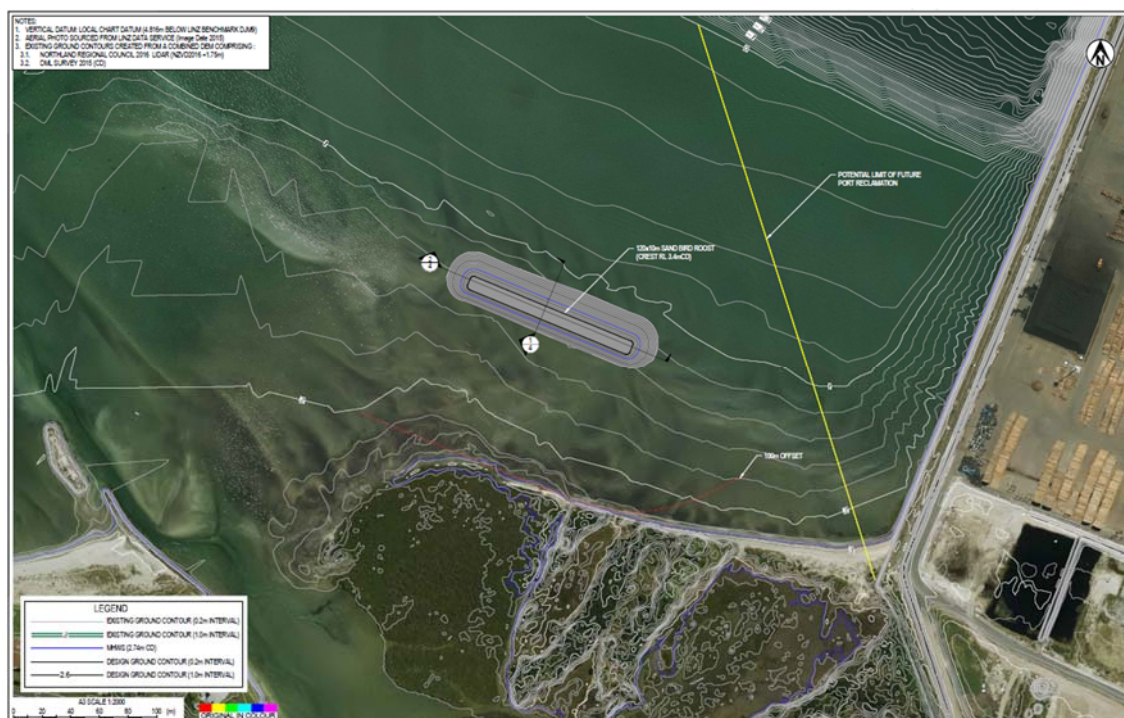


Figure 2-10: Proposed high-tide bird roost (*source: Coastal Processes Assessment*)

112. The Applicant proposes to construct the roost prior to the reclamation works commencing so it is operational and available for use before birds are displaced by land-based construction activities.
113. The roost is proposed to be constructed from either the reclamation dredge spoil or beach sand from the area to be occupied by proposed Berth 5. Section 2.3.3.2 of the Coastal Processes Assessment states that whilst either sand source location could be used, the dredge spoil would require processing and rework to remove the fine sediments (the clean medium to fine sands would be retained) if it were to be used to construct the bird roost.
114. Provision for 'top-ups' to replace sand material displaced as a result of over-wash and coastal erosion is provided for in the application, with a top-up volume of 10% of the capital volume (740m³) recommended every five years.

2.7 Consent Administration

2.7.1 Lapse and Duration

115. The Applicant has applied for a 10 year lapse date on the WDC consents under Section 116(2)(b) of the RMA from commencement and identified that commencement would occur once the reclamation is completed and a Section 245 certificate issued.
116. No lapse date is offered for the regional consents.
117. A 35 year duration is sought for the regional consents.

2.7.2 Surrenders

118. Subject to the grant of these consents, following the construction of the reclamation, the Applicant proposes to surrender the following three existing consents that manage activities undertaken across the existing (built and consented) Port facility, Berths 1 – 4:
- a. **CON20090505532:** NRC discharge permit to discharge treated stormwater from the existing storage and settlement pond system, which collects construction and operational stormwater runoff from Berths 1 – 4. Conditional requirements largely reflect those proposed in the Applicant's set of draft NRC conditions proposed as part of these consent applications - the exception being maintenance requirements for the storage and settlement ponds, which does not appear to have been repropoed as part of this application. Refer **Footnote 10** above for further detail.
 - b. **Decision #17 – Whangārei District Council: Land Use Consent No. 3:** WDC land use consent managing Port operations across Berths 1 – 2. Decision #17 conditional requirements relate to:
 - i. Activities undertaken on the reclamation are provided for as per permitted standards of the former Marsden Point Special Industrial Zone;
 - ii. Financial contributions, including; a one-off reserves contribution payment of \$375,000 to WDC (0.5% of the assessed development value), a one-off contribution of up to \$30,000 to WDC for the upgrade of the McLeod's Bay public wharf, \$1.5m of progressive payments to WDC to contribute to the upgrade costs of the Ruakākā Bypass route from SH1 to the Port;
 - iii. Independent roading assessment of likely construction traffic routes, with contributions for maintenance where required (no amounts specified), and the provision of bus shelters along Marsden Point Road and at McLeod Bay;
 - iv. Provision of public access, including legal (via right-of-way easement) and physical public (vehicular and pedestrian) access from One Tree Point Road to the western edge of the reclamation, and physical vehicular access (via access strip) to the eastern edge of the reclamation;
 - v. Control of Port noise, artificial lighting, landscaping along the Port boundaries and public areas, and controls on building form and colour; and
 - vi. Establishment and facilitation of a Community Liaison Group ('CLG').
 - c. **Decision #11 – Whangārei District Council: Land Use Consent No. 1:** WDC land use consent managing Port operations across Berths 3 – 4. Decision #11 (ongoing) conditional requirements relate to:
 - i. Activities undertaken on the reclamation are provided for as per the permitted Marsden Point Port Environment ('MPPE') standards (former Port Zone);
 - ii. Control of Port noise, artificial lighting, landscaping along the eastern edge of the reclamation, and controls on building form and colour; and
 - iii. Use of the previously established CLG and quarterly meetings with Patuharekeke Hapū to discuss operations and monitoring.
119. These consents are proposed to be superseded by the new consents sought as part of this proposal, which will manage activities across the entire Port facility - existing Berths 1 – 3, consented but not yet constructed Berth 4, and proposed Berth 5.

120. For consent administration purposes it is noted that consent records provided by the Applicant identify Berths 1 – 2 are subject to at least 11 NRC and WDC resource consents. Berths 3 – 4 are recorded as being subject to at least 12 consents. The extent of the proposed consent surrenders are the three resource consents listed above – no details are set out within the application that indicate any further surrenders are proposed.
121. It would be helpful if the Applicant provides a detailed analysis of the consents that apply to the Port, those that are proposed to be surrendered, retained and/or varied. Further, analysis of all of the conditions of these consents to demonstrate those that are fulfilled or no longer necessary/relevant, and those that need to be included in the proposed conditions of consent for these applications.

3. EXISTING ENVIRONMENT

3.1 Site and Surroundings

3.1.1 Site Description

122. The existing environment is described in section 4 of the AEE and as amended by the Applicant's s92 response dated 21 February 2023. Having visited the site and surrounding Marsden Point and Reotahi areas on a number of occasions, we concurs with this general description and adopts it for the purpose of this assessment. A summary of key elements of the existing environment is set out below.

123. The site for the purpose of this application comprises:

- a. The consented but not constructed Berth 4;
- b. The consented maintenance dredging in and around the existing Port and Berth 4;
- c. The existing Northport facility and stormwater ponds located to the south of the Port (Lot 2 DP 504140 - owned by MMH) – refer **Figure 3-1**;
- d. CMA, being the extent of the reclamation and dredging footprints and additional space for occupation and use (structures and Port surface-water activities);
- e. Approximately 2ha of Marsden Bay beach and the adjoining Esplanade Reserve to the east of the Port; and
- f. Sections of Ralph Trimmer Drive.



Figure 3-1: Aerial image showing the existing Northport facility and stormwater ponds (*source: Grip*).

124. The existing Port facility is occupied by the following uses, as shown in **Figure 3-2** below:

- a. Log marshalling (46%);
- b. Other exports in containers (15%);
- c. Wood chip (5%), LVL (3%), Coal (2%), and other wood products (1%);

- d. Agricultural imports (1%);
- e. Operational areas, including administration, wharf aprons, access roads (10%); and
- f. Multi-cargo, including areas utilised for containers (12%).



Figure 3-2: Existing Port uses (source: ME Economics Assessment)

- 125. The main vehicle access entry point to the existing Northport facility is provided from SH15. South of the main entrance to the port, there is also a slip lane that provides secondary access/entry for logging trucks and others and direct access to the descaling area for the log trucks. Regular access truck operators are provided with swipe access cards to the Port, with the weighbridge also accessible along this route.
- 126. All vehicles exit the Port via the main SH15 entrance/exit.

3.1.2 Surrounding Environment

- 127. The site is located at Marsden Point, Ruakākā, approximately 2.5km to the east of One Tree Point, 4km north of Ruakākā, and 1km south of Reotahi (across the Harbour). The existing Port facility is adjoined by the Channel Infrastructure site to the south-east and the industrial-zoned MMH landholdings to the south-west.
- 128. The existing environment, beyond the site, includes:
 - a. The existing, consented operations of the Channel Infrastructure facility¹³ which provide for exclusive occupation of the CMA by the jetty and associated structures and prohibited areas of the NRC Navigation Safety Bylaw 2017 (as detailed in **Section 3.3.2** below);

¹³ Whilst it is acknowledged that Channel infrastructure is transitioning away from refining activities to an import terminal, a full suite of [renewal consents](#) were granted by NRC for refining operations on 3 March 2021. These consents are not known to have been surrendered or transferred, and therefore form part of the existing environment.

- b. Various industrial and commercial land uses that predominate the Marsden Point peninsular, including log scaling and processing operations, concrete batching plant, manufacturing premises, sand mining, and timber storage and manufacturing facilities;
- c. The existing Ralph Trimmer Drive public car park (containing approximately 20 car parks) and public toilet, Esplanade Reserve¹⁴, the 730m stretch of Marsden Bay beach located between the existing Port and Channel Infrastructure jetty¹⁵, and the Blacksmiths Creek estuarine environment and walking track;
- d. The existing public fishing jetty, located on the western side of the existing Port facility (proposed to be retained) and the existing tug facility and public jetty, located on the eastern side of the existing Port facility (proposed to be removed and replaced). The jetty provides berthage for the water taxi, including that which transports Te Araroa trail users across the Whangārei harbour;
- e. Residential settlements of One Tree Point, Marsden Cove, Ruakākā, and Whangārei Heads communities across the harbour (including Reotahi, McLeod Bay, and Urqharts Bay) and associated small-scale commercial activities and social/community infrastructure (schools, boat ramps, playgrounds etc.);
- f. The Marsden Bay and Whangārei Harbour entrance coastal environs and associated ecosystems (including the Motukaroro Marine Reserve), natural landforms that characterise the outer reaches of the Whangārei Harbour, including the volcanic peaks of Mt Manaia, Mt Aubrey, Mt Lion, Bream Head and forests of Whangārei Heads; and
- g. The cultural landscape as described within Section 4.2 of the AEE and the Patuharakeke Cultural Effects Assessment ('CEA').

3.2 Planning Notations: Zoning and Resource Overlays/Features

129. With regard to mapping features and notations, the planning documents of relevance to this application include the:
- a. Regional Policy Statement for Northland 2016 ('RPS');
 - b. Proposed Regional Plan – Appeals Version ('PRP-AV');
 - c. Operative Regional Coastal Plan ('RCP'); and
 - d. Whangārei District Plan – Operative in Part ('WDP-OP').
130. Key planning notations of the above-listed planning documents are detailed in Section 6.3 of the AEE and summarised below.

3.2.1 Regional Policy Statement for Northland

131. *"Northport, including the adjoining land used for the movement and storage of cargo"* is identified in the RPS as Regionally Significant Infrastructure ('RSI').

¹⁴ Section 8 Block VIII Ruakākā SD owned by Whangārei District Council. There is no conservation management strategy or reserve management plan known to exist for this section of the Esplanade Reserve.

¹⁵ Section 6.1 of the Recreation Effects Assessment (Appendix 19), page 52.

132. The RPS maps identify the extent of the Coastal Environment and Outstanding Natural Landscapes, Outstanding Natural Features, and areas of Outstanding and High Natural Character, as directed by the NZCPS.
133. With the exception of the MMH stormwater ponds, the entire site is located within the Coastal Environment. This mapping is reflected in the WDP-OP (landside of MHWS) and the PRP-AV (seaward of MHWS). As detailed in subsequent sections, the mapped RPS Outstanding Natural Features and areas of Outstanding and High Natural Character are reflected in the PRP-AV mapping, with Outstanding Natural Landscapes included within the WDP-OP maps.
134. The site is not located within or near any Statutory Acknowledgement Areas.

3.2.2 Proposed Regional Plan – Appeals Version

135. With regard to the PRP-AV's coastal zones, the proposed expansion footprint (including the reclamation and dredging areas) is located within the Marsden Point Port Zone – refer **Figure 3-3** below.

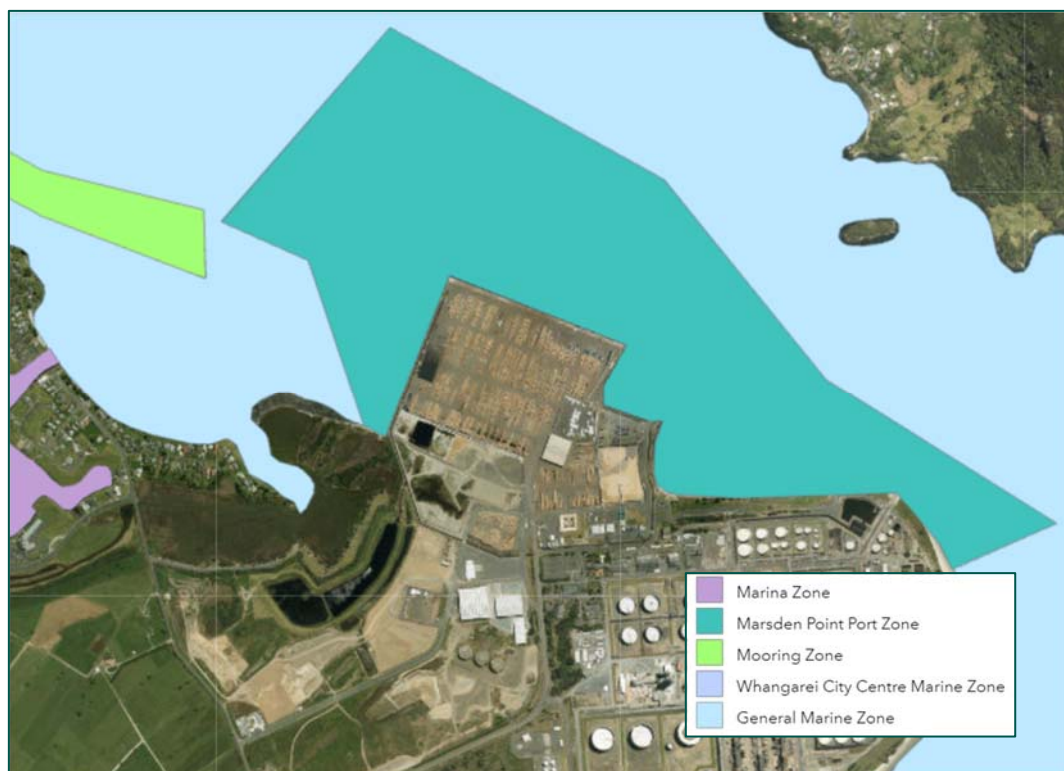


Figure 3-3: Proposed Regional Plan – Appeals Version Zoning Map (*source: PRP-AV maps*)

136. With regard to resource overlays, the entire reclamation footprint is located within the Significant Marine Mammal and Seabird Area ('SMSB') of the PRP-AV and a small area of the existing (and proposed) dredging footprint is located within the Significant Bird Area ('SBA'). The proposed high-tide bird roost will be located within the Significant Ecological Area ('SEA') located to the west of the existing Port. Refer **Figure 3-4** below.



Figure 3-4: PRP-AV Coastal Ecology Overlays (source: PRP-AV Maps)

137. As shown in **Figure 3-5** below, to the east, west, and north of the Port, the northern fringe of the Harbour is mapped as areas of High and Outstanding Natural Character.
138. The Reotahi Freezing Works are identified as a Historic Heritage Area, and Mair Bank and an expanse of the southern side of the Harbour entrance is shown as a Site/Area of Significance to Tangata Whenua (Te Poupouwhenua).
139. The Patuharakeke submission (submission #164) identifies Te Poupouwhenua as a significant ancestral site and a scared spiritual pathway – rerenga wairua – for their people. Together with the Whangārei Te Rerenga Paāoa and other sites identified in the Cultural Effects Assessment provided with this submission, Te Poupouwhenua forms Patuharakeke’s cultural landscape and seascape.

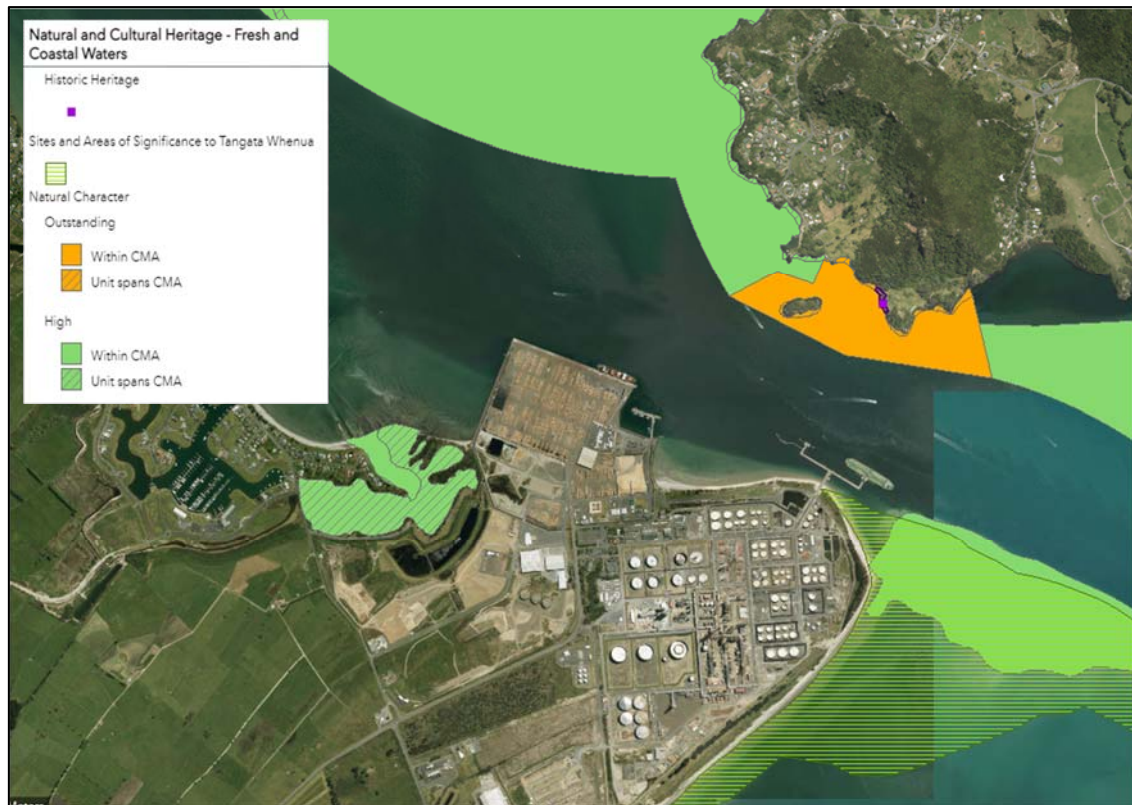


Figure 3-5: PRP-AV Natural & Cultural Heritage: Fresh and Coastal Waters Overlays (source: PRP-AV Maps)

3.2.3 Operative Regional Coastal Plan

140. The site is located within the Marine 5 (Port Facilities) Management Area of the RCP.
141. Much of the surrounding area is shown as Marine 2 (Conservation), with isolated areas of Marine 1 (Protection). Refer **Figure 3-6** below.

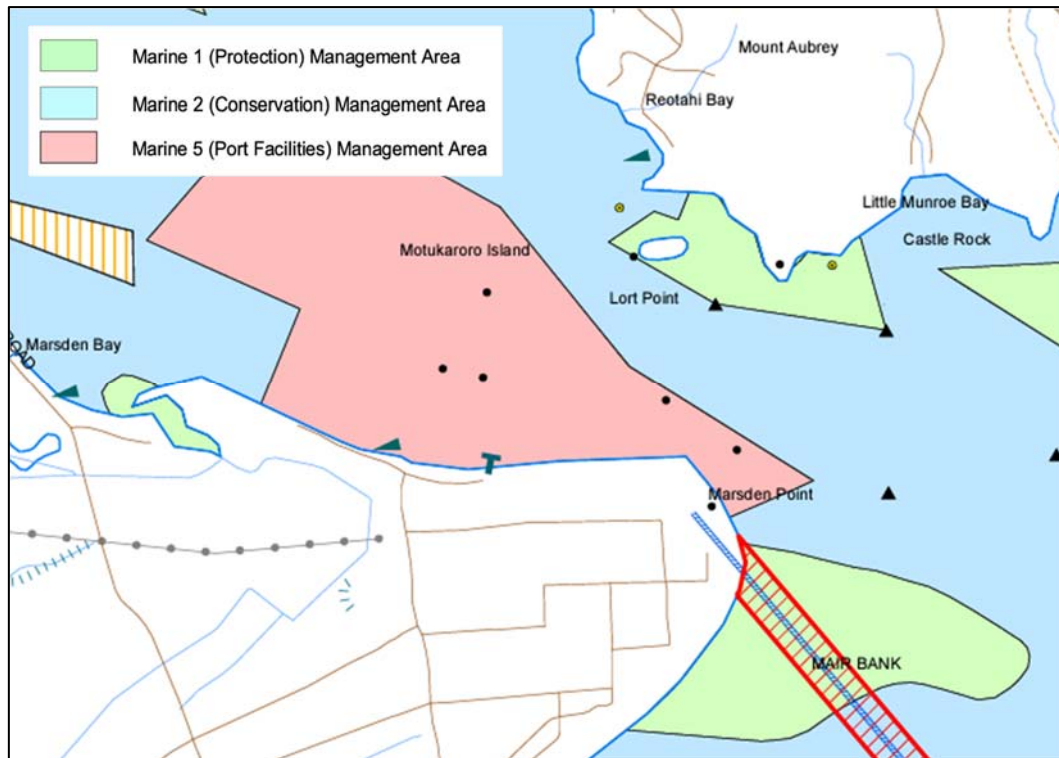


Figure 3-6: RCP mapped areas and features (source: RCP Maps)

3.2.4 Whangārei District Plan – Operative in Part

142. The existing Port is zoned Port Zone (Port Operations Area A) under the WDP-OP, with the adjoining esplanade reserve zoned Natural Open Space. Refer **Figure 3-7** below.

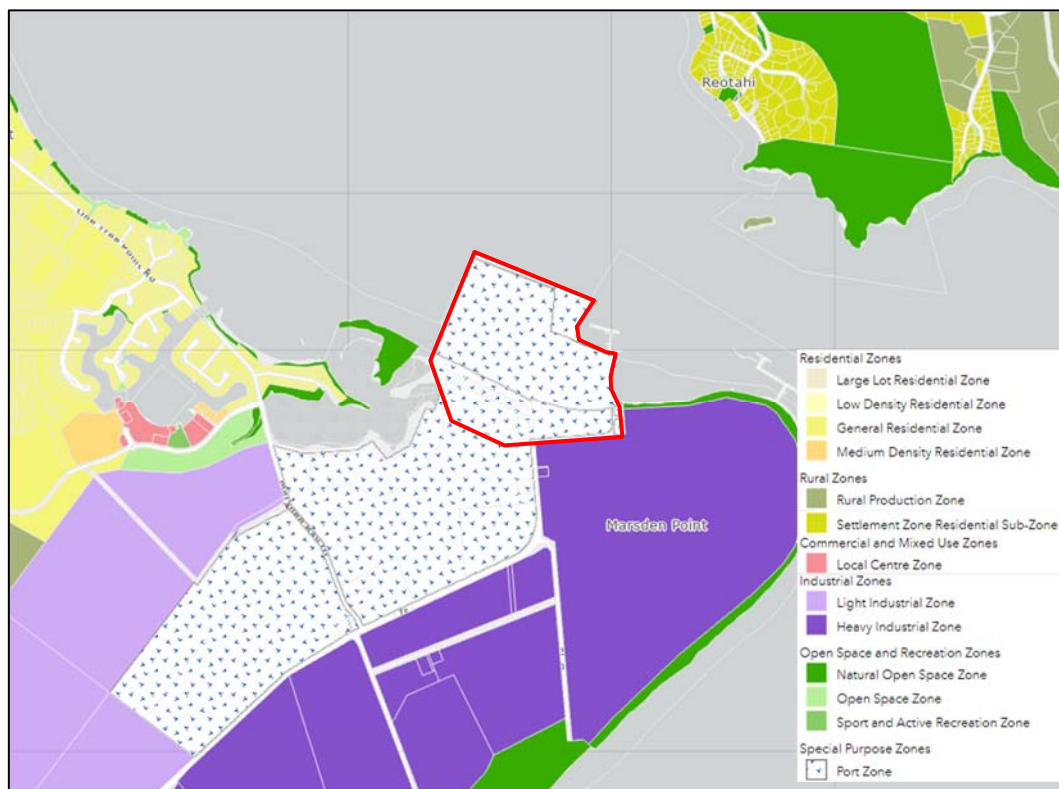


Figure 3-7: WDP-OP zoning, approximate extent of the existing Port facility shown in red (source: WDP-OP planning maps)

143. With regard to the surrounding environment, the Marsden Point peninsula is predominantly characterised by various forms of industrial zoning:
- Heavy Industrial Zone (HIZ): the adjoining Channel Infrastructure site and land to the south-east;
 - Port Zone (Port Management Area B): MMH-owned land to the south-west; and
 - Light Industrial Zone: includes vacant (currently rural) land and the MMH-owned commercial and industrial development park further to the south-west of the Port.
144. A portion of Blacksmiths Creek (located to the west of the Port) and the Esplanade Reserve to the east of the Port is zoned Natural Open Space Zone. Isolated parcels of Open Space and Sport and Active Recreation zoned land locate near Marsden Cove.
145. The One Tree Point and Marsden Cove residential settlements to the west of the site are zoned General Residential Zone and the Anchorage Lifestyle Village at Marsden Cove is zoned Medium Density Residential Zone. The Marsden Cove Marina development is zoned Local Centre Zone. Residential areas situated across the harbour from the Port (Reotahi, McLeod Bay, and Urquharts Bay) are, for the most part, zoned Settlement Zone – Residential Sub-Zone. Larger parcels hold a Rural Production or Natural Open Space zoning.
146. With regard to resource overlays and features, the existing Port is located with the Coastal Area and is partially subject to the Flood Susceptible Area overlay. Refer **Figure 3-8** below.

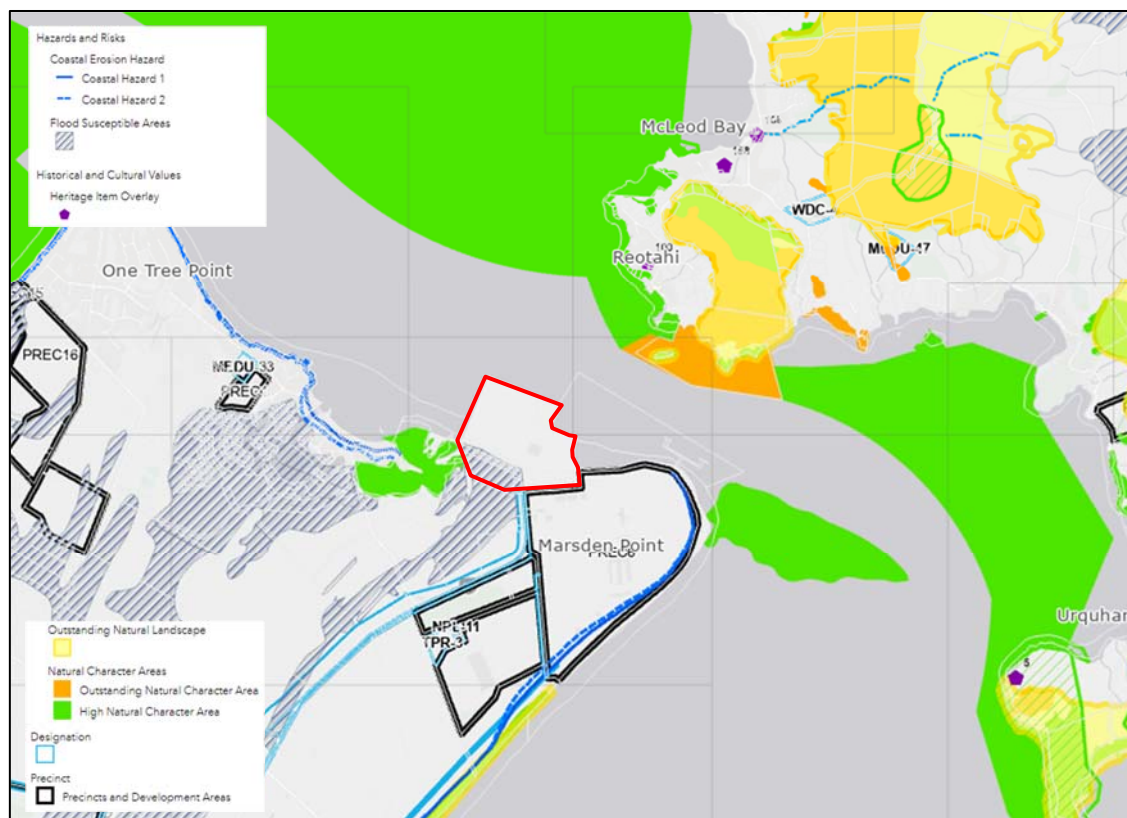


Figure 3-8: Relevant WDP-OP resource overlays and features, approximate extent of the existing Port facility shown in red (source: WDP-OP planning maps)

147. With regard to the surrounding environment, the Motukaroro Marine Reserve (opposite the Port to the north-east) is mapped as Outstanding Natural Character, as are some of the more

elevated areas of Reotahi and the north-eastern side of Little Munroe Bay. Blacksmiths Creek, Mair Bank (southern side of the Harbour entrance), and much of the northern side of the harbour within proximity to the Port is identified as having High Natural Character.

148. Across the harbour to the north-east, Mount Aubrey and Motukaroro Island (part of the Bream Head Manaia sequence) is identified as an Outstanding Natural Landscape and Aubrey House (13 Norfolk Ave, McLeod Bay) is mapped as a scheduled Built Heritage item (WDP-OP reference 100 – HNZPT List No. 2588). Within the Bream Head Scenic Reserve overlooking the northern side of the harbour entrance, the Home Point Battery (WDP-OP reference 5) is a Group A Scheduled Built Heritage Item.
149. The Channel Infrastructure site and adjoining properties to its south-west are identified in the WDP-OP as being located within the Marsden Point Energy Precinct – PREC6 ('MPEP').
150. Sections of the Marsden Bay and Bream Bay shorelines are mapped as Coastal Hazard 1 (50 year) and 2 (100 years) on the WDP-OP maps. Whilst the Port is not subject to mapped Coastal Hazards under the WDP-OP, sections of the reclamation and much of the adjoining coastlines, including Marsden Bay (proposed as Berth 5) and Bream Bay south of the harbour entrance, are identified by NRC's natural hazard mapping as being subject to coastal hazards in the 50 year (Coastal Flood Hazard Zone 1) and 100 year (Coastal Flood Hazard Zone 2) scenarios. As such, these areas meet the definition of *Coastal Hazard Area 1* and *Coastal Hazard Area 2* under the WDP-OP.
151. Both SH15 (NZTA-5) and the Oakleigh to Marsden Point Rail Link (KRH-2) are designated under the WDP-OP. With regard to the construction status of the Marsden Rail spur (which links the Port to the North Auckland Line junction at Oakleigh), it is understood that KiwiRail have commenced property acquisition. At the time of writing, no design or construction funding or tenders had been confirmed for the project.
152. The WDP-OP roading hierarchy identifies SH15 as a National road, Ralph Trimmer Drive as a Secondary Collector road, and Mair Road (providing access to Marsden Point Beach) as a Secondary Collector – Access Road.

3.3 Relevant Resource Consents

153. Resource consents of relevance to the proposal are described below.

3.3.1 Northport

154. Northport holds a suite of resource consent from NRC and WDC to operate a Port on Berths 1 – 3 (the existing Port facility) and the consented but not yet constructed Berth 4.
155. As detailed within section 4.20 of the AEE, the consents granted for the construction and maintenance of Berths 3 and 4 have only partially been implemented. The Berth 4 consents provide for further reclamation, 9ha of dredging (approximately one third of the dredging volume proposed as part of this application), 270m of wharf length, and associated dredging and construction-related activities from that currently existing (associated with Berth 3).

156. These consents provide for capital and maintenance dredging of the reclamation and swing basins, the spatial extent of which is shown by the dashed purple outline in **Figure 2-4** above.¹⁶ Section 5.7.4 of the AEE states that the proposed dredging extents will marginally increase the dredged area and will deepen consented dredge extents from 13 – 14.5m to 14.5 – 16m.
157. Northport's existing resource consents that are proposed for surrender are detailed in **Section 2.7** above.

3.3.2 Channel Infrastructure

158. On the 3 March 2021, Channel Infrastructure were granted a suite of renewal regional consents from NRC for refining operations. The consents enable the continued existence, operation and maintenance of the coastal marine structures, abstraction of groundwater, and discharges to land air and water from Refinery activities, including the operation of the site as a terminal.
159. On the 14 December 2018, Refining NZ (now Channel Infrastructure) were granted regional resource consent by way of Environment Court consent order¹⁷ for the Crude Shipping Project, being the deepening and realignment of the Whangārei Harbour shipping channels. It is understood that the Crude Shipping Project consents have not, at the time of writing, been implemented.
160. As detailed in section 4.4.3 of the AEE, consents for a 31ha solar farm have been granted on land owned by Channel Infrastructure, to the south of the existing facility between Mair Road and Rama Road.

3.3.3 Marsden Cove Canals Management

161. Marsden Cove Canals Management Ltd hold regional resource consents¹⁸ associated with the development, construction, and maintenance of the One Tree Point waterways development. The suite of consents includes coastal permits to carry out maintenance dredging of the access channel through to the Whangārei Harbour, which is located approximately 750m to the west of the Port.

3.4 Other Relevant Notations

3.4.1 NRC Navigation Safety Bylaw 2017

162. The NRC Navigation Safety Bylaw 2017 ('NS Bylaw') sets out maritime safety regulations for all users of Northland's coastal waters which include speed limits, right of way (including in relation to towing vessels or vessels over 500 gross tonnage), navigational aids, and prohibited areas.

¹⁶ CON19960505511 (Berths 1 & 2) and CON20030505529 (Berths 3 & 4).

¹⁷ Channel Infrastructure appealed the original NRC decision to the Environment Court. Northport and Patuharakeke Te Iwi Trust Board were s274 parties to the appeal.

¹⁸ AUT.038778.

163. The NS Bylaw identifies prohibited areas around the existing Port and Channel Infrastructure facilities and prohibits, without express permission from the Harbour Master, any person from sailing, navigating, mooring or anchoring any vessel, swimming or diving within the prohibited areas, as described below.
164. The Northport prohibited area precludes public access, as set out above, 100m from any ship that is berthed at the existing port (Berths 1 – 3) during fumigating, bunkering, discharging, or loading dangerous cargo. During these activities, the Bylaw stipulates that fluorescent signs (by day) and flashing lights (by night) are displayed on the seaward side of the vessel. Refer **Figure 3-9** below.

The Channel Infrastructure facility is provided permanent exclusions under the Bylaw, irrespective of whether the jetty is in use. The exclusion zone is shown to extend true north of the foreshore mark to the west of the western-most CINZ jetty dolphin and encapsulate the jetty to the north and east, as shown in **Figure 3-10** below.

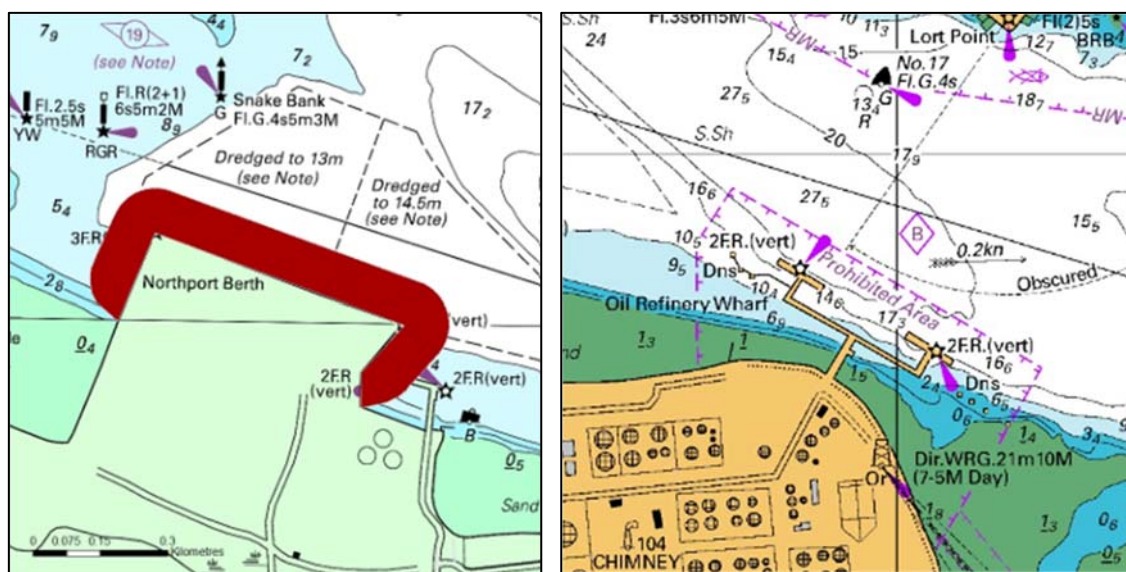


Figure 3-9 and 3-10: NS Bylaw Prohibited Areas – Northport (left) and CINZ (right) (Source: NRC NS Bylaw 2017)

165. The CINZ prohibited areas of the NS Bylaw is shown in red in **Figure 3-11** below.

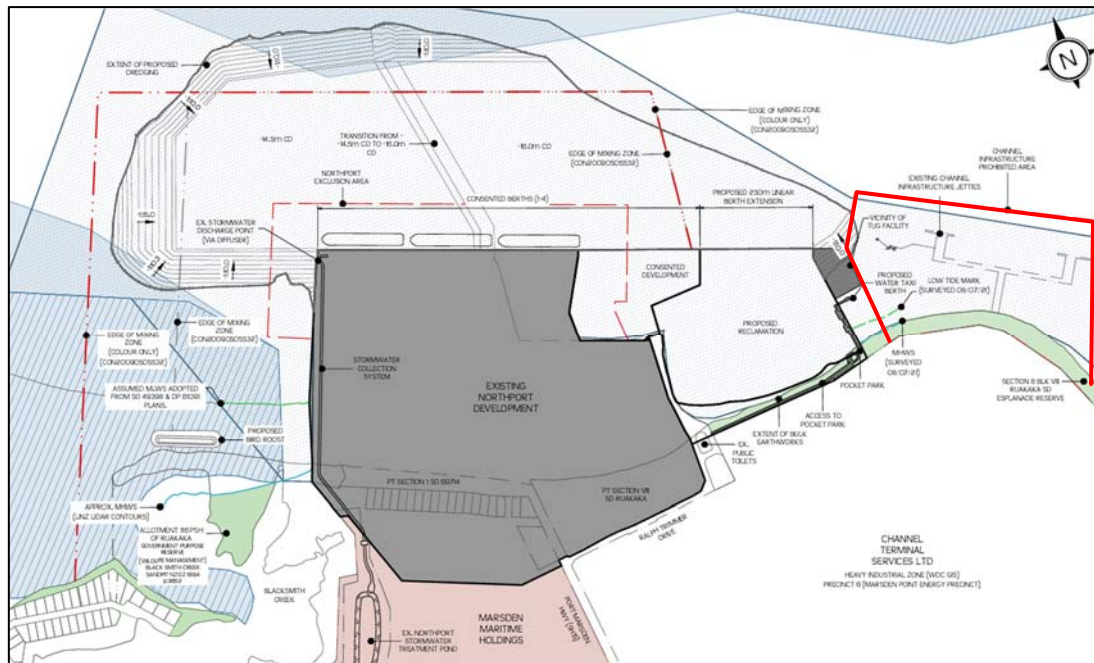


Figure 3-11: Proposed Concept Plan showing NS Bylaw prohibited area in red (source: Applicant's s92 clarification response)

3.4.2 Motukaroro Marine Reserve

166. The Motukaroro Marine Reserve is situated approximately 650m to the north-east of the existing Port, protected under the Marine Reserves Act 1971 as one of two reserve areas comprising the Whangārei Harbour Marine Reserve. The Motukaroro Marine Reserve is approximately 26.2ha and is located within a PRP-AV's SEA as shown in **Figure 3-12** below.

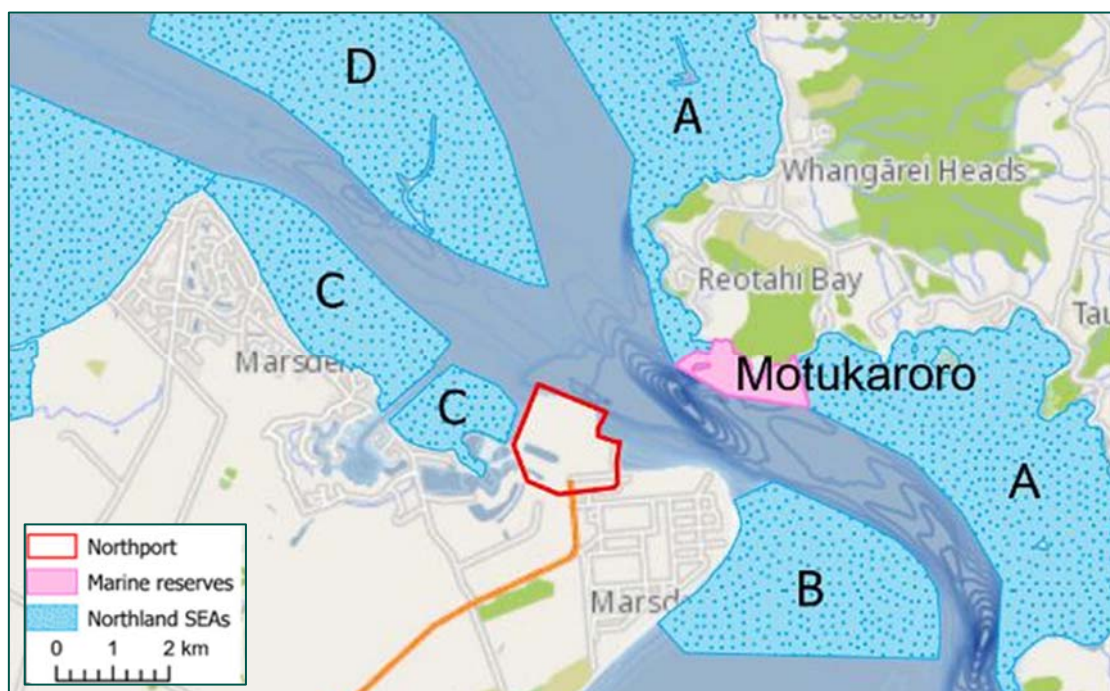


Figure 3-12: Map showing location of Marine Reserves and PRP-AV SEA's, Northport shown in red (source: Assessment of Marine Ecological Effects, Appendix 11)

4. REASONS FOR CONSENT

4.1 Northland Regional Council

167. Consents are sought from the NRC for coastal and water permits, coastal stormwater discharges, air discharges, and land use consents under Section 12(1) – (3), Section 14(2), Section 15(1) and (2A), and Section 9(1) of the RMA. Consent are sought from NRC under the following Plans:

- a. Proposed Regional Plan – Appeals Version ('PRP-AV'); and
- b. Operative Regional Coastal Plan ('RCP').

168. The resource consents sought under the PRP-AV are set out in **Table 2** below.

Table 2: Proposed Regional Plan – Appeals Version Consents Sought

Rule Reference	Activity Status	Reason for Consent
Rule C.1.6.3* ¹⁹ Reclamation for Regionally Significant Infrastructure	Discretionary	The proposal seeks to undertake a 11.7ha reclamation for the purpose of expanding the existing Port facility (RSI). The proposed reclamation, to the east of the existing port, will not be undertaken within the listed mapped areas.
Rule C.1.5.12* Dredging, deposition and disturbance activities	Discretionary	The proposal seeks to undertake approximately 1.72 million m ³ of capital dredging to increase the area and depth of the existing swing basin servicing Berths 1 – 4, to extend the existing swing basin to serve proposed Berth 5, to deepen the berthing and associated manoeuvring area of the tug berth facility, and to enable the construction of the reclamation. Dredge material will be used to construct the reclamation and proposed high-tide bird roost. No dredging will occur within the referenced mapped areas.
Rule C.1.5.9* Maintenance Dredging	Controlled	Consent is sought to enable approximately 285,000m ³ of maintenance dredging every 5 – 15 years to maintain the swing basin and tug facility.
Rule C6.4.6 Stormwater discharges onto or into	Discretionary	Consent is sought to authorise the diversion and discharge of stormwater from the existing

¹⁹ Rules marked with an * indicate that, at the time the application was made, the rule was subject to an unresolved appeal.

contaminated land or from high-risk industrial or trade premises		and expanded Port facility (defined as a <i>high-risk industrial or trade premises</i>).
Rule C1.1.11* Additions or alterations to structures in the Coastal Commercial Zone or Marsden Point Port Zone	Controlled	The proposed structures (wharf and seawalls) are proposed as additions to the existing authorised structures. These structures have a functional need to be located in the CMA.
Rule C1.1.16* Structures in the Marsden Point Port Zone	Restricted Discretionary	The following new coastal structures are proposed: floating tug facility, water taxi jetty, and fishing pontoon structures. The construction of these structures, and their associated occupation of the CMA, is not otherwise provided for as a permitted or controlled activity.
Rule C1.1.23* Hard protection structures associated with regionally significant or core local infrastructure	Discretionary	The proposed sea walls and rock revetments meet the definition of <i>hard protection structure</i> and are associated with a reclamation of RSI.
Rule C1.5.11* Deposition of material for beneficial purposes	Restricted Discretionary	The construction of the high-tide bird roost, requiring the deposition of material in the intertidal area, is proposed as <i>deposition of material for beneficial purposes</i> as it: <ul style="list-style-type: none"> - Is for the purpose of beach replenishment/renourishment and environmental/ecological enhancement - Is not for the purpose of reclamation²⁰ - Is not waste or other matter (as listed in Regulation 4(2) of the Marine Pollution Regulations 1998) that is dumped from a ship.
Rule C.8.3.4 Earthworks	Discretionary	Earthworks are proposed within the <i>Coastal riparian and foredune management area</i> that exceed permitted (200m ² of exposed earth at any time) and controlled activity (5,000m ²) thresholds.
Rule C.8.4.3 Vegetation Clearance	Discretionary	Vegetation clearance (dune vegetation) is proposed within the <i>coastal riparian and foredune management area</i> that fails to meet the permitted activity standards as:

²⁰ Refer Council initial s92 request (dated 19 December 2022) and Applicant's responses for commentary regarding the proposed bird roost and associated clarifications regarding the application of the PRP-AV *Deposition of material for beneficial purposes* and *reclamation* definitions.

		<ul style="list-style-type: none"> - Indigenous coastal dune vegetation will be removed - The area of cleared dune vegetation will exceed 200m² in any 12-month period - Cleared areas are not proposed to be replanted - Indigenous/migratory bird nesting sites may be disturbed.
Rule C.7.2.14 Discharge into air not a permitted, controlled, restricted discretionary, non-complying or prohibited activity	Discretionary	Potentially offensive and/or objectionable dust nuisance may be experienced for limited periods during construction works.

169. Due to the extent of unresolved appeals on the PRP-AV at the time the application was made, consents are sought for the following components of the proposal under the RCP, as detailed in **Table 3** below:

- a. Reclamation;
- b. Capital dredging and disposal of dredge spoil;
- c. The construction of the high-tide bird roost (deposition of sediments within the CMA); and
- d. Alteration/extension of structures (wharf and sea walls).

Table 3: Operative Regional Coastal Plan Consents Sought

Rule Reference	Activity Status	Reason for Consent
Rule 31.7.5(a) Reclamation – any new reclamation	Discretionary	To undertake a new 11.7ha reclamation within the Marine 5 (Port Facilities) Management Area.
Rule 31.7.8(a) Dredging and Dredging Spoil Disposal – maintenance dredging of berths, approach channels, and turning basis	Controlled	Consent is sought to enable approximately 285,000m ³ of maintenance dredging every 5 – 15 years to maintain the swing basin and tug facility. The application is made on the basis that the proposal will comply with the relevant standards listed in section 31.7.12.
Rule 31.7.8(b) Dredging and Dredging Spoilt Disposal – capital dredging	Discretionary	The proposal seeks to undertake approximately 1.72 million m ³ of capital dredging to increase the area and depth of the existing swing basin (Berths 1 – 4), to extend the existing swing basin to serve proposed Berth 5, to deepen the berthing and associated manoeuvring area of the tug berth facility, and to enable the construction of the reclamation.

Rule 31.7.8(c) Dredging and Dredging Spoilt Disposal – dredging spoil disposal	Discretionary	Dredged material will be reused in the proposed reclamation and high-tide bird roost.
Rule 31.4.8I Dredging and Dredging Spoilt Disposal – deposition of marine sediment on the foreshore for the purposes of beach replenishment	Discretionary	The construction of the high-tide bird roost, requiring the deposition of material in the intertidal area, is proposed as beach replenishment (noting the area was a former sand bank).
Rule 31.7.4(o) Structures - The alteration or extension of authorised structures, which is not otherwise a controlled activity under Rule 31.7.3(n).	Discretionary	The construction and use of the proposed structures (wharf and sea walls) do not comply with the controlled activity criteria of Rule 31.7.3(n) as they will impound/contain over 4ha of the CMA.
Section 87B RMA²¹ Discharge of decant water reclamation during construction	Discretionary (innominate)	To discharge decant water reclamation during construction within the Marine 5 (Port Facilities) Management Area.

170. The application, as amended by the Applicant's s92 response, does not identify any consent requirements under the Operative Regional Water and Soil Plan (RWSP) and Operative Regional Air Quality Plan (RAQP).
171. As detailed within the Applicant's s92 response, following the December 2022 amendments to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) the application for consent under the NES-F for removal of seagrass (conservatively considered a natural wetland in the application as lodged) was removed from the application. No consents are sought for the proposal under the NES-F, or any other National Environmental Standard administered by NRC.
172. Consents are sought from the NRC under the PRP-AV and RCP for a **Discretionary Activity** overall.

4.2 Whangārei District Council

173. The proposed reclamation is innominate as it is not yet zoned land subject to WDP-OP zoning and associated land use controls. Consent is therefore sought under Section 87B of the RMA (**Table 4**) and the WDP-OP (**The resource** consents sought under the WDP-OP are set out within **Table 5** below.

²¹ Whilst the Applicant has sought consent under this rule of the RCP, the corresponding PRP-AV rules relating to the discharge of decant water during construction do not appear to be subject to unresolved appeals.

Table 4: Section 87B RMA reasons for consent

RMA Section Reference	Activity Status	Reason for Consent
Section 87B – Innominate	Discretionary	<p>The proposed reclamation is not currently zoned land and therefore subject to the rules of the WDP-OP. The area is therefore innominate and consent is sought under Section 87B to undertake Port Activities, being the activities listed in Section 2.4.1 of this report, to be carried on the reclamation.</p> <p>For completeness this includes:</p> <ul style="list-style-type: none"> - Applying the permitted height limits of the WDP-OP Port Zone (Port Management Area - A) - Operating the site on a 24-hr per day basis, with associated use of artificial lighting during hours of darkness - Generating noise in excess of the permitted standards of the Noise and Vibration (NAV) chapter of the WDP-OP. Port noise is proposed to be managed in accordance with the NZS Port Noise via a Port Noise Management Plan.

174. The resource consents sought under the WDP-OP are set out within **Table 5** below.

Table 5: Whangārei District Plan – Operative in Part Resource Consents Sought

Rule Reference	Activity Status	Reason for Consent
NAV.7 Operational Port Noise	Discretionary	To authorise Port noise in excess of the permitted standards of the NAV chapter and for noise to be managed in accordance with the NZS Port Noise via a Port Noise Management Plan.
NOSZ-R5 Building and Major Structure Setbacks	Discretionary	To authorise the construction of the new building (being the proposed replacement public toilet) in the proposed Pocket Park, within 27m of MHWS.
CA.2.3(2) / CE-R7²² Earthworks within Sand Dunes	Discretionary	Earthworks within Sand Dunes are required to construct proposed Berth 5, of which is not a purpose provided for as a permitted activity.

²² Following the lodgement of the application, the WDP-OP chapter names and associated rule references were updated to align with the National Planning Standards. Both references are included for completeness.

CA.2.3(3) / CE-R8 Earthworks in the Coastal Environment	Discretionary	Earthworks, outside Sand Dunes and the Heavy Industrial Zone, but within the Coastal Environment (esplanade reserve), in excess of 500m ³ are proposed to construct proposed Berth 5.
CA.2.3(4) / CE-R9 Indigenous Vegetation Clearance	Discretionary	Approximately 7,200m ² of vegetation clearance is proposed to construct berth 5, where CE-R9 provides for up to 500m ² as a permitted activity.
TREE-R6 Removal of Public Trees	Discretionary	The proposal seeks to remove <i>Public Trees</i> within the existing Esplanade Reserve to the east of the existing Port facility.
Rule 56.2.2 / NH-R3 Earthworks	Discretionary	The earthworks proposed within the sand dune complexes along Marsden Bay beach and within the Esplanade Reserve are located within an area identified by NRC as being subject to Coastal Hazards (both in the 50 and 100 year scenarios) and will exceed the permitted thresholds of 0.25m ³ and 150m ² .
TRA-R11 Landscaping within Parking Areas	Restricted Discretionary	No landscaping is proposed within future carparking areas on the Port.
TRA-R12 Tree Planting within Parking Areas	Restricted Discretionary	No tree planting is proposed within future carparking areas on the Port.

175. As detailed within the Applicant's s92 response, the application does not identify any consent requirements under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ('NES-CS').
176. Consents are sought from the WDC under the WDP-OP and Section 87B of the RMA for a **Discretionary Activity** overall.

4.3 Overall Bundled Activity Status

177. The application is made as a bundled package of activities that overlap and are inter-dependent, requiring consent under both Regional and District Plan provisions.
178. The bundled application is considered as a **Discretionary Activity** overall.

5. RELEVANT CONTEXT

5.1 Consultation with Tangata Whenua

179. Section 7.1.1 of the AEE summarises pre-lodgement consultation and cultural assessment commissions as:
- a. Ngātiwai: The AEE notes that Ngātiwai had initially deferred their involvement in the project to Patuharekeke, however prior to lodgement Ngātiwai advised that they wished to engage directly with Northport regarding the proposal. The AEE notes that at the time of lodgement, engagement with Ngātiwai was ongoing. A submission was made on the application by the Ngātiwai Trust Board (submission #140).
 - b. Te Parawhau: A draft Manawhenua Cultural Report, prepared by Te Parawhau hapū, was provided to the Applicant in November 2021. At the request of Te Parawhau, the draft cultural report was not appended to the application, nor provided in response to Council's s92 request for information. A submission was made on the application by Te Parawhau Resource Management Unit (submission #117).
 - c. Patuharakeke: Patuharakeke Te Iwi Trust Board ('PTB') have been commissioned to prepare a Cultural Values Assessment ('CVA') and a Cultural Effects Assessment ('CEA') for the proposal. The interim CEA was attached as Appendix 24 of the AEE, with the final ratified version submitted with PTB's submission (submission #164).
180. Section 5.2.8 of the AEE acknowledges that consultation with mana whenua had raised a number of issues, some of which were unresolved at the time of lodgement. At the time of writing, the application contained no cultural mitigation measures or demonstrated resolution or progressions of cultural concerns raised through consultation. The applicant has made the author aware that engagement with all three of these submitters has occurred since lodgement and will continue through to the hearing or earlier as issues are satisfactorily resolved.

5.2 Marine and Coastal Area (Takutai Moana) Act 2011 Claims

181. Section 4.2.7 of the application states that there are 35 Applicant groups that have applied for Customary Marine Title (CMT) within the project area under the Marine and Coastal Area (Takutai Moana) Act 2011 ('MACA'). The Applicants are identified in Appendix 8 of the AEE (MACA Act Correspondence).
182. Section 7.3.2 of the Patuharakeke Cultural Effects Assessment details the implications of granted permits for coastal activities and reclamation on these claims, which due to the Port satisfying the definition of 'accommodated activities' is to essentially extinguish CMT rights over areas and remove consideration of any claim over reclaimed areas (which will no longer be in the CMA or below MHWS).

5.3 Port Noise Appeal – WDC Urban and Services Plan Changes

183. In early 2019, WDC notified a set of Urban and Services Plan Changes ('U&S Plan Changes') that proposed changes to all urban zones and some district-wide standards of the WDP. Consequential amendments were also made to definitions, zones, and plan structure across the Plan (including the NAV Chapter) to align with the National Planning Standards ('NP Standards'). The U&S Plan Change hearings were completed in late 2019 and appeals were resolved in 2023.

184. Through the U&S Plan Changes, Northport made a submission to seek amendments to the Port Zone and NAV provisions of the WDP, to provide for port noise in accordance with the NP Standards and the NZS Port Noise. Northport's relief sought included the addition of two new noise control boundaries to reflect both consented Port operations (Scenario A: berths 1 – 4) and Northport's Vision for Growth footprint (Scenario B)²³.
185. WDC declined the relief sought by Northport and the subsequent appeal (ENV-2020-AKL) was heard at the Environment Court in November 2021. The appeal was subsequently dismissed in December 2021.²⁴ No NZS Port Noise provisions or port noise control boundaries are currently included within the WDP-OP.
186. As part of this package of resource consents the Applicant seeks relief from the noise limits and management controls of the WDP-OP, and approval to instead manage noise in accordance with the NZS Port Noise via a Port Noise Management Plan. Submitter #131 (Brick) was a Section 274 party to appeal proceedings.

5.4 Ownership Structure

187. Northport is owned and operated by Northport Limited (Northport) which is owned 50% by Marsden Maritime Holdings ("MMH") and 50% by Port of Tauranga Limited as a Joint Venture.
188. MMH, which also owns the land containing Northport's stormwater ponds, is a publicly listed company. NRC hold majority of the share capital (approximately 53%), Ports of Auckland Limited hold approximately 19%, and the remaining shares are held by members of the public.

²³ 'Vision for Growth' refers to Northport's expansion plans. The original Vision for Growth expansion footprint included the western dry-dock component, which was removed from the proposal prior to lodgement.

²⁴ www.wdc.govt.nz/files/assets/public/documents/services/property/planning/plan-changes/pc-urban-and-services/16-appeals/env-2020-aki-000109-northport-limited-v-wdc.pdf

6. PROCEDURAL MATTERS

6.1 Pre-Application Process and Pre-Notification Informal Information Request

189. Details of procedural matters relating to pre-application liaisons between the Applicant and Council officers and the pre-notification informal information request are detailed within the Council s95 Notification Assessment, attached to this report as **Appendix A**.
190. With regard to the matter of visual simulations, no requests to view the original visual simulations were received through, or following, the six week notification period. Amended visual simulations were provided in response to Councils' s92 request for further information.

6.2 Section 92 Further Information Requests

191. On 19 December 2022, following the close of the notification period, both Councils requested further information pursuant to s92(1) of the RMA. A further formal request was made on 2 February 2023. Following numerous clarifications, the s92 request (dated 19 December 2022) was formally satisfied on 20 July 2023.

6.3 Post Lodgement Proposal Amends

192. As a result of Councils' s92 request for information (post-notification) a number of amendments were made to the consents sought as part of the application. The NES-F (refer **Section 4.1** for further detail) and RWSP were removed from the scope of the application, the latter being as a result of PRP-AV appeal resolution. Additional reasons for consent were included relating to indigenous terrestrial vegetation and Public Tree removal, earthworks, transport (WDP-OP); and hard protection structures, earthworks, air discharge, and vegetation clearance (PRP-AV).
193. Irrespective of the specific rule references being amended post-notification, the application was notified on the basis that the Applicant sought consent under Sections 9, 12, 14, and 15 of the RMA. The proposal or information provided in support of the proposal are not considered to have materially changed in scope from that which formed the notification package.

6.4 Specialist Inputs

194. The application is supported by approximately 29 specialist reports and plans. Respective Council specialist reviewers are detailed in **Table 6** below.

Table 6: Supporting specialist inputs and Council reviewers.

Northport Supporting Specialist Assessments		Council Reviewers
Hydrodynamic, Morphodynamic, and Dredge Plume modelling reports (Appendix 9)	A. Berthot & H. Watson, MetOcean Solutions	Christo Rautenbach, NIWA
Coastal Processes Assessment (Appendix 10)	R. Reinen-Hamill, E. Beetham & C. Perks, Tonkin & Taylor Ltd	Doug Trelour, Stantec (Australia)
Design Report (Appendix 18) and Design Drawings (Appendix 3)	Jan Stanway et al, WSP	Scott Keane, Stantec (Australia)

Navigation Safety Report (Appendix 26)	Bruce Goodchild, Northport	
Archaeological Assessment	Glen Farley, Clough & Associated Ltd	Nil – findings of Applicant's assessment adopted
Coastal Avifauna Assessment (Appendix 13)	Dr Leigh Bull, Boffa Miskell	Claire Webb, Beca
Assessment of Marine Ecological Effects (Appendix 11)	Shane Kelly and Carina Sim-Smith, Coast & Catchment Environmental Consultants	Drew Lohrer, NIWA
Potential Effects on Marine Mammals (Appendix 14)	Deanna Clement, Cawthron Institute	Helen McConnell, SLR Consulting (NZ)
Assessment of Underwater Noise Effects (Appendix 25)	Matt Pine & Jon Styles, Styles Group	Jonathan Vallarta, SLR Consulting (Canada)
(Terrestrial) Noise Assessment (Appendix 4)	B Lawrence & C Fitzgerald, Marshall Day Acoustics	Peter Runcie, SLR Consulting (NZ)
Assessment of Landscape, Natural Character, and Amenity Effects (Appendix 15)	Stefan Brown, Brown NZ Limited	Mike Farrow, Littoralis
Economic Assessment (Appendix 22)	Rodney Yeoman, Tilly Erasmus and Greg Akehurst, me consulting	Peter Clough, NZIER
Recreation Effects Assessment (Appendix 19)	Rob Greenaway & Associates	Craig Jones, Visitor Solutions
Stormwater Assessment (Appendix 20)	Stacey Gibson & James Blackburn, Hawthorn Geddes engineers & architects ltd	John McLaren, Haigh Workman
Traffic Impact Assessment (Appendix 27)	Parvez Sheikh, Nerissa Harrison & Dwyane Claassen, WSP	Robert Inman, Beca
Air Quality Effects Assessment (Appendix 21)	Jonathan Harland & Andrew Curtis, Pattle Delamore Partners Ltd ('PDP')	Matthew Noonan, Beca
Cultural Effects and Values Assessments (Appendix 24)	Patuharekeke Te Iwi Trust Board	Nil – findings of cultural assessments provided throughout processing adopted.
Terrestrial Vegetation Assessment (provided as part of the s92 response)	Dr Sarah Flynn and Dr Ian Boothroyd, Boffa Miskell	Claire Webb, Beca

6.5 WDC Plan Changes

6.5.1 Plan Change 1: Natural Hazards

195. On 31 May 2023, WDC notified Plan Change 1 – Natural Hazards (PC 1). The plan change proposes to replace the existing Natural Hazards chapter with a new Natural Hazards chapter and new rules for subdivision and earthworks in hazard prone areas.
196. Pursuant to Sections 86B and G of the RMA, given the applications were lodged prior to decisions being made on the rules of PC 1, the applications do not require consideration under the rules of the plan change.

6.5.2 Plan Change 91: Hazardous Substances

197. In August 2022, WDC notified Plan Change 91 – Hazardous Substances (PC 91). The plan change amends the operative Hazardous Substances ('HS') chapter to give effect to the 2017 RMA amendments, which removed the explicit function for local authorities to control the adverse effects of the storage, use, disposal, and transportation of hazardous substances.²⁵
198. The plan change is promulgated on the basis that the District Plan should only manage the control of hazardous substances where the risks and adverse effects are not adequately addressed by other legislation, including the Hazardous Substances and New Organisms Act 1996 ('HSNO') and the Health and Safety at Work Act 2015 ('HSW').²⁶
199. The Decisions version of PC 91 (released 21 June 2023) removes all rules and retains a non-rule-based management framework. New objectives and policies are proposed at a district wide level that manage:
- a. Residual risks to people, property, and the environment associated with the use, storage, or disposal of hazardous substances within or adjacent to a sensitive receiving environment; and
 - b. Reverse sensitivity risk to activities that use, store, or dispose of hazardous substances, after other industry controls and legislation have been complied with, and where consent is required based on other district-wide and area specific chapter rules.
200. At the time of writing, the period for lodging appeals on PC 91 was open.
201. The Applicant has not sought consent under the operative rules of the HS chapter of the WDP-OP and does not identify that the proposal engaging with the hazardous substance provisions of PC 91.²⁷ I accept this position.

²⁵ [PC 91 public notice](#).

²⁶ [PC 91 Independent Commissioner Recommendation Report](#), paragraph 6, page 3.

²⁷ This matter was raised in submission #174 (Tyson), which noted that the application had not assessed the risks of potential hazardous substances that may be stored and/or transported in containers passing through the proposed container terminal.

6.6 Preclusion of Greenhouse Gas Emissions from Council Consideration

202. As part of Councils' initial s92 request, further assessment was requested on the proposal's effects on climate change, including a Greenhouse Gas Assessment and policy assessment against the relevant provisions of the National Adaptation Plan and Emissions Reduction Plan (released late 2022).²⁸
203. As highlighted by the Applicant's s92 response, the amendments repealing s104E were delayed in their enactment until 31 December 2022, being after the date that these consent applications were lodged with the Councils (6 October 2022).²⁹
204. Emissions reduction and the proposals potential impact on climate change were matters raised in numerous submissions (refer **Appendix B**). Specifically, submissions highlighted the proposals alignment (or otherwise) with recent government policy and direction to reduce carbon emissions – both positively in that coastal shipping is generally encouraged, and negatively given the emissions associated with the increase in heavy vehicle freight movements.
205. As highlighted by the Applicant, given the application was lodged prior to the enactment of the s104E repeal, NRC is precluded from considering the climate change effects of this application by the transitional provisions of Schedule 12 of the RMA.

²⁸ Point 14 (pages 4 and 5) of Council's initial s92 request, dated 19 December 2022.

²⁹ Paragraphs 14.1 – 14.5 (pages 8 – 10) of the Applicant's s92 response dated 21 February 2023.

7. NOTIFICATION

7.1 Written Approvals

206. Section 104(3)(a)(ii) states that the consent authority must not have regard to any effect on a person who has given written approval to an application.
207. Whilst many submissions were received in support of the proposal, the application is not supported by any formal written approvals. Accordingly, there are no adverse effects on any identified persons to be disregarded.

7.2 Notification

208. At the request of the Applicant, the bundled application was publicly notified over an extended notification period of approximately six weeks, from 2 November – 15 December 2022. A copy of the public notice is available on the Council website.³⁰ Copies of the applications were made available on both Council's websites and at the Whangārei Central Library and WDC Ruakākā Service Centre.
209. Direct service of the public notice was also served to a number of additional persons in accordance with Regulation 10(2) of the Resource Management (Forms, Fees, and Procedure) 2003. These included about 1500 residents of Reotahi, McLeod Bay, Urqharts Bay, One Tree Point, and Marsden Cove (being those most likely to be adversely affected by noise, landscape and/or visual amenity effects of the proposal, or be recreational users of Marsden Bay beach), iwi and hapū entities likely to have an interest in the application, key Local and Central Government stakeholders, and other interest groups/organisations.

8. SUBMISSIONS

8.1 Submission Overview

210. 228 submissions were received through the notification period. Following the withdrawal of one submission (#11), a total of **227** submissions are recorded as being received at the time of writing. The positions stated in the submissions are summarised in **Table 7** below.

Table 7: Submission Overview

Position	Number of submissions
Support (includes conditional support)	159
Oppose	57
Neutral	8
Not Stated	4
Total received	227

211. A substantial number of submitters have lodged separate submissions with both Councils, with the same or similar content expressed in both submissions but using each Council's respective

³⁰ <https://www.nrc.govt.nz/media/kz5lkhle/notification-public-notice.pdf>

submission form. These submissions are recorded as a single submission, as opposed to two independent submissions.

212. 84 submitters requested to be heard in total; 44 in support (or support with conditions), 39 in opposition, and 1 whose position was not stated. 43 submitters noted they would consider presenting a joint case at the hearing with others who have made similar submissions and three submitters requested a Te Reo interpreter at the hearing. One submission was amended prior to this report being report.³¹
213. Patuharakeke Te Iwi Trust Board have requested, in line with their Mana Whakahono ā Rohe Agreements with NRC and WDC, for one Māori Commissioner to be appointed from each Council to the hearing panel and that the hearing be held at Takahiwai Marae.

8.2 Late / Amended Submissions

214. With regard to late submissions, seven submissions were received shortly after (within two working days) the close of the notification period.
215. In lieu of having a Hearing Panel appointed at the time of preparing this s42A report, an initial recommendation (on principle) was approved by the Council Managers on 17 April 2023 to accept the late submissions for consideration in Council reporting. The seven late submissions have therefore been considered within the Council's assessments, generally within this report and the supporting Council specialist memos. It is anticipated that the Hearing Panel will issue a direction to formalise this matter prior to the hearing.

8.3 Matters Raised in Submissions

216. Of the 227 submissions received, a wide range of matters were raised. **Attachment B** provides a summary of matters raised in submissions, which to avoid undue repetition, are addressed as general themes as opposed to individual points. The themes include:
- a. Air quality;
 - b. Avifauna;
 - c. Biosecurity;
 - d. Climate change and greenhouse gas emissions;
 - e. Coastal processes;
 - f. Cultural;
 - g. Economics;
 - h. Economics – supply chain;
 - i. Land transport;
 - j. Landscape and visual amenity;

³¹ Submission #15 made by North Tugz Ltd. 198.199. Following the close of submissions, North Tugz sought to provide an amended submission to remove one sentence. This sentence was not considered to have any bearing on the determination of the proposal and was formally supplied to the Councils on 20 July 2023.

- k. Marine ecology;
 - l. Marine mammals;
 - m. Navigation, Port operations, engineering design;
 - n. Planning;
 - o. Property;
 - p. Recreation and open space;
 - q. Stormwater and water quality;
 - r. Terrestrial ecology;
 - s. Terrestrial noise;
 - t. Underwater noise; and
 - u. Other.
217. The submissions generated a high level of interest and support from the Northland business community and freight industry with 65% of submissions received raising matters relating to economics (98 submissions, 43%) and/or the supply chain (46 submissions, 20%), with the majority being in support.
218. Following economics and supply chain, the most prevalent submission themes raised were:³²
- a. Terrestrial noise: raised in 46 submissions (20%), 9 in support, 32 in opposition;
 - b. Land transport: raised in 38 submissions (17%), 28 in support, 8 in opposition;
 - c. Marine ecology: raised in 31 submissions (14%), 7 in support, 20 in opposition;
 - d. Coastal processes: raised in 22 submissions (10%), 4 in support, 16 in opposition; and
 - e. Recreation/open space: raised in 22 submissions (10%), 10 in support, 11 in opposition.
219. Matters raised in submissions are responded to in the respective Council specialist memos (**Appendix C**) and, where relevant, within the environmental effects and statutory assessments set out within **Sections 10** and **11** of this report. General matters raised in submissions not otherwise responded to elsewhere, are addressed in **Section 8.3.1 – 8.5** below.
220. Further discussion on submission scope is set out in **Section 8.4** below. Specific concerns raised in individual submissions are not individually responded to unless considered necessary.

8.3.1 Baseline for Assessing Effects

221. The starting point (or existing environment) for specialist environmental effect assessments was a matter raised in submission #89 (M Kapa), where it was noted that the existing environment has already been degraded by previous and existing industrial activity, and that this level of degradation shouldn't be used as the starting point for assessing the potential impacts of the proposed expansion.

³² The following summaries exclude neutral submission points.

222. The effects of a proposal must be assessed in the context of the receiving environment, which planning practice and case law has determined to be the environment as it currently exists and may be modified by permitted activities and the implementation of granted resource consents that are likely to be implemented.³³ As such, the environment as it currently exists, including the present industrial activities occurring at and around the Port, is the appropriate baseline against which effects are assessed. The receiving environment is described in **Section 10.2** of this report.
223. It is acknowledged that progressive industrial and commercial activity, including previous reclamation of the CMA, have resulted in the existing environment being heavily modified from its original state. The historical and progressive changes and their effects on the environment cannot be relitigated as part of this resource consent process. The cumulative effects of the proposal within the context of the modification that has already occurred in the area are however considered in **Section 10** of this report, in accordance with the meaning of effect in Section 3(d) of the RMA.

8.4 Submission Scope

224. Submissions received generally raised relevant RMA matters associated with the environmental effects of the proposal. To the extent that those submissions fall within the scope of matters able to be considered through an RMA process, they have been considered in the following assessments.
225. Several submissions were received that related to matters outside the scope of what is considered reasonable to consider through an RMA process. These matters include:
- a. Perceived risks of hostile takeover and international invasions via the expanded Port facility;
 - b. Reduction in property value and increased “migration” of new residents to the District when ratepayers approval has not been sought. The planning documents to which this application is assessed under (specifically the WDP-OP) have undergone a public Schedule 1 statutory plan-making process and direct that District growth and development is provided for provided environmental effects are considered and appropriately managed. Further, potential reduction in property value is not an effect regulated by the RMA;
 - c. Dredging not being aligned with United Nations Global Goal 14.2 “Protect and Restore Ecosystems”. This goal has limited if any relevance to RMA considerations, but regardless, there are policy considerations in the regional planning documents that guide management of dredging, and the proposal is considered against these;
 - d. The history and track record of the Applicant in terms of prior resource management processes, consultation and engagement practices, and previous developments – it is outside the scope of this report to form a view on the intentions or integrity of the Applicant. The applications are to be assessed on the merits of the proposal and considered without prejudice;
 - e. The ownership of the CMA – this report does not address legal questions of ownership of land or sea. Ownership is not a prerequisite for applications for resource consent. Access

³³ Except in relation to applications for consent renewals, for which the subject activity is excluded from the existing environment for assessment purposes.

to public open spaces and the CMA are considered insofar as they relate to effects, but legal implications are addressed under separate legislation outside the RMA;

- f. Future regional infrastructure requirements – several submissions raised concerns regarding the future needs of the region if the expansion was to proceed, including resilience of the land transport network, and requested Council require associated upgrades works prior to granting consents to the proposal (including upgrades and repair works to the Brynderwyn section of SH1 and expediting the Marsden Rail Spur project). Whilst this report considers the actual and potential effects of the proposal on the existing environment, which includes the current land transport network and approved but unimplemented resource consents and designations, this report and Council resource consent process cannot compel third parties to undertake actions to relieve the effects of the Applicant's proposal; and
 - g. Changes to the proposal recommended by submitters (including relocating the Port) – this report can only consider the application as presented by the Applicant, along with potential mitigation measures to address effects. The suggestions and recommendations provided by submitters and the level of effort and interest in understanding and minimising the actual and potential effects of the proposal are acknowledged and appreciated. However, unless adopted by the Applicant, alternative methods or designs cannot be assessed as part of this process.
226. These matters are not considered to fall within the scope of environmental effects able to be considered under the RMA and are thus not considered further.

8.5 Additional Correspondence Received

227. Throughout processing, Council received additional correspondence from the Ministry for Primary Industries ('MPI') and the Mayors of Kaipara and Whangārei districts regarding the proposal. The MPI correspondence was emailed directly to Council staff through the notification period and provided feedback on the Cackle and Pipi stocks within the Whangārei Harbour.
228. The two Mayoral letters were provided via Northport's agent and are received as general letters of support for the proposal, as opposed to formal submissions. No authors have indicated a preference to have this information recorded as a formal submission, nor do any wish to speak to this information at a hearing.
229. The Mayoral letters of support are noted and the MPI correspondence has been considered by Council's marine ecology specialist, Mr Lohrer, as set out within the marine ecology memorandum attached as **Appendix C13**.

9. SECTION 104B RMA – STATUTORY CONSIDERATIONS

230. The bundled applications are considered as a **Discretionary** activity overall.
231. Under Section 104B a Council may grant or refuse consent for a Discretionary (or Non-Complying) activity. If Council grants the application, it may impose conditions under Section 108 of the RMA. A Council must have regard to Part 2 of the RMA (“Purposes and Principles” – Sections 5 to 8), Sections 104, 104B, 104D, 108, and as relevant Sections 105 and 107 of the RMA. These matters are addressed below.

10. ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

10.1 Section 104(1)(a) Framework

232. Section 104(1)(a) of the RMA requires a Council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the potential positive and adverse effects.
233. For completeness, it is recorded that public notification of the application was mandatory in this instance (s95A(2)(a)) as the Applicant requested the application be publicly notified. No effects assessment was undertaken as part of the s95 notification assessment as no determination of whether effects were “more than minor” and/or “less than minor” for public or limited notification was required.
234. The following AEE is therefore undertaken pursuant to s104(1)(a), where positive effects are also to be considered.

10.2 Receiving Environment

235. The extent of effects that arise from any proposal must be considered against the receiving environment (being beyond the site) in which they are to be located. The following three components make up the receiving environment:
- a. What lawfully exists in the environment at present;
 - b. Activities (being non-fanciful activities) which could be conducted as of right; i.e. without having to obtain resource consent; and
 - c. Activities which could be carried out under a granted, but as yet unexercised, resource consent.
236. Key components of the receiving environment are highlighted below.
237. **What lawfully exists in the environment at present (existing environment).**
238. A detailed description of the existing environment is provided in section 4 of the AEE, summarised in **Section 0** of this report. In summary, the existing environment beyond the site is characterized by a diverse and at times conflicting mix of industrialised land uses, commercial maritime activities and structures, public open spaces, and sensitive natural and cultural environs.
239. **Activities (being non-fanciful activities) which could be conducted as of right; i.e. without having to obtain resource consent.**

240. The zoning of the Marsden Point peninsular creates an industrialised planning environment. The land use zoning of the WDP-OP provides an enabling development framework for industrial activities (Port Zone, Light and Heavy Industry Zones) which generally associate with low amenity environments, characterised by large buildings with minimal design focus, expansive impermeable surface coverage, minimal landscaping, noise, high traffic volumes and presence of heavy vehicles.
241. The MPEP that applies to the Channel Infrastructure facility and adjoining land to the south contains more enabling provisions than that of the HIZ for activities relating to energy production, import, refining, and/or distribution. The provisions relate to building and major structure setbacks (nil), major structure height³⁴, lighting, and exemptions from boundary landscape planting requirements.
242. Similarly, the Regional Plans identify this area of the Whangārei Harbour as the Marsden Point Port Zone ('MPPZ'), the purpose of which is to enable the development and operation of existing and authorised maritime-related commercial enterprises or industrial activities. The PRP-AV, subject to compliance with the relevant permitted standards, permits CMA occupation by existing authorised structures, minor structure construction and alteration/extension, and the use of navigation aids and signage.
243. Despite the prominence of industrial and commercial maritime activities anticipated and provided for by the Regional and District Plans, the perimeter of the peninsular is located within the Coastal Environment and identified as having notable landscape, natural character, or ecological values that afford elevated protections under the planning framework. Lower permitted activity thresholds are applied to development, earthworks, and vegetation clearance within these areas.
244. The General and Medium Density Residential Zones (covering residential areas on the southern side of the Harbour) and Rural Settlement – Residential Sub-Zone and Rural Production Zones (northern side of the Harbour) enable residential development and other noise sensitive activities at various scales.³⁵ The NAV Chapter of the WDP-OP does not impose acoustic insulation requirements on any noise sensitive activity established within these zones.
245. **Activities which could be carried out under a granted, but unexercised resource consent.**
246. Activities subject to granted, but not yet implemented resource consents include the Channel Infrastructure channel deepening and realignment dredging consents (Crude Shipping Project), the 31ha solar farm, and the consents pertaining to the construction and operation of Northport's Berth 4 as detailed in **Section 3.3** above.

10.3 Permitted Baseline

³⁴ 40m as opposed to 35m where standards are met, and provision for up to three additional 56m columns and one additional 75m furnace stack.

³⁵ The General and Medium Density Residential Zones provide for up to two residential units per site, subject to standards. The Rural Settlement – Residential Sub-Zone and Rural Production Zone provide for at least one Principal Residential Unit ('PRU') per site and, subject to qualifying standards, one Minor Residential Unit ('MRU') per site.

247. The permitted baseline refers to the effects of permitted activities on the subject site. The permitted baseline may be taken into account and Councils have the discretion to disregard those effects where an activity is not fanciful.
248. The site for the purpose of this application is described in **Section 3.1.1** above and includes the existing Port facility (Berths 1 – 3) and stormwater ponds, CMA, Marsden Bay beach and the adjoining Esplanade Reserve, and sections of Ralph Trimmer Drive.

10.3.1 Existing Port Facility (Berths 1 – 3)

249. Berths 1 – 3 of the existing Northport facility were zoned Port Zone – Port Management Area A through WDC’s Urban & Services Plan Changes. *Port Activities*³⁶ as defined by the WDP-OP are provided for as permitted activities within Port Management Area A, subject to compliance with the district-wide land use standards of the WDP-OP.
250. Regarding noise generated across the existing Port (Berths 1 – 3) the NAV Chapter of the WDP-OP permits activities undertaken within the Port Zone where compliance with the noise limits is achieved, being 55dB L_{Aeq} during daytime (0700 – 2200 hours) and 45dB L_{Aeq} and 75 dB L_{AFmax} during night-time hours (2200 – 0700 hours).
251. The WDP-OP, subject to compliance with permitted standards, also permits the use of artificial lighting for health and safety and navigational purposes.

10.3.2 Consented Berth 4 and Proposed Berth 5 (CMA)

252. Neither consented Berth 4 nor proposed Berth 5, which are currently CMA as opposed to land, have any relevant permitted baseline under the WDP-OP.
253. The PRP-AV permits the following activities within the MPPZ; occupation, reconstruction, replacement, maintenance or repair of authorised structures and hard protection structures of existing and previously authorised structures (seawalls, rock revetments etc.);³⁷ the erection, placement, alteration or extension of new minor structures (including occupation of the CMA);³⁸ removal or demolition of structures; and aids to navigation, signs, and monitoring and sampling.

³⁶ The WDP-OP defines Port Activities as “the use of land and/or building within the Port Zone for port related activities, including but not limited to: port and ancillary port activities; cargo handling, including the loading, unloading, storage, processing and transit of cargo; debarking; fumigation; transport, storage and goods handling activities; maritime passenger handling/services; construction, maintenance and repair of port operations and facilities; port administration; refuelling/fuel handling facilities; activities associated with surface navigation, berthing; maintenance or repair of a reclamation or drainage system; marine and port accessory structures and services; and repair and maintenance services and facilities ancillary to port activities.”

³⁷ C.1.1.1 permits existing or previously authorised wharves, jetties, boat ramps, concrete spillways, mooring dolphins, and non-habitable buildings and structures on and attached to wharves and jetties in the MPPZ.

³⁸ C.1.1.2 references minor structures in the name of the rule, however the rule text refers to *Structures* as defined in the PRP-AV as “a building, equipment, device, pipeline or other facility which is fixed to land. It includes a structure which is fixed to another structure, which is fixed to land.”

10.3.3 Public Spaces and Stormwater Ponds

254. Given the nature of activities and extent of earthworks and vegetation clearance proposed, there is no relevant permitted baseline to consider with regard to the public spaces that form part of the subject site (CMA, Marsden Bay beach, Esplanade Reserve, and road reserve). Particularly given the lower permitted thresholds applied within the Coastal Environment.
255. Similarly, there is no relevant permitted baseline to apply to the continued use and ongoing maintenance of the MMH stormwater ponds.

10.3.4 Summary of Permitted Baseline Application

256. In summary, the existing Port facility (Berths 1 – 3) has a permitted baseline of effect that can reasonably be applied for the consideration of this proposal, insofar as it relates to reconsenting Port Activities undertaken across Berths 1 – 3. The noise and artificial lighting provisions of the WDP-OP also provide a permitted baseline of effect that can be applied to the land forming Berths 1 – 3.
257. Container terminal activities, as described in the AEE and in **Section 2.4.1** above, and maritime passenger handling/services (i.e. cruise ships, ferries, and water taxis) could, subject to compliance with the relevant WDP-OP district-wide standards and Port Zone bulk and location controls, currently be undertaken on Berths 1 – 3 as of right, i.e. without requiring resource consent.
258. Noting comments made in the application regarding capacity constraints, the full extent of proposed container terminal activities (500,000 TEU) and/or cruise ship berthage (up to 30 ships per annum) is not likely to be realised at the existing Port through a permitted baseline scenario. It is however acknowledged that the proposal does not introduce these as new activities to Northport.
259. With regard to the NRC consents, subject to compliance with the relevant standards, the removal or demolition of structures and use of navigational aids can be undertaken as a permitted activity. Effects associated with these activities can therefore be disregarded through the application of the permitted baseline.

10.4 Environmental Effects Assessment

260. An assessment of the proposals actual or potential positive and adverse environmental effects is set out below. This assessment has been guided by the information provided with the application and input from Council's specialists and submitters. Where these inputs are relied upon, they are referred to in the assessment below.
261. Where relevant, cumulative effects are addressed under each sub-heading.

10.4.1 Informative Baseline Reports

262. Contained within the application are several supporting baseline and modelling reports that provide an information basis for other specialist effect/impact assessments. These reports have been reviewed by Council specialists, as detailed below, for the purpose of confirming assessment methodology, responding to matters raised by submitters, and providing comment on technical components of proposed mitigation and conditions of consent.

10.4.1.1 Hydrodynamics, Morphodynamics, and Dredge Plume Modelling

263. MetOcean Solutions ('MetOcean') have prepared a suite of modelling reports for the project relating to hydrodynamics, morphodynamics, and potential sedimentation plumes arising from dredging activities. The MetOcean reports inform the Applicant's marine ecology, coastal processes, avifauna, and marine mammal effect assessments.
264. Dr Christo Rautenbach, of NIWA, was commissioned to review the MetOcean reports on behalf of the Councils. Dr Christo Rautenbach of NIWA was commissioned to review the MetOcean reports on behalf of the Councils. Following clarifications made through the s92 process, Dr Rautenbach notes that numerical model validation is limited by data availability and given that measured data was sparse, concludes the MetOcean reports utilise an appropriate numerical modelling approach.

10.4.1.2 Underwater Noise

265. An Underwater Acoustics Assessment was prepared by Mr Matt Pine and Mr Jon Styles of Styles Group, attached as Appendix 25 of the AEE. The Assessment describes the methods and outputs of the underwater noise modelling and forms an information basis for the Applicant's marine ecology and marine mammal effect assessments.
266. Mr Jonathan Vallarta of SLR Consulting was commissioned to review the Styles Group Assessment on behalf of the Councils. Mr Vallarta confirmed the assessment methodology is consistent with available literature and considers the Styles Group Assessment provides the necessary baseline assessment to implement appropriate mitigation strategies, as determined by the relevant technical specialists.
267. Mr Vallarta agrees that, subject to recommended refinements made by other Council specialists, the proposed Marine Mammal Management Plan (MMMP) is an acceptable mitigation measure for the proposed percussive pile driving activities. He proposes amendments to the Applicant's proposed conditions of consent relating to underwater noise mitigation for coastal avifauna and marine mammals, and controls on underwater dredging noise.
268. Mr Vallarta concludes that the Applicant's marine ecology and marine mammal effect assessments are supported by appropriate underwater noise modelling and baseline information and that, subject to conditions, underwater noise effects can be managed in accordance with best practice industry guidance and literature.

10.4.2 Cultural Effects

269. Section 4.2 of the AEE describes the cultural setting in which the site and surrounding area are located and Section 7.1.1 of the AEE identifies that Patuharakeke, Te Parawhau, and Ngātiwai are known to have an interest in the project area.³⁹

³⁹ NRC records also identify numerous other iwi and hapū groups as having an interest in the area. As a result, notice of the application was served directly on those groups through the notification process. Refer to **Section 7.2**.

270. Section 5.2.8 of the AEE acknowledges that consultation with mana whenua had raised a number of issues, some of which were unresolved at the time of lodgement. At the time of writing, the application contained no cultural mitigation measures or demonstrated resolution of cultural concerns raised through consultation and the CVA. The consideration of cultural effects is therefore undertaken on the basis of the information provided within the application⁴⁰ and that provided through submissions.
271. A number of iwi and hapū entities and submitters raised concerns regarding; impacts on mahinga kai, indigenous biodiversity (where it impacts the ability of tangata whenua to carry out cultural or traditional activities), effects on tāiapure, mātaimai or Māori non-commercial fisheries, and effects on the PRP-AV's mapped sites and areas of significance to tāngata whenua (Poupouwhenua).
272. The draft Te Parawhau Manawhenua Cultural Report has not been provided as part of the evidential basis of this application, which Council understands is at the request of Te Parawhau. The submission made by Te Parawhau Resource Management Unit (submission #117) states that the proposal directly conflicts with hapū cultural values relating to; Atua, Wai, Whenua, Ao Tūroa and Tāngata and as a result, the proposal will give rise to significant adverse cultural and environmental effects.
273. The PTB submission (submission #164) includes a copy of the final CEA prepared for the project. The body of the submission and the CEA raise many concerns with the proposal and conclude that the proposal will result in significant adverse cultural effects, including those relating to: permanent effects on the cultural landscape and seascape of Poupouwhenua, the direct loss and alienation of the takutai moana and loss of access to sites and areas of significance, and effects on intangible connections and values (for example in the context of whakapapa, mauri, manaakitanga, mana, wairuatanga, rangatiratanga, kaitiakitanga, mātauranga, te reo Māori me ōna tikanga). Additionally, the CEA articulates how a range of social, environmental, and economic impacts are viewed through a Te Ao lens and combine with these direct cultural impacts to amplify the significance of adverse cultural effects.
274. The applicant has chosen to rely on the expertise of Poupouwhenua based hapū to inform the magnitude of cultural effects, and in acknowledgment of this approach the Council has too. This approach and the conclusion that adverse cultural effects are **significant** and at this point remain unmitigated places a high burden on the cultural expert and applicant to continue engagement in the pursuit of relief to assist the hearings panels determination.
275. I am aware that engagement between the Applicant and the expert and Patuharakeke Iwi Trust Board, Ngāti Wai Trust Board and Te Parawhau has been occurring, is expected to continue through to a hearing, and that mitigation conditions are being contemplated. I strongly encourage this approach as it will be necessary to inform a conclusive view of the magnitude of cultural effects and then inform policy consistency conclusions.

10.4.3 Coastal Processes

276. Mr Richard Reinen-Hamill, E Beetham and C Perks of Tonkin & Taylor Ltd prepared a Coastal Processes Assessment ('CPA') for the proposal, attached as Appendix 10 of the AEE. The CPA

⁴⁰ The Applicant's proposed conditions of consent (dated 21 April 2023), utilised for the basis of Council reporting, do not include any conditions to respond to cultural matters.

assesses effects on coastal processes resulting from the construction works and permanent occupation of the CMA (high-tide bird roost and Port structures). The CPA and supporting MetOcean modelling reports assess the proposal both with and without the implementation of the CINZ's channel deepening and realignment consents (Crude Shipping Project).

277. The CPA concludes that, subject to recommended mitigation, construction effects on coastal processes outside the proposed reclamation footprint for the reclamation and seawall structures will be negligible and minor for dredging. The CPA states that by reclaiming the seabed and beach for the proposed reclamation, coastal processes within the reclamation footprint are permanently extinguished.
278. Residual effects of the expansions occupation are stated as minor and overall cumulative effects on coastal processes (largely due to the changes to the currents and wave climate) are assessed as moderate (more than minor).⁴¹ Effects associated with the construction of the bird roost are stated as negligible, with its long-term occupation identified as being potentially beneficial (positive effects) from the reintroduction of sediment to the western end of Marsden Bay and the sheltering this provides to the existing beach in this location.
279. Mr Doug Trelour of Stantec was commissioned to review the CPA on behalf of the Councils. Mr Trelour concurs with the assessment methodology used and largely agrees with effects conclusions reached. As detailed within his specialist memo attached as **Appendix C1**, Mr Trelour recommends additional mitigation to respond to matters raised in submissions, including long-term shoreline monitoring and adaptive response measures to address potential cumulative impacts of sediment transportation in the Marsden Bay / Blacksmiths Creek area (including as a result of the proposed bird roost) and heavy metal sampling prior to dredging works commencing.
280. Based on the specialist advice of Mr Trelour, subject to successful implementation of recommended mitigation, I consider actual or potential effects on coastal processes will **range from negligible to more than minor** and, where practicable,⁴² effects can be appropriately mitigated by conditions of consent.

10.4.4 Landscape, Natural Character, and Visual Amenity

281. The Assessment of Landscape, Natural Character, and Amenity Effects ('LVA') was prepared by Stephen Brown of Brown NZ Ltd and is attached as Appendix 15 of the AEE. The LVA effect conclusions, based on the New Zealand Institute of Landscape Architects (NZILA) guidelines, and the RMA translations made in the Applicant's AEE are summarised below:
- a. The greatest extent of landscape effects will be experienced at Marsden Bay Beach (*high* - significant) and Reotahi and Mid-Harbour near the CINZ jetty (*moderate – high* / more than minor).⁴³ Elsewhere, landscape effects range from *very low – low-moderate* (minor);

⁴¹ Section 5.2.11 of the CPA, page 44. Effect translations are set out within Appendix C of the CPA where a moderate / medium effects is described as more than minor using RMA terminology.

⁴² Acknowledging that the permanent extinguishment of coastal processes within the proposed reclamation footprint cannot be mitigated.

⁴³ Including cumulative impacts of the proposal and the implementation of Berth 4 consents.

- b. Amenity effects will be *moderate – high* (more than minor) at Marsden Bay Beach and will range from *moderate* to *moderate – high* (more than minor) at Reotahi . Elsewhere, amenity effects range from *very low* (less than minor) to *low-moderate* (minor);
 - c. Adverse natural character effects will be *moderate* (more than minor) Marsden Bay Beach and Mid-Harbour, near the CINZ jetty. Natural character effects otherwise range from *very low* (less than minor) to *low-moderate* (minor);
 - d. Night-time effects range from *very low* (less than minor) at the Albany Road beachfront, to *low – moderate* (minor) at Reotahi; and
 - e. No ONLs, HNC Areas, or ONC Areas are directly affected by the proposal but the proposed expansion would affect *perceptions* of these – effects on ONLs are considered to be less than minor or minor in extent.
282. Mr Mike Farrow of Littoralis Landscape Architecture was commissioned to review the LVA on behalf of the Councils. Mr Farrow notes that the assessment has used a robust methodology consistent with best practice and concludes *“I concur with the types and levels of effects that are documented, and their impacts within the range of representative viewpoints that are examined by the Assessment.”*
283. Notwithstanding agreement on assessment methodology and effects conclusions, Mr Farrow highlights the following matters:
- a. The considerable scale of the STS cranes and bulk of stacked container storage (effectively 5 -6 storeys high) relative to the stature of the existing Port infrastructure and the adjacent refinery. Whilst several submitters reference a Northport proffered limitation on the number of cranes proposed, the application does not state how many cranes are intended to occupy Berth 5 or propose a maximum number of cranes;
 - b. If the ‘conditioning context’ provided by the existing elevated structures (chimneys and furnaces) of the CINZ infrastructure does not remain in the future the effects of the proposed Port cranes and light standards may be marginally heightened. Mr Farrow acknowledges the CINZ consents are not known to have been surrendered and that the surrounding industrial zoning permits significant bulk, location and height for major structures and buildings;
 - c. The discrepancies between the WSP design drawings and Boffa Miskell Pocket Park Concept Plan with regard to layout and use of buffering vegetation. Mr Farrow considers the Boffa Miskell pocket park design will be more effective in partially mitigating adverse amenity effects of future users from that shown on the WSP drawings;
 - d. The proposed water taxi landing facility is located in a highly confined, busy, and potentially hazardous area of Marsden Bay (between the proposed reclamation and CINZ jetty) and users are likely to experience a marked reduction in experiential values and visual amenity. Mr Farrow considers there to be merit in relocating the fishing and swimming jetty (and subsequently, the Te Araroa trail route) to an alternative location, less compromised by the proximity of the expanded Port and CINZ facilities;
 - e. Submissions from hapū representatives refer to cultural landscape values and effects, including viewshafts and the integrity of landscape/seascape elements, including Mair Bank. These submissions do not specifically identify key viewshafts or visual connections of concern; and
 - f. Mr Farrow notes that portions of the mapped ONL on Mt Aubrey and Motukaroro that are in closest proximity to the Port site are the most directly affected mapped landscape

or natural character area. In Mr Farrow's opinion, the effects ratings assigned by the LVA to the closest viewpoints (being Reotahi and Mid-Harbour) are a surrogate for effects upon those portions of ONL, which are stated as being in the range of moderate to moderate-high (more than minor).

284. The effect conclusion in (f) has a significant implication under the NZCPS Policy 15, which directs avoidance of effects on ONL's. Because Mr Farrow has inferred this outcome and Mr Brown does not reach the same conclusion, this is a matter that would benefit from expert engagement prior to the hearing.
285. Mr Farrow concludes that the LVA generally addresses effects raised by submitters, with the exception of cultural landscape values (including viewshafts and the integrity of landscape/seascape elements, such as Mair Bank). Mr Farrow notes these submissions were broadly framed and did not identify key viewshafts or visual connections of concern, however which he anticipates these matters are likely to be expanded on further at the hearing. Two conditions are proposed by Mr Farrow, which relate to the retention of existing landscape planting and relocation of the proposed water taxi jetty.
286. The site conditioning context matter raised by Mr Farrow, is noted. However, the consented CINZ activities and enabling bulk and location provisions of the WDP-OP Heavy Industry zone form part of the receiving environment in this instance. The CINZ consents authorising the existing chimney and furnace stacks are not known to have been surrendered and the WDP-OP industrial zones (light and heavy), Port Zone, and MPEP all permit a significant extent of plan-enabled building and structure bulk and height within this area. With this planning context in mind, the Landscape impacts on the closest ONL's are potentially at the lower end of Mr Farrow's effects scale (minor) as assessed by Mr Brown.
287. With the exception of cultural matters, which are addressed in **Section 10.4.2** above, conditions are proposed to address remaining points raised by Mr Farrow. It would be helpful for the Applicant to confirm any restrictions on cranes prior to or at the hearing.
288. Based on the above, the experts appear in general alignment regarding the magnitude of effects and the appropriateness of these effects in the landscape context. The exception is regarding inferred or perception effects on ONL's immediately north of the site. This matter would benefit from expert engagement prior to the hearing to inform a conclusive view of the magnitude of landscape effects, particularly due to the policy implications of this effect magnitude.

10.4.5 Marine Ecology

289. Dr Shane Kelly and Ms Carina Sim-Smith of Coast & Catchment Environmental Consultants prepared an assessment of the marine ecological effects of the proposal ('MEEA'), attached as Appendix 11 of the AEE.
290. The MEEA was peer reviewed for the applicant by Mr Ross Sneddon and Mr Donald Morrissey of Cawthron Institute, who generally concur with the assessment methodology and findings of the MEEA, highlighting its conservatism in places. The Cawthron peer review letter is attached as Appendix 12 of the AEE.

291. In response to the PRP-AV's Policy D.2.18(5)(a)⁴⁴, the MEEA identifies three spatial systems scales to which the assessment is based on; the entire harbour system ('Harbour'), the Outer Harbour and Entrance Zone ('OHEZ'), and the development footprint being the reclamation and dredging extent. The findings of the MEEA are discussed further below.
292. Mr Drew Lohrer of NIWA was commissioned to review the marine ecology assessments on behalf of the Councils. Mr Lohrer concurs with the three scales identified within the MEEA but in instances, disagrees with the application of the scales and the corresponding effect conclusions. This is discussed further below.
293. **MEEA Conclusions.**
294. The MEEA assesses the effects of the proposal based on the Environmental Institute of Australia and New Zealand (EIANZ) guidelines and includes corresponding RMA translations.⁴⁵ In summary, the MEEA identifies nine main effect 'types' and concludes:
- a. Effects on intertidal sediment habitats and macrofauna will be *moderate* (minor - more than minor) at the Harbour scale;
 - b. Effects on kaimoana shellfish will be *low* (less than minor) at the Harbour scale;
 - c. Effects on subtidal habitat and benthic macrofauna (from reclamation) will be *moderate* (minor - more than minor) at the OHEZ scale;
 - d. Effects on subtidal habitat and benthic macrofauna (from dredging) will be *moderate to high* (more than minor - significant) at the OHEZ scale;⁴⁶
 - e. Effects on seagrass will be *low* (less than minor) at the Harbour scale;
 - f. Effects on macroalgae will be *moderate to high* (more than minor - significant) at the OHEZ scale;
 - g. Effects on fish will be *low* (less than minor) at the Harbour scale;
 - h. Effects on reef habitat will be *low* (less than minor) and positive in medium to long term at the Harbour scale; and
 - i. Effects of stormwater discharges will be *low* (less than minor) beyond the mixing zone.
295. The MEEA applies the same scales and reaches the same effect conclusions when considering cumulative effects for each effect type.⁴⁷

⁴⁴ PRP-AV Policy D.2.18(5)(a) states that potential adverse effects on identified values of indigenous biodiversity are to be assessed by "...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".

⁴⁵ The MEEA sets out that a "Low" EIANZ effect is considered to be a "less than minor" effect under the RMA; and a "Moderate" EIANZ effect is considered to straddle a "minor" and "more than minor" effect range. Mr Lohrer adopts this methodology.

⁴⁶ Reported *high* (more than minor - significant) effects on subtidal habitat and benthic macrofauna and on macroalgae associate with the potential use of TSHD methodologies. Moderate effects are expected from the use of CSD and BHD's.

⁴⁷ Table 20, page 141 of the C&C Assessment.

296. Section 6.5.1 of the MEEA states that with regard to cumulative effects, a number of effects associated with the proposal are already provided for under the Berth 4 capital and maintenance dredging consents. The assessment highlights the difficulty in accurately determining the differences between adverse effects authorised under the existing consents and those anticipated with the proposed Berth 5 consent application. The MEEA cumulative effects assessment does not disregard effects authorised under the Berth 4 dredging consents and notes the cumulative effects assessment is therefore considered to be conservative.
297. With regard to the coastal policy framework, the MEEA concludes:
- a. Ecological effects on threatened or at-risk species and identified SEA's will range from negligible to less than minor at worst, and in some instances will be temporary; and
 - b. Provided best practice methods for managing dredging effects are applied (such as those utilised by Napier Port), ecological effects on any other potential areas of significant indigenous vegetation and habitats of indigenous fauna (as per Appendix 5 of the RPS) could be kept within minor and/or transitory levels.
298. **Council Specialist (Mr Lohrer) Conclusions**
299. Mr Lohrer generally concurs with the MEEA on the nine effect 'types' considered (excluding cumulative effects), with the exception of the following:
- a. Whilst Mr Lohrer agrees effects on intertidal sediment habitats and macrofauna will be *moderate* (minor - more than minor), he considers the OHEZ is a more appropriate scale to apply to the assessment (as opposed to the Harbour scale applied in the C&C Assessment) given the dissimilarity of muddy upper harbour and Parua Bay intertidal sediment habitats relative to those affected by proposal; and
 - b. Mr Lohrer considers effects on kaimoana shellfish will be *moderate* (minor - more than minor) at the OHEZ scale as opposed to *low* (less than minor) at the Harbour scale as described in the MEEA. Mr Lohrer considers the OHEZ scale is the appropriate scale to apply to the assessment on kaimoana shellfish given this is where kaimoana densities are highest (Snake Bank, Mair/Marsden Bank, Urquharts Bay) and where impacts will be most intense – namely disruption of sediment and propagule pathways and elevated suspended sediment concentration and deposition rates.
300. With regard to cumulative effects, Mr Lohrer notes that the MEEA acknowledges the potential for cumulative effects through the combined impacts of dredging and reclamation on the nine effects types considered (effects on fish, kaimoana shellfish, seagrass etc.). In Mr Lohrer's opinion, the MEEA does not however consider the wider cumulative impact on the wider Whangārei harbour – Bream Bay marine ecosystem, particularly the OHEZ, from the combination of these effect types.
301. Mr Lohrer raises concern regarding the potential cumulative impacts on kaimoana shellfish and the associated ecosystem functions and services provided by these species and their bank habitats within the Whangārei Harbour, as detailed below:
- a. Changes in along-shore currents (including those resulting from reclamation and coastal developments, which Mr Lohrer considers the existing Port is likely to have contributed to) and associated disruption to bedload transport pathways. Mr Lohrer highlights the role bedload transport plays in invertebrate dispersal and habitat colonisation and the impact that disruption of transport pathways can have on species population health. Mr

Lohrer raises particular concern regarding degraded pipi stocks in this location of the Harbour;

- b. In Mr Lohrer's opinion, potential impacts of sediment deposition stemming from the proposed dredging and construction activities may be greater than that set out within the MEEA. Specifically, the thickness of dredging-related deposits and the direct impact on filter-feeding seafloor species (horse mussels, scallops, cockles, and pipi) and indirect impacts on those same species associated with sediment resuspension; and
- c. Impacts on intertidal habitats from coastal inundation and sea level rise, and increased frequency and severity of storm events (and associated major sediment loading events). Mr Lohrer considers these additional climate pressures, in combination with loss of shellfish and natural seabed armouring, could alter sand distribution patterns and thus the shape, elevation, and characteristics of intertidal sandbanks in the OHEZ. These changes have the potential to further reduce shellfish populations and the provisioning and cultural ecosystem services provided by the banks.

302. Mr Lohrer highlights that the health of various kaimoana populations (including horse mussels, scallops, and pipi) in the Whangārei Harbour is severely degraded and notes the wider contributions these species make to marine ecosystem services, such as water filtration, seabed armouring, provision of wild seafood, and support of cultural heritage and identity. Overall, Mr Lohrer considers that any further cumulative pressures on degraded kaimoana populations (including pipi) could lead to irreversible damage.

303. Mr Lohrer concludes that the cumulative impact of the proposal on the marine ecology of the Whangārei/Bream Bay system will be significant.

304. **Mitigation**

305. The MEEA identifies several actions that could be taken to reduce the extent of marine ecology effects arising from the proposal, including; selecting dredging methods to minimise sediment suspension and dispersal (noting TSHD methodologies are anticipated to generate greater adverse effects than CSD and BHD), using best practice methods such as real time turbidity monitoring and triggers to maintain the effects of dredging plumes within acceptable limits, removing key species (e.g. scallops) from affected sites prior to starting reclamation or dredging, monitoring recovery after dredging is complete and reseeded dredged areas with shell if shell/gravel is not present at the dredged depth or it does not re-establish naturally.

306. MEEA suggested mitigation is, in part, formally offered within the AEE and draft conditions of consent. It is understood that the Applicant continues to develop conditions of consent relating to turbidity monitoring and response measures, which were not available for review at the time of writing.

307. **Marine Ecology Effects Conclusion**

308. The direct effects on marine ecology are assessed by the MEEA as ranging from less than minor to more than minor in extent. Mr Lohrer generally concurs with these conclusions, with the exception of effects on kaimoana shellfish, which he considers will be more than minor (as opposed to less than minor).

309. The MEEA concludes cumulative effects will similarly range from less than minor to more than minor. Mr Lohrer considers cumulative effects on marine ecology will be significant.

310. As acknowledged within the MEEA, the effects of the consented Northport dredging operations have not been disregarded as consented effects are difficult to differentiate from those arising from the proposed expansion. It would be helpful if the Applicant were able to provide further evidence on what reasonably constitutes the receiving environment in this regard.
311. Mr Lohrer and Mr Kelly are reasonably aligned on the scale of assessment, and generally agree on the magnitude of direct effects on the different components identified as comprising the affected marine ecosystem. They differ on what Mr Lohrer has termed cumulative effects. In analysing Mr Lohrer's memo, I considered these to be more accumulative effects because his identified effects are less about impacts over a time horizon and more about an aggregation of the identified direct effect components (the sum is greater than the parts). Applying this logic, Mr Lohrer arrives at an overall conclusion of significant adverse effects.
312. Whilst it is acknowledged that the Applicant's proposed mitigation generally aligns with the recommendations of the MEEA, in the absence of turbidity monitoring and response mitigation detail, the adequacy of this mitigation has not yet been demonstrated. Both these matters would benefit from facilitated expert conferencing to inform a conclusive view of the magnitude of marine ecological effects, particularly due to the policy implications of this effect magnitude.

10.4.6 Avifauna

313. A Coastal Avifauna Assessment ('CA Assessment') was prepared by Dr Leigh Bull, formerly of Boffa Miskell and is attached as Appendix 13 of the AEE. The report sets out an assessment of effects on coastal birds associated with permanent habitat loss, mortalities, disturbance and displacement (forms of habitat loss), impacts on food supply and foraging ability, artificial lighting, pollution and cumulative effects.
314. In response to the aforementioned PRP-AV Policy D.2.18(5)(a), the CA Assessment identifies the Harbour scale as the appropriate systems scale to frame the avifauna assessment. The CA Assessment concludes that, subject to proposed mitigation, effects of the proposal on avifauna (including cumulative effects) will range from *low* to *very low* (as per the EIANZ guidelines) at the Harbour scale. The Applicant's AEE translates these conclusions to potential avifauna effects being less than minor to minor in extent.
315. The CA Assessment recommends mitigation in the form of the high tide bird roost sandbank (as detailed in **Section 2.6.2** above), implementation of an Avifauna Management Plan ('AMP') that outlines measures of avoiding construction impacts on variable oystercatcher and Kororā, underwater noise monitoring and mitigation for Kororā, and controls on the use of operational artificial lighting. Dr Bull's recommended mitigation appears to have been adopted in full by the Applicant.
316. Ms Claire Webb of Beca was commissioned to review the CA Assessment on behalf of the Councils. Ms Webb agrees with the Harbour assessment scale applied and, with the exception of cumulative effects, concurs with the methodology utilised.
317. Ms Webb generally agrees with the effects conclusions reached in the CA Assessment and notes that the CA Assessment appropriately identifies three species that are subject to adverse effects that meet the threshold for effects management (moderate and above under EIANZ guidelines) because of either their conservation status and/or proportion of population affected: Northern New Zealand dotterel, variable oystercatcher, and Kororā (blue penguin). With mitigation, effects on these three species are assessed as ranging from *very low* – *low*.

318. With regard to cumulative effects, Ms Webb considers that the CA Assessment narrows the consideration of potential cumulative effects to those that may arise from other coastal developments and unimplemented resource consents within the Whangārei Harbour. In Ms Webb's opinion, the assessment of cumulative effects should be expanded to consider other contributing activities or developments in the wider Harbour that could affect foraging and roosting of coastal avifauna species. In the absence of this information, Ms Webb is unable to confirm the cumulative effects assessment conclusions reached by Dr Bull.
319. With regard to proposed avifauna mitigation, Ms Webb raises concern regarding the longevity of the high-tide roost site given its subjectivity to erosive coastal processes and recommends further consideration of alternative mitigation, which could include the identification and enhancement of alternative roost areas that may be used by displaced avifauna. Ms Webb otherwise supports the implementation of sediment controls during dredging and an AMP to manage construction effects and recommends avifauna management measures are also included within an operational management plan. Conditions of consent are recommended by Ms Webb to address these matters.
320. Based on the specialist advice of Ms Webb and conclusions of Ms Bull, subject to implementation of the recommended mitigation and, with the exception of cumulative effects, I consider actual or potential effects on avifauna will be **no more than minor** and appropriately mitigated by conditions of consent. It is recommended that expert conferencing occur between the two avifauna specialists to inform a robust cumulative effects conclusion.

10.4.7 Marine Mammals

321. Ms Deanna Clement of the Cawthron Institute has prepared a Marine Mammal Assessment ('MMA'), attached as Appendix 14 of the AEE. The assessment considers the impacts on marine mammals from underwater noise generated by construction activities (general, pile driving, and dredging), vessel strike, entanglement in operational equipment or debris, loss of habitat and prey species, and cumulative effects.
322. The MMA identifies underwater noise generated by pile driving as the main activity that could adversely affect marine mammals in the vicinity of the works and concludes that unmitigated effects range from nil to more than minor (more than minor effects associate with pile-driving noise and ship strike). With mitigation, effects reduce to less than minor.
323. The key mitigation measure recommended in the MMA is the preparation and certification of a Marine Mammal Management Plan ('MMMP') to manage construction works. Further, construction monitoring via dedicated marine mammal observers and underwater acoustic monitoring. Restrictions on construction activities (seasonal and operational hours) and the encouragement of Northport's uptake of the Hauraki Gulf Transit Protocol⁴⁸ formed part of the mitigation package that reduced more than minor effects of pile driving and ship strike to less than minor.

⁴⁸ As set out in the MMA, ship strike mortalities in the Hauraki Gulf posed a significant threat to Bryde's whales until the Hauraki Gulf Transit Protocol was established in 2015. The protocol, which applies only to the Hauraki Gulf has three key requirements; 1) transit speed though the Gulf is reduced to 10 knots, 2) an active watch for whales is kept, and 3) whale sightings are reported immediately and relayed to other vessels in the vicinity.

324. Ms Helen McConnell of SLR Consulting NZ Ltd was commissioned to review the MMA on behalf of the Councils. Ms McConnell concludes that the methodology utilised was appropriate and reflective of best practice and generally concurs with the effects conclusions reached by Ms Clement.
325. Whilst in agreement with the cumulative effect conclusions reached in the MMA, Ms McConnell identifies that the cumulative effects assessment is limited in scope and does not consider other known pressures on threatened marine mammals likely to frequent the site, being orca and bottlenose dolphins.⁴⁹ Ms McConnell provides further comment on these documented pressures and concludes that based on the information available, and subject to recommended mitigation, cumulative effects are considered to be negligible.
326. As detailed in Section 8.3 of Ms McConnell's technical memo, various amendments to the Applicant's proposed conditions of consent are recommended. These largely relate to the MMMP and include the additional mitigation provided through the use of bubble curtains to reduce underwater construction noise. Ms McConnell also recommends strengthening the MMA's recommendations to support the uptake of the Hauraki Gulf Transit Protocol (or equivalent requirements of) through consent conditions. In Ms McConnell's opinion, the adoption of these Protocol measures as conditions would provide a greater level of confidence that the potential for ship strike from project vessels will be reduced to less than minor levels, as reported.
327. Based on the specialist advice of Ms McConnell, subject to implementation of the recommended mitigation, I consider actual or potential effects on marine mammals will be **less than minor** and appropriately mitigated by conditions of consent.

10.4.8 Navigation and Safety

328. Key navigation safety effects associated with the proposed expansion relate to the impacts on the health and safety of vessel occupants and the environment as a consequence of vessel incidents (such as damage to marine and coastal ecosystems from groundings and oil spills), and effects on adjacent infrastructure and operations (including the public water taxi and fishing pontoon and the CINZ facility).
329. A Navigation Safety Report ('NS Report') was prepared for the proposal by Mr Bruce Goodchild of Northport,⁵⁰ attached as Appendix 26 of the AEE. The NS Report and subsequent navigation safety s92 responses conclude that; the proposal will not affect the function or use of the shipping channel, any increase in Northport shipping traffic is expected to be marginal and is not expected to have a material impact on navigation safety, and that whilst the implementation of the CINZ channel deepening and realignment consents would improve navigation safety, no channel optimization (including dredging) is required, nor proposed, to enable the proposal.

⁴⁹ The MMA cumulative effects assessment considers cumulative underwater noise effects, potential effects associated with the project's reclamation and dredging works being undertaken concurrently, and those associated with the two other consented but unimplemented marine development projects in the Whangārei Harbour (the CINZ channel deepening and realignment dredging, and Northport's Berth 4 consents).

⁵⁰ It is understood that Mr Goodchild, whilst employed by Northport Ltd, also holds the position of Deputy Harbourmaster for NRC.

330. The NS Report identifies that the configuration (depth and width) and environmental processes (tides and winds) associated with existing shipping channel create navigation challenges for vessels. The NS Report and supplementary s92 responses provided by the Applicant also note that commercial shipping fleets are generally increasing in size and confirm that no channel optimization is proposed.⁵¹ The Applicant proposes to continue to manage potential navigation safety risks through continued use of existing operational controls and risk management measures.⁵²
331. The AEE (Section 5.10) concludes that the proposal is not expected to negatively impact navigation safety and that the existing oil spill response plans are considered robust and will be regularly reviewed in accordance with the requirements of the Maritime Transport Act 1994.
332. **Proposed Berth 5**
333. Mr Scott Keane of Stantec was commissioned to review the NS Report on behalf of the Councils. Mr Keane generally accepts the findings of the application documentation, although recommends more rigorous and independent full mission bridge simulations are undertaken to inform operational management controls, and that a Marine Oil Spill Risk Assessment is prepared for the proposal to inform any required updates to the existing Northland Marine Oil Spill Contingency Plan and any spill response equipment requirements.
334. **Proposed Tug Facility and Water Taxi Jetty**
335. In July 2023 a concept plan was provided by the Applicant in response to Council's s92 clarifications. The concept plan (shown in **Figure 3-11** above) demarcates an area identified as "Vicinity of Tug Facility" which differs from the WSP design drawings, the NS Report, and the information contained within the AEE (Figure 6 of Section 3.3.4).
336. Whilst it is acknowledged that the NS Report and s92 responses relating to navigation safety matters were prepared prior to the latest concept plan being provided, the concept plan shows the floating tug facility directly adjoining the NS Bylaw's prohibited CINZ operational areas. Further, no legal public coastal access appears to be available to the water taxi jetty and fishing pontoon exclusive of this prohibited area.
337. Mr Keane has reviewed the concept plan and does not consider that potential adverse navigation safety effects and risk of conflict associated with the occupation and use of the proposed tug facility and water taxi jetty, have been appropriately mitigated.
338. Further, I note that the CINZ facility is listed as RSI and noted as being of national importance in the RPS. The location and layout of the ancillary Port structures (tug facility and water taxi jetty), as currently proposed, is likely to encourage vessels and recreational users within the CINZ

⁵¹ Refer request #52 of [Council's initial s92 request](#) dated 19 December 2023 and the [Applicant's s92 response](#) dated 21 February 2023 (paragraphs 52.1 – 54.1) and [supplementary response](#) dated 13 July (paragraphs 11.1 – 11.11).

⁵² Operational controls include restricting the passage of larger vessels to certain tides. Existing risk management controls include Northport's Safety Management System, Hazman II risk assessments, and Dynamic Underkeel Clearance System ('DUKC System'), in-house simulators capable of full mission bridge simulations, pilotage and towage capabilities (currently provided by Northtugz), pilot and tugmaster training, and use of navigational aids.

prohibited NS Bylaws exclusion zone. Impacts on CINZ operations was a matter raised within the CINZ submission, of which is acknowledged as having been made prior to the latest concept plan being prepared.

339. **Navigation Safety Effects Conclusions**

340. It is recommended that the Applicant provide further detail prior to or at the hearing regarding the location and layout of the proposed tug facility, and how navigation safety concerns and potential impacts on CINZ infrastructure and operations will be avoided or mitigated.

341. Based on the application as it currently stands and the advice of Mr Keane, I consider adverse navigation safety effects, including those on adjacent infrastructure, are **minor** and able to be mitigated.

10.4.9 Biosecurity

342. Actual or potential adverse effects on biosecurity were addressed within Section 5.11 of the AEE, identifying that key potential biosecurity risks associated with the proposed expansion are likely to arise through the use of specialised (overseas) construction vessels and equipment, provision of additional Port infrastructure (surface area of marine pests), and potential changes in the frequency and geographic origin of shipping.

343. Biosecurity concerns raised in submissions included the increased risk of invasive species associated with increased vessel movements, and the introduction of viruses from cruise ships.

344. The application proposes mitigation to manage biosecurity risk through the construction phase via the development and implementation of a Biosecurity Management Plan as part of the Construction Environmental Management Plan ('CEMP'). The AEE states that operational biosecurity risk will continue to be managed in accordance with the requirements of the Import Health Standards ('IHS') administered by MPI⁵³ and rules of the PRP-AV.

345. Further to the comments made in the AEE, it is noted that the NRC administers the Northland Regional Pest and Marine Pathway Management Plan ('RPMP MP'), prepared under the Biosecurity Act 1993. The RPMP MP contains a Marine Pathway Plan, which contains rules for biofouling to manage the spread of new marine pests into and around Northland.⁵⁴

346. I agree with the position set out within the AEE, that subject to successful implementation of the proffered mitigation, adverse effects associated with construction vessel/equipment biosecurity risks can be appropriately managed, and the operational biosecurity risk are most appropriately managed under the Biosecurity Act and associated regional Marine Pathway Plan.

⁵³ Under the Biosecurity Act 1993, an IHS is required for importation into New Zealand of any biosecurity risk goods. IHS' exist for plants, food, and biological products but also for imported sea or shipping containers. Source: [linked here](#).

⁵⁴ As stated on page 104 of [The Marine Pathway Plan](#), the Plan does not apply to international vessel arrives as the Pest Management National Plan of Action allocates responsibility for border biosecurity to MPI.

10.4.10 Terrestrial Noise and Vibration

347. A (Terrestrial) Noise Assessment ('MD Assessment') was prepared for the proposal by B Lawrence and C Fitzgerald of Marshall Day Acoustics, attached as Appendix 4 of the AEE.

348. Mr Peter Runcie of SLR Consulting was commissioned to review the MD Assessment on behalf of the Councils and agrees that the assessment methodology utilised is appropriate. Findings are discussed separately below for construction noise and vibration, daytime noise, night-time noise.

349. Construction Noise and Vibration

350. The MD Assessment concludes that construction noise is expected to comply with WDP-OP standards and any change in vibration will be imperceptible to the closest sensitive receivers due to the separation distances. Mr Runcie agrees that, with mitigation, construction noise and vibration is not likely to be perceptible during the works and would be expected to be comply with permitted WDP-OP limits.

351. Daytime Operational Noise

352. The MD Assessment noise modelling identifies that existing peak Port operations demonstrated compliance (just) with the permitted daytime WDP-OP noise limits. Modelling results identify that proposed Port activities are predicted to continue to comply with the WDP-OP daytime limits.

353. Whilst anticipated compliance with WDP-OP daytime noise limits is expected, the Applicant seeks consent to apply the NZS Port Noise limits to Port activities undertaken across the existing and proposed Port facility, as opposed to the WDP-OP levels. The application of the NZS Port Noise levels essentially increase maximum daytime noise levels from 55 dB L_{Aeq} (WDP-OP) to 58 dB L_{dn} (5-day) and 61 dB L_{dn} (1-day) (NZS Port Standards).

354. Mr Runcie notes that the MD Assessment predicts that daytime levels will increase noticeably (typically 5 dB) in Marsden and Reotahi and considers this change in noise level could be described as a moderate (more than minor) noise effect, as opposed to the minor effect conclusion reached in the AEE. Mr Runcie does however acknowledge that the anticipated noise levels is predicted to remain below the permitted daytime noise levels of the WDP-OP (55 dB L_{Aeq}).

355. Night-Time Operational Noise

356. The MD Assessment modelling anticipates Port noise will exceed the WDP-OP permitted night-time limits by between 1 – 7 dB. Section 5.12.7 of the AEE translates the MD Assessment conclusions to no more than minor effects, subject to mitigation.

357. Mr Runcie considers that, in using the effect descriptors provided in Table 3 of the MD Assessment, the predicted change in external night-time noise levels at surrounding residences would constitute a moderate (5-8 dB, more than minor) noise effect at most of the 62 properties identified as being subject to night-time exceedances, and potentially a significant effect (9-11 dB, doubling of loudness) at the most exposed properties.

358. Mr Runcie acknowledges that whilst noise levels would increase, for the majority of dwellings this would not be expected to be at a level which requires them to close windows to provide a reasonable internal acoustic environment. A number of properties would however be exposed

to increased noise at a level which would likely result in them preferring to keep windows closed at night. Mr Runcie therefore supports the Applicant's proposed mitigation to fund "at property" treatment in the form of mechanical ventilation and cooling (or other upgrades as required). This is discussed further below.

359. Mr Runcie concludes that, subject to conditions and the implementation of "at property" treatment, the actual and potential adverse effects of the proposal can be managed to be reasonable.

360. **Mitigation**

361. The MD Assessment considers the application of the NZS Port Noise to be appropriate and supports the adoption of NZS Port Noise limits as conditions of consent and the proposed mitigation; primarily the PNMP and the offer to provide acoustic mitigation in the form of mechanical ventilation systems to dwellings exposed to Port noise above 55 dB L_{dn} (5-day).

362. Mr Runcie recommends that the noise reduction factor (15 dB when windows are closed) used in the MD Assessment to identify potential dwellings that may require acoustic mitigation is reduced to 10 dB given the varied housing typologies of residences in Marsden and Reotahi. As a result, Mr Runcie notes that the number of properties identified as potentially requiring acoustic mitigation and treatment is likely to increase above the 16 properties identified in the MD Assessment.

363. The acoustic assessment recommends mitigation for existing dwellings exposed to levels above 55 dB L_{dn} (5-day) (measured at the external façade), which Mr Runcie identifies is aimed to achieve an indoor noise limit of 40 dB L_{dn} . Mr Runcie supports the internal noise limit of 40 dB L_{dn} and recommends, given the variability in housing typology and associated uncertainty around actual noise level reductions achieved, that conditions of consent reference the external façade mitigation trigger of 50 dB L_{dn} (5-day) as opposed to 55 dB.

364. Mr Runcie also identifies that the proposed maximum night-time noise levels (58 dB $L_{Aeq,15min}$ and 53 dB $L_{Aeq,night}$) are higher than the highest night-time noise levels predicted (and assessed) in the MD Assessment (being 52 dB $L_{Aeq,15min}$ and 51 dB $L_{Aeq,night}$). Mr Runcie recommends that the night-time noise condition limits are modified to reflect the highest levels predicted in the acoustic assessment (52 dB $L_{Aeq,15min}$ and 51 dB $L_{Aeq,night}$) upon which the assessment of effects has been based.

365. Mr Runcie also recommends amendments to the Applicant's proposed conditions of consent to require the preparation of a Construction Noise Management Plan ('CNMP'), either as a standalone document or as part of the proposed Construction and Environmental Management Plan ('CEMP').

366. **Terrestrial Noise and Vibration Effects Conclusion**

367. Based on the advice of Mr Runcie, I conclude that subject to his recommended changes to conditions, the proposed mitigation approach is an effective means of managing adverse terrestrial noise effects and that overall, effects will be reasonable.

10.4.11 Archaeology

368. Mr Glen Farley of Clough & Associates Ltd ('C&A') has assessed and considered the actual and potential archaeological effects of the proposal. A copy of the Archaeological Assessment is attached as Appendix 16 of the AEE.

369. No archaeological or other historic heritage have been identified within the proposed development footprint. The C&A assessment concludes that there is limited potential for archaeological remains to be discovered within the proposed development footprint due to modification of the site through previous land uses and that *“the development will therefore have no known effects on archaeological values”*. The Applicant’s AEE translates these conclusions to potential archaeological effects being negligible in extent.
370. The C&A assessment recommends standard accidental discovery measures are applied during works, of which have been accepted and adopted as mitigation proffered within the application.
371. Based on the information provided within the application, I concur with the conclusions reached within the Applicant’s AEE, that subject to proposed conditions the actual or potential archaeological effects will be **negligible** and suitably mitigated.

10.4.12 Recreation

372. A Recreation Effects Assessment was prepared for the proposal by Mr Rob Greenaway of Rob Greenaway & Associates, attached as Appendix 19 of the AEE. The potential effects on recreation have been assessed in terms of construction impacts (marine occupation, turbidity, marine ecology and fishing, access) and operational impacts (changes in currents and wave patterns, loss of a section of Marsden Bay beach, marine ecology, recreation vessel navigation).
373. The Greenaway Assessment concludes effects related to construction and maintenance activities will be minor and that operational effects will range from less than minor to significant. Mr Greenaway concludes that residual effects on recreation, particularly the reduced sense of scale of the remaining extent of open space, will be significant for recreational users of Marsden Bay beach and more than minor at the regional level.
374. Mr Craig Jones of Visitor Solutions was commissioned to review the Greenaway Assessment on behalf of the Councils. Mr Jones considers the assessment methodology and identification of effects to be appropriate and concurs with the effect conclusions relating to construction and operational impacts.
375. Mr Jones highlights that whilst access to Marsden Bay beach may be limited for 6 – 12 months during the construction of the proposed public facilities, the reclamation programme of works (3.5 years) will continue to disrupt recreational activity along the beach after access is reinstated. Similarly, given the uncertainty around ecological recovery time from the loss of shellfish beds within the reclamation footprint, associated recreational fishing impacts may be prolonged beyond the completion of the construction period.
376. In Mr Jones’ opinion, the significant residual recreational effects associated with the reduced sense of scale requires further consideration with regard to the proposed mitigation; being the pocket park, water taxi jetty, swimming and fishing pontoon. Mr Jones considers that the quality and values of the residual recreational environment will be significantly reduced by the proposal and the proposed mitigation approach to relocate all of the previous recreational amenities into a smaller and more condensed recreational setting, surrounded by a potentially greater concentration of industrial activities (the expanded Port and CINZ facility).
377. Further, following a review of the recently submitted (July 2023) concept plan, Mr Jones holds residual safety concerns regarding potential user conflicts associated with the use of the proposed tug facility, water taxi jetty, fishing pontoon, and swimming steps/pocket park.

378. Acknowledging the Applicant remains open to alternative scenarios to improve public access and recreation facilities, ⁵⁵ Mr Jones' considers distributing some built recreational assets into surrounding off-site recreational areas could sufficiently mitigate the recreational value of the proposed mitigation above that resulting from the proposed pocket park and associated facilities. Recommended alternative off-site mitigation options are set out within Mr Jones' technical memo (**Appendix C8**) and include a permanent water taxi facility at the Marsden Cove Marina, a realigned Te Araroa Trail walkway, swimming opportunities to the west of the Port, and picnicking opportunities within the wider Marsden Bay area.
379. Based on the specialist advice of Mr Jones, subject to conditions, I consider actual or potential recreational effects will **range from less than minor to significant**. The proposal, in its current form, is not considered by Council's specialist to have adequately mitigated residual significant recreational effects.

10.4.13 Stormwater Discharge Effects

380. Ms Stacey Gibson and Mr James Blackburn of Hawthorn Geddes Engineers & Architects Ltd prepared a stormwater assessment for the proposal, attached as Appendix 20 of the AEE.
381. Ms Gibson and Mr Blackburn's report concluded that the proposal is anticipated to have a negligible effect on water quality and ecological values from stormwater discharge. It is expected to be similar to discharges from the existing system.
382. A technical review of the report was prepared by Mr John McLaren of Haigh Workman Limited. Mr McLaren considers the effects of the proposal on water quality, existing ponds and infrastructure, stormwater capacity, proposed 'spill' of stormwater into the harbour without treatment, and management of contaminants. The report concludes that *"subject to conditions, the actual and potential effects of the proposal will be less than minor."*
383. In response to the report and submissions, conditions have been proposed related to discharge structures and treatment, stormwater quality and contamination, monitoring, floatables, Engineering Plan approval, and an Operation and Maintenance Plan. These are fully detailed in **Appendix C9**.
384. Based on the alignment between the specialists regarding the appropriateness of the discharge management and treatment regime, I consider that, subject to recommended conditions, effects of stormwater discharge will be **minor**.

10.4.14 Air Quality

385. An Air Quality Effects Assessment was prepared in support of the proposal by Mr Jonathan Harland & Mr Andrew Curtis of Pattle Delamore Partners Ltd ('PDP') and is attached as Appendix 21 of the AEE. Key effects relating to air quality identified within the PDP assessment related to dust discharges and emissions from combustion engines during operation.
386. The PDP report concludes that there is limited potential for adverse dust effects to be experienced at the nearest residential receivers due to separation distances (less than minor effects), and that greater dust nuisances may be experienced at times by users of the Marsden

⁵⁵ Section 3.9 of the AEE, page 42.

Bay beach and Ralph Trimmer Drive carpark (more than minor at times, less than minor majority of the time) and at the Channel Infrastructure facility (less than minor given its industrial nature). Cumulative dust nuisance effects associated with construction works and existing Port operations are considered by PDP to be minor on the basis that the eastern expansion is proposed to be used for shipping containers, which do not ordinarily generate dust.

387. With regard to operations, the PDP assessment considers that the main air emissions will be combustion gases generated from vehicles operating in the area. Given there will be relatively few vehicles operating within the area (presumably referencing Berth 5), PDP consider the emissions off-site to be minimal and resulting in less than minor effects overall. The PDP assessment recommends construction works and Port operations are managed by way of an Air Quality Management Plan ('AQMP').
388. The Applicant's AEE translates PDP's conclusions into minor adverse air quality effects during construction and negligible effects during operations. PDP's recommended mitigation is largely adopted and proffered as part of the application.
389. Mr Mathew Noonan of Beca completed a technical review of the PDP assessment. Mr Noonan generally agrees with the effects conclusions reached within the PDP assessment but notes that the PDP assessment did not include an assessment of human health effects which, based on the information provided within the application, Mr Noonan considers to be less than minor.
390. Mr Noonan largely agrees with PDP's recommended mitigation and recommends these form the basis for conditions of consent, including those that have not been proposed by the Applicant as draft conditions of consent. He recommends that dust control measures extend beyond the reclamation to the construction of the proposed high tide bird roost and that clarification is sought from the Applicant that stockpiling is not proposed within the proposed container terminal.⁵⁶
391. Based on the specialist advice of Mr Noonan and Mr Curtis, subject to conditions, I consider actual or potential air quality effects will be **less than minor** and suitably mitigated.

10.4.15 Land Transport

392. Mr Parvez Sheikh, Ms Nerissa Harrison and Mr Dwyane Claassen of WSP have compiled a Traffic Impact Assessment ('TIA') for the proposal, attached as Appendix 27 of the AEE.
393. The TIA concludes that, subject to mitigation, construction traffic effects will be no more than minor, and that operational traffic effects will also be no more than minor until the peak hourly intersection volumes exceed identified thresholds. The TIA identifies that SH15 has adequate capacity (at midblock sections) to accommodate additional Port traffic generated by the proposal and that traffic reduction measures will be required to maintain acceptable Levels of Service ('LOS') at key intersections – LOS D.⁵⁷

⁵⁶ The Applicant, through the proposed land use controls, seeks to enable stockpiling of up to 20m above deck level on proposed Berth 5. The PDP assessment, and subsequent Beca peer review, is prepared on the basis that container terminal operations do not include stockpiling of materials.

⁵⁷ The TIA recommends monitoring of the SH15 intersections with One Tree Point Road, Marsden Point Road, and Marsden Bay Drive.

394. Mr Robert Inman of Beca was commissioned to review the TIA on behalf of the Councils. Mr Inman generally agrees with the assessment methodology utilised and considers that, subject to recommended amendments to conditions and the Applicant's proposed monitoring and associated trigger-based financial contribution for key SH15 intersection upgrades, potential impacts on the capacity and efficiency of the intersections can be appropriately managed.
395. Mr Inman considers that the proposed intersection monitoring conditions, being limited to traffic volumes, do not provide a robust mechanism of considering potential safety effects of additional Port traffic on the roading network. Mr Inman therefore recommends that the intersection monitoring includes both traffic volume and LOS triggers. Mr Inman also agrees with Waka Kotahi's recommendation that, in addition to the three key SH15 intersections proposed for ongoing monitoring, the SH15 – SH1 roundabout should be included within the conditioned monitoring schedule.⁵⁸
396. Mr Inman recommends various amendments to the Applicant's proposed conditions of consent relating to; the incorporation of safety considerations in monitoring requirements, the implementation of an Operational Traffic Management Plan (including cruise ship shuttle services), and strengthening the use/uptake of the Marsden Rail Link when operational and the traffic reduction measures recommended in the WSP TIA.
397. Based on the specialist advice of Mr Inman, I consider that, subject to recommended conditions, adverse transport effects will be **no more than minor** and suitably mitigated.

10.4.16 Terrestrial Ecology

398. An ecological assessment of the proposed terrestrial vegetation removal was prepared by Dr Sarah Glynn and Dr Ian Boothroyd of Boffa Miskell, submitted in response to Council's s92 request ('TV Assessment'). A further memo was prepared as clarification under the s92 request.
399. The TV Assessment assesses the proposed vegetation and dune removal at both the localised footprint scale and the at the Waipu Ecological District ('ED') systems scale in reflection of the PRP-AV policy framework. Localised adverse effects on the coastal dune ecosystem along the Marsden Point beachfront were identified as *moderate*, reducing to *low* at the Waipu ED scale.
400. To address impacts on terrestrial fauna, the TV Assessment recommends a condition be implemented which requires a Lizard Management Plan ('LMP'), which includes a comprehensive lizard survey of the foreshore. It also recommends management of invasive exotic plants or a funding contribution to a Coast Care group to mitigate the loss of the dune system. Using the same EIANZ – RMA translation scales used by Council's marine mammal, marine ecology, and avifauna specialists, the overall level of effect is anticipated to be less than minor to minor.
401. Ms Claire Webb of Beca was commissioned to review the TV Assessment on behalf of the Councils. Ms Webb considers that whilst the assessment does not strictly follow EIANZ guidelines, the assessment methodology and identification of effects is sufficient to support an assessment to be made. Ms Webb agrees with the application of the Waipu ED scale and with the effect conclusions reached.

⁵⁸ Refer to Waka Kotahi's submission (submission #153) for further detail.

402. Ms Webb concludes that, subject to recommended mitigation, adverse ecological effects pertaining to the loss of vegetation, native herpetofauna habitat, and injury/mortality to native herpetofauna, can be managed to *very low - low* levels (less than minor).
403. Ms Webb supports the recommended mitigation set out within the TV Assessment, including the preparation and implementation of a LMP, and considers that mitigation Option 2 (financial contribution to Coastal Care groups) is likely to result in greater ecological benefits than Option 1 (restoration planting and weed management at the site).
404. Based on the specialist advice of Ms Webb, I consider that, subject to recommended conditions, adverse terrestrial ecological effects will be **less than minor** and suitably mitigated.

10.4.17 Positive Effects

405. Section 5.19 of the AEE notes that the proposal will generate positive effects in the form of economic and social benefits, avifauna and coastal processes (associated with the high tide bird roost), recreation and public access, and ecology.
406. Whilst it is agreed that the proposal will likely generate positive effects in some forms (noting residual concerns regarding the Applicant's proposed recreation mitigation) based on the review comments of Council's economist, Mr Clough, the following comments are made:
- With regard to economic and social benefits, whilst it is accepted that there will likely be positive benefits generated by the proposal, with regard to the requirements of the coastal policy framework (significant economic or social benefit - addressed further in **Section 11** below) these remain unquantified by the Applicant's specialists.
 - The proposed container terminal is more likely to service the national freight task, rather than the regional task. As a consequence, majority of the potential economic benefits are expected to accrue beyond the region.
407. Further to the positive benefits noted in the AEE, and within several submissions, obtaining the necessary consents for the proposed expansion would likely provide investment certainty for Northport and, if taken up, could provide high demand for the Marsden Rail Link (also RSI), and further enable Northport to diversify and improve resilience to evolving freight cycles and demands. The proposed expansion would likely enable the continued and expanded operation of RSI within Northland.

10.5 Conclusions on Environmental Effects

408. **Table 8** below summarises effect assessment conclusions. Where the Applicant and Council experts reach different conclusions, these are highlighted in **bold** text.

Table 8: Summary of Effect Conclusions

Effects	Applicant's Conclusions	Council Conclusions
Cultural	N/A	Significant
Coastal Processes	More than minor	Negligible – More than minor
Navigation and Safety	Negligible	Minor
Archaeology and Heritage	Negligible	Negligible
Marine Mammals	Less than minor	Less than minor
Marine Ecology	Less than minor – significant	Less than minor - significant
Terrestrial Ecology	Less than minor – minor	Less than minor

Avifauna	Less than minor – minor	No more than minor
Terrestrial Noise	Reasonable	Reasonable
Landscape, Natural Character, and Amenity	Less than minor – significant	Less than minor – significant
Economics	Positive	Positive
Recreation	Less than minor – significant	Less than minor – significant
Stormwater	-	Minor
Transport	No more than minor	No more than minor
Air Quality	Negligible to minor	Less than minor

11. RELEVANT POLICY STATEMENTS, PLANS, OR PROPOSED PLANS – SECTION 104(1)(B)

409. The Applicant has provided an extensive and thorough assessment of the relevant planning provisions to this application, in a summary form in Section 6 of the application AEE, and in detail in Appendix 28.
410. I agree that this material identifies the relevant provisions for consideration and in many areas, I agree with the conclusions drawn regarding the consistency of the proposal with the policy provisions. There are a number of provisions where there is a difference in interpretation of policy consistency. This section of the s42A report focusses on these areas where alignment is yet to be achieved.
411. Section 104(1)(b) of the RMA requires Councils to have regard to the relevant provisions of applicable Plans and Policy Statements. These are considered to include the following:
- New Zealand Coastal Policy Statement ('NZCPS');
 - Regional Policy Statement for Northland ('RPS');
 - Proposed Regional Plan – Appeals Version ('PRP-AV');
 - Operative Regional Coastal Plan ('RCP'); and
 - Whangārei District Plan – Operative in Part ('WDP-OP').
412. Through the course of processing, the provisions of the NPS/NES Freshwater have fallen away (Coastal Wetland amends) and the other National level documents (excluding the NZCPS) are agreed to not be relevant.
413. The PRP-AV is sufficiently promulgated that its provisions would carry significant weight when compared to those similar provisions in the operative suite of regional plans. I am advised that NRC have adopted the coastal plan that is part of the PRP-AV and is in the process of gaining the required approval from the Minister of Conservation.
414. From a review of the Regional plans, I found no more onerous or contrary provisions that warrant a weighting exercise between the proposed and operative provisions. The relevant matters to be addressed under these plans and the intended outcomes, are sufficiently similar to the extent that this assessment focussed on the PRP-AV provisions.

415. The WDP-OP is operative in part, pending resolution of Plan Change 91 – Hazardous Substances ('PC 91'). PC 91 is not considered relevant to determination of this application and so this assessment focussed on the WDP-OP provisions.

11.1 National Policy Statements – Section 104(1)(b)(iii) and (iv)

416. At the time of writing there are currently five National Policy Statements that have legal effects and require consideration. These relate to urban development, freshwater management, renewable electricity generation, electricity transmission, and the management of the coastal environment.
417. The only Policy Statement that is considered relevant to the assessment of this application is the NZCPS which requires specific consideration under Section 104(1)(b)(iv). The NZCPS is addressed below.

11.1.1 New Zealand Coastal Policy Statement – Section 104(1)(b)(iv)

418. The applicant has identified the key matters most pertinent to the application in section 6.7.1 of the AEE. I agree with the themes identified and the objectives and policies grouped within these themes.

11.1.1.1 Indigenous biodiversity

419. Objective 1 and Policy 11
420. Objective 1 has three clauses and I agree that maintaining coastal water quality is achieved by the proposal through the stormwater and reclamation decant management approach and the anticipated turbidity conditions to be proposed. Maintaining and enhancing natural biological processes and protecting representatives or significant ecosystems and sites is expanded on in Policy 11.
421. Policy 11 directs avoidance of effects on vulnerable species, taxa and habitats, and then avoidance of significant adverse effects on less vulnerable but still important habitats and ecosystems.
422. Effects on Coastal Vegetation and Marine Mammals have been appropriately addressed to enable consistency with this policy intent. The identified potentially cumulative adverse impacts on threatened or at-risk avifauna (Policy 11(a)(i)) and significant cumulative or accumulative impacts on marine ecology (Policy 11(b)) requires resolution to conclude consistency with this directive policy.

11.1.1.2 Natural character, features and landscapes

423. Objective 2 and Policy 13 and 15
424. The proposal and the relevant experts conclude general consistency with the policy intent and the avoidance of significant adverse effects on natural features and landscapes. The residual matter is impacts of the proposal on the nearest ONL directly across the harbour at Reotahi. Mr Brown concludes minor effects on the ONL and changes in perception. Mr Farrow identifies these impacts extending up to a level of more than minor.
425. The planning context that the proposal is set amongst is a highly enabling industrial zoning framework that permits quite substantial bulk and height development with a coastal fringe

and an across harbour landscape that has identified high and outstanding natural features and landscapes.

426. Clearer definition of this residual matter between the experts would assist in confirming the proposal is not inconsistent with this directive policy 15(a).

11.1.1.3 Tangata whenua

427. Objective 3, Policy 2 - There is a procedural and a substantive thread⁵⁹ to Tangata Whenua provision through the planning framework. Generally, the procedural provisions are concluded to be satisfied through the engagement of and sole reliance on the CVA / CIA and appointment of a commissioner with Te Ao expertise.
428. Analysing the wording of Policy 2, it is primarily procedural in its focus. The substantive direction is to be found in the RPS, PRP-AV and WDP-OP. On this basis I conclude the proposal is not inconsistent with this policy intent of the NZCPS.

11.1.1.4 Public Open Space

429. Objective 4, Policy 18 and 19 - I generally agree with the applicants AEE that the proposal finds consistency with these provisions. The residual issue is the inadequacy of the mitigation for open space loss, however that is more of an effect matter than a policy one, based on the wording of these relevant provisions.
430. Of note here is the acceptance by WDC that the taking of an esplanade reserve around the proposed reclamation is not appropriate given the intended use of the reclamation, and public access being appropriately achieved by the existing western walkway and jetty and the similar proposal for the new eastern edge.

11.1.1.5 Coastal Hazards

431. Objective 5, Policies 24-27 - I agree the proposal is generally consistent with the relevant coastal hazard provisions through the proposed wharf deck and reclamation height and the stormwater treatment system accounting for projected sea level rise.
432. This approach also needs to be applied to the proposed bird roost and the sustainability of this feature needs to be considered in the proposed conditions to ensure its intended function is achieved over time, and accounts for sea level rise and wave heights.

11.1.1.6 Development in the coastal environment

433. Objective 6 and Policy 6 - Policy 6 addresses a broad range of activities and effects. Some are recognition policies, others direct plan making, and many link to other policies (support for infrastructure, functional need, visual effects, public open space). Generally, this policy intent is achieved by the proposal, with the exception of 6(1)(b) and 6(2)(e), that deal with the rate of development and efficient allocation of space.

⁵⁹ There is also a thread relevant to the Schedule 1 Plan Making process. This is not relevant for this determination as those policy are reflected across provisions in regional and district policies and plans.

434. **Section 12.1.1.9** below discusses these provisions in conjunction with the related RPS objective 3.2 and policies 4.8.

11.1.1.7 Integrated management

435. Policy 4 - I agree this policy intent is being achieved through a joint processing and hearing approach to the WDC and NRC functions.

11.1.1.8 Ports

436. Policy 9 - I agree this policy provides strong support for the proposal. As aspect of this policy identifies the importance of efficient connections with other transport modes and currently the port is not connected to the rail network, coastal shipping is still germinating, and the road and rail connection between the Whangārei and Auckland has resilience and vulnerability issues. This is relevant because the basis for the proposed expansion is to service North Auckland trade⁶⁰.
437. I am aware of a business case to progress the Marsden Rail spur as part of the NZ Treasury sponsored NZ Upgrade project and note the supportive submission by Kiwirail. The applicant cannot be responsible for addressing these transport limitations.
438. In order to achieve consistency with policy 9, the proposal may benefit from being subject to transport infrastructure investment funding, prior to implementation of the resource consents.

11.1.1.9 Reclamation

439. Policy 10 is a directive policy seeking avoidance of reclamation unless four circumstances (10(1)) are satisfied, and then if that gateway is passed, seven other matters (10(2)) must be addressed. This policy informs the PRP-AV policy D.5.20 which repeats NZCPS Policy 10. To avoid repetition the discussion on all these provisions are addressed here.
440. The applicant in the AEE, Issues and Options Report and in the s92 responses has demonstrated how the gateway provisions in Policy 10(1) are satisfied. The matters in policy 10(2) are also generally satisfied, however particular regard must be had to impacts on cultural landscapes and sites of significance to tangata whenua. Overall, the proposal is not inconsistent with the relevant reclamation provisions, with the exception of cultural impacts as identified in the CEA.

11.1.1.10 Biosecurity

441. Policy 12 – I agree the proposal achieves consistency with this policy through the proposed conditions to manage construction biosecurity risk and the Northland Regional Pest and Marine Pathway Management Plan, under the Biosecurity Act, is the appropriate method to manage operational risks

11.1.1.11 Natural features and landscapes

442. Policy 15 – See **Section 11.1.1.2** above.

⁶⁰ The existing and consented Port areas (Berths 1-4) are sufficient to cater for regional trade including containers for the foreseeable future, according to the Market Economics report

11.1.1.12 Sedimentation

443. Policy 22 – I agree consistency can be achieved subject to appropriate turbidity conditions.

11.1.1.13 Discharge of contaminants

444. Policy 23 – I agree consistency can be achieved subject to appropriate turbidity conditions.

11.1.1.14 Precautionary Approach

445. Policy 3 – This policy was not addressed in the AEE. The cumulative and accumulative avifauna and marine ecology effects are the identified matters to warrant consideration of this policy. There appears to be sufficient understanding of the effects such that a precautionary approach is not necessary, but this conclusion needs to be tested again once these matters are responded to in evidence and from any further expert engagement on this matter.

11.1.2 National Policy Statement for Freshwater Management

446. An assessment was made in section 6.6 of the application AEE. An amendment to the National Policy Statement for Freshwater Management was enacted in December 2022 which removed coastal wetlands from the NPS. Accordingly, this policy is no longer relevant to this application.

12. NATIONAL ENVIRONMENTAL STANDARDS – SECTION 104(1)(B)(I)

447. There are currently five National Environmental Standards. These relate to air quality, sources of drinking water, telecommunication facilities, electricity transmissions, and contaminated soil.
448. None of these standards are considered relevant to this proposal.

12.1 Regional Policy Statement – Section 104(1)(b)(v)

449. The RPS covers the management of natural and physical resources across the Northland region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues. The RPS sets strategic direction and guidance for the consideration of consent applications and the development of Plans at a regional level.
450. Section 6.8.1 of the application AEE has identified the matters in the RPS relevant to the proposal. I generally agree with the matters identified, and have provided analysis of the objectives and policy assessment of each matter in the same structure to assist with comparisons.

12.1.1.1 Water quality

451. As set out in the AEE and in **Sections 11.1.1.12 and 13** above, policy consistency with the provisions of Objective 3.2 and Policy 4.2.1 can be demonstrated, subject to turbidity being addressed in conditions.

12.1.1.2 Indigenous biodiversity

452. As set out in section 11.1.1.1 above, forming a position on policy consistency with Objective 3.4 and Policy 4.4.1 would benefit from evidence and further expert interactions to address cumulative/accumulative avifauna and marine ecology effects.

12.1.1.3 Enabling economic wellbeing

453. As set out in the AEE, I agree policy consistency with Objective 3.5 is achieved, noting that many of the direct benefits are expected to accrue beyond the region.

12.1.1.4 Regionally significant infrastructure

454. As set out in the AEE, I agree the proposal is Regionally Significant Infrastructure and is supported by Objective 3.7 and Policies 5.3.1, 5.3.2.
455. Policy 5.3.3 deals with management of adverse effects from RSI. 5.3.3 cross references to indigenous biodiversity and natural character policies 4.4 and 4.6 addressed above and below, water quality / quantity outcomes that are achieved and general adverse effect management.
456. 5.3.3(1)(c) seeks to allow adverse effects from RSI where *“Damage to and / or loss of the relationship of iwi with ancestral sites, sites of significance, wāhi tapu, customary activities and / or taonga is avoided or otherwise agreed to by the affected iwi or hapū”*. The outcome of ongoing hapū engagement will be necessary to inform a view on consistency with this particular provision.

12.1.1.5 Efficient and effective infrastructure

457. As set out in the AEE, and on the basis that demand is demonstrated, or determined unnecessary to demonstrate, the use of the existing port infrastructure has been optimised and the proposal is expected to generate regional and national benefits. The infrastructure will likely be flexible and adaptable.
458. From a resilience perspective, and in recognition of the permanent loss of coastal space, it would be preferable for this infrastructure to be designed to withstand seismic events to provide a critical lifeline utility service when the region is most vulnerable. There may be non-financial reasons why this is not practicable, and the applicant is invited to respond to this in evidence.
459. Otherwise I find the proposal generally consistent with Objective 3.8 and Policies 5.2.1, 5.2.2 and 5.2.3

12.1.1.6 Tangata whenua

460. Objective 3.12 and Policy 8.1 are procedural provisions and so as described in 11.1.1.3 above the process followed and underway is not inconsistent with this intent.
461. Policy 8.2 - Iwi and Hapū management plans, seeks to recognise the value of iwi and hapū management plans in decision making. An overview of published plans is provided in section 12.2. Many of the relevant objectives are usefully drawn from to inform the CVA and CIA. I understand that Te Parawhau has drafted a CIA and this may or may not be available to inform decision making, but there is not yet a published Te Parawhau hapū management plan.

462. Substantive matters regarding impacts on cultural landscapes, sites/places of significance and the natural environment appear throughout other provisions, particularly under the issue headings of water quality, indigenous biodiversity, regionally significant infrastructure above and natural character below. No relief to the issues causing significant adverse cultural effects has been identified at this stage (other than decline of consents). This will be important in determining policy consistency with respect to cultural values.

12.1.1.7 Natural hazards

463. As set out in the AEE and in sections 11.1.1.5 above, the proposal has a functional need to be located in a mapped coastal hazard zone and can be designed to address these hazards. The proposal is not inconsistent with the policy intent of Objective 3.13 and Policies 7.11, 7.13, 7.14, and 7.16.
464. As discussed in 11.3.1.5 above, requiring a resilient design of structure to withstand hazard events would better demonstrate consistency with Policy 7.15

12.1.1.8 Natural character and landscapes

465. As set out in section 11.1.1.2 above, forming a position on policy consistency with Objective 3.14 and Policies 4.5 and 4.6 would benefit from evidence and further expert interactions to address the extent of effects on the across harbour ONL at Reotahi.

12.1.1.9 Occupation and allocation of space in the CMA

466. Section 11.1.1.6 on NZCPS Objective 6 and Policy 6, introduced the link to RPS Objective 3.10 and Policies 4.8.1 and 4.8.3. In turn these RPS policies inform PRP-AV objective F.1.8. To avoid repetition the discussion on all these provisions is contained here.
467. RPS Objective 3.10 – Use and allocation of common resources seeks to efficiently use and allocate common natural resources, particularly coastal water space and where demand is high. The explanation to this objective sets out how efficient allocation may be achieved⁶¹. This includes allocating to the highest value uses, achieving efficient use, balancing user certainty across time and to adjust allocations, accounting for environmental, social, economic and cultural interests and how these change over time, and providing allocation where user rights

⁶¹ (a) Ensuring the processes to allocate the resource are efficient, by selecting the optimal mechanism for the circumstance (the optimal mechanism will vary depending on the circumstances; in some instances it might be peer led allocation, such as water sharing groups, while in other instances it might be purely random allocation, such as a ballot);

(b) Allocating scarce resources to the highest value uses, taking into account fairness and equity, recognising the difficulty of valuing some uses, and that values can change over time;

(c) Providing an appropriate balance between providing users certainty of allocation over time, the community retaining the ability to adjust allocations to improve outcomes and allowing new users to have an opportunity to gain an allocation where the resource is already fully allocated;

(d) Ensuring efficient use (for example, through enforcement or incentives);

(e) Taking into account environmental, economic, social and cultural interests, and how these may change over time; and

(f) Providing an allocation where the rights and responsibilities of the user are clearly defined.

and responsibilities are clearly defined. Demand in this objective refers to a situation where demand is in excess of the limited resource.

468. Section 4.8 of the RPS is about efficient use of coastal water space. Policy 4.8.1 is titled *“Demonstrate the need to occupy space in the common marine and coastal area”*. Sub clauses (1)(a)-(d) are gateway tests and I agree with the applicant that (a)-(c) are met. Sub clause (d) requires consideration of the necessity of the occupation for the intended use and the explanation to the policy indicates that it is relevant to consider the efficiency of allocation of this coastal space to the proposal (activity).
469. The applicant is seeking an exclusive occupation permit and via the reclamation to extinguish this space as common marine area and is doing so on a ‘first come first serve basis’. The rationale is to avoid ‘just in time’ planning of major infrastructure. I have a high degree of sympathy for this approach and acknowledge that Ports have been hamstrung from growth planning by not being a Requiring Authority under the RMA and a general restriction on designating coastal space.
470. Present users in the Port Zone of the PRP-AV are Northport and CINZ. There have been media reports of Naval base relocations to Whangārei, a dry dock facility has been investigated in this location, other port users could seek to utilise this space, existing recreational and cultural uses of this space have been shown and underlying all this are the Customary Marine Title claims for occupation of this space. The point made here is that there are other known competing uses for this space and the area of port zone in the region is tiny - it is a scarce resource to be allocated carefully.
471. The wording of RPS 4.8.1(d) is *“The area occupied is necessary to provide for or undertake the intended use”*. The applicant asserts satisfaction of this policy because the proposed area is needed to enable a 500,000 TEU container terminal⁶². This assertion is agreed with by Mr Scott Keane, an experienced Port engineer and operator from Stantec, who reviewed this element of the proposal on behalf of the Councils. However, Mr Keane also concludes that no demand for this area has been established (that is, the reclamation would be needed for a 500,000 TEU container terminal, but it has not been established that there is demand for a terminal of that scale at Northport).
472. The demand basis provided by the applicant is economic scenarios that assume capturing a proportion of national container freight trade and assigning a timescale to when that capture might occur. In Mr Keane’s experience demand is established through a demand study that includes understanding the likelihood of shipping lines choosing to berth at Northport and accounting for internal transport costs which are critical to Northport’s competitiveness and are excluded from the Market Economics assessment.
473. Demand for this space could also be demonstrated through government policy/strategy to include Northport as a larger component of the upper north island freight network. Section 12.5.6 below identifies two recent studies on Northport’s role in this network. One concluded an increased role that would likely justify this proposal. The other concluded a relocated Auckland Port, in Auckland close to the import demand and due to the significant cost of

⁶² As set out in the Issues and Options report.

establishing transport networks to Northport. Unhelpfully, the Government has not concluded a policy position on this matter, nor has it committed to funding of the Marsden Rail spur.

474. It may be that the actual point for resolution here is the duration of the coastal permits being sought. In the absence of established demand, the policy intent explained above could be satisfied by a short consent duration, thus allowing other competing users access to this space if the consents are unimplemented. The complication here is that the applicants predicted need is decades away and so the term sought is 35 years.
475. In my opinion that duration and 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.

12.1.1.10 Coastal permit duration

476. Consent duration is covered by Policy 4.8.3 and PRP-AV policy D.2.14. The applicant seeks 35 years and leans on 4.8.3(a) and D.2.14(1) and (4) for the security of tenure and long duration given the significance of the investment and RSI status. Counter to this is the 4.8.3(c) and D.2.14(3) which guides that where there are other foreseeable demands for the occupied water space by other types of activities and or there is uncertainty around effects/benefits a shorter duration is appropriate.
477. In my opinion the duration does link back to the need to occupy the space in this instance, and if the proposal is concluded to represent efficient use of this coastal water space, then a longer duration is likely to be appropriate.

12.1.1.11 Development in the coastal environment

478. Policy 5.1.2 links up to parts, but not all of the provisions within Policy 6 of the NZCPS. The matters in this policy offer little additional direction to consideration of the proposal to what is provided in the more specific and focussed provisions discussed above.

12.1.1.12 Hard protection structures

479. I agree that in this instance hard defensive structures are necessary to protect the proposed reclamation and are the best practicable option.

12.2 Plans or Proposed Plans – Section 104(1)(b)(vi)

480. There are three documents to be considered under Section 104(1)(b)(vi), being the:

- a. Proposed Regional Plan for Northland – Appeals Version (PRP-AV);
- b. Operative Northland Regional Coastal Plan (RCP); and
- c. Whangārei District Plan – Operative in Part (WDP-OP).

12.2.1 Proposed Regional Plan for Northland – Appeals Version (PRP-AV)

481. Section 6.9.1 of the application AEE has identified the matters in the PRP-AV relevant to the proposal. I generally agree with the issues identified and have provided further analysis of the relevant objectives and policies, where necessary, under each policy issue.

12.2.1.1 Water quality

482. Policy consistency is discussed in section 11.3.1.1 above, and from a review of Objective F.1.2 and the relevant D.4 policies not particular matters require further discussion.

12.2.1.2 Indigenous biodiversity

483. Policy consistency is discussed in section 11.1.1.1 and 11.3.1.2 above, and policy D.2.18 provides a refinement of focus but no additional matters to consider. I do note policy D.2.18(7) provides a pathway to offset of effects where there are significant residual adverse effects.

12.2.1.3 Enabling economic wellbeing

484. Section 11.3.1.3 above discusses how this policy thread is satisfied by the benefits to be derived from the proposal.

12.2.1.4 Regionally significant infrastructure

485. As set out in section 11.3.1.4 above, the proposal is consistent with this policy intent, subject to appropriate management of adverse effects that are more than minor.

12.2.1.5 Use and development (occupation) in the CMA

486. The proposal is generally consistent with the broad range of matters addressed under this policy topic. Section 11.3.1.9 above discussed the matter of efficient occupation of space in the CMA.

12.2.1.6 Tangata whenua

487. Section 11.3.1.6 above discussed the procedural and substantive policy threads relating to cultural values and the same logic applies to the PRP provisions.

12.2.1.7 Natural hazards

488. As set out in section 11.3.1.7 above, the proposal appropriately responds to the risks of Natural Hazards.

12.2.1.8 Natural character, natural features and landscapes

489. As discussed in section 11.3.1.8 above, the proposal is generally consistent with this policy thread but expert resolution on ONL effects is needed to inform policy consistency on this narrow matter and the CIA identifies significant adverse effects on cultural landscapes and the area as culturally significant. The AEE identified no mapped cultural landscapes or sites of significance.

12.2.1.9 Air quality

490. This document is the first in the policy hierarchy to specifically address this issue and I agree that based on the proposed controls and distances to sensitive receives that the proposal is consistent with this policy.

12.2.1.10 Social, cultural, and economic benefits

491. The social and economic benefits of the proposal are established and agreed. At this point cultural benefits are not apparent in the CIA and in the absence of any conditions that would enable these, consistency with this element of the policy is yet to be demonstrated.

12.2.1.11 Climate change

492. This is linked to natural hazards and the proposal response to account for climate change in its stormwater and infrastructure design approach.

12.2.1.12 Biosecurity

493. Section 11.1.1.10 above outlines the proposals policy consistency with regard to management of biosecurity risk.

12.2.1.13 Resource consent duration

494. This is discussed in section 11.3.1.10 above.

12.2.1.14 Marsden Point Port Zone

495. The establishment of a Port in this zone is consistent with the zone provisions. This statement may assist with demonstration of efficient use of coastal space by the proposed activity but the provisions of this zone talk about appropriateness, not efficient use.

12.2.1.15 Reclamation

496. As set out in section 11.1.1.9 the use of reclamation as a method to establish the activity achieves policy consistency with NZCPS Policy 10 and D.5.20 repeats policy 10. The reclamation would provide for efficient operation of infrastructure in accordance with D.5.21 and D.5.22 is not relevant - the AEE references the bird roost as being consistent with this policy, but it has been established that the activity of constructing and maintaining the roost is beach renourishment, not reclamation.

12.2.1.16 Dredging and deposition

497. The proposal has set out the benefits of the dredging necessary to facilitate the expansion and clearly has support from Policy D.25(2). It is recognised that a large proportion of the proposed dredge extent is already consented to be dredged and conditions are proposed to address the identified accretion around the CINZ jetty and the potential for shoreline change in Marsden Bay, to satisfy Policy D.5.24.

12.2.1.17 Underwater noise

498. The approach to and proposed mitigation of underwater noise satisfies Policy D.5.27.

12.2.2 Operative Northland Regional Coastal Plan (RCP)

499. The RCP was declared operative on 30 June 2004. The RCP pre-dates the NZCPS 2010 and reflects the previous 1994 version of the NZCPS. As a result, the PRP-AV for Northland is intended to replace the RCP. The PRP-AV has progressed through the Schedule 1 process of the

RMA to the point where the appeal period has closed, and some parts of the Regional Plan may be treated as operative.

500. While that suggests that the PRP-AV in all respects attains significantly more weight than the RCP in the decision-making process, the RCP remains relevant. However, from a review of this plan, I found no more onerous or contrary provisions that warrant further analysis or a weighting exercise between the proposed and operative provisions.

12.2.3 Whangārei District Plan – Operative in Part (WDP-OP)

501. An assessment of the policies and objectives of the WDP-OP is provided in section 6.13 of the application AEE. This assessment has been divided by the relevant sections of the plan. I generally agree with the sections identified⁶³ and provide comment on the assessment of objectives and policies below.
502. Whilst acknowledging that proposed Berth 5 is CMA, not zoned land, for the purpose of this assessment for the proposal (as an innominate activity to undertake land use activities on a future reclaimed piece of land) the proposed activities seeking to be enabled on the expansion area are assessed against the district-wide and adjoining zoning (PORTZ and NOSZ) policies below.

12.2.3.1 District Growth and Development (DGD)

503. O5 – O10, P1 – P5, P7 – P9
504. As set out in **Section 12.2.3.2** below, I agree that undertaking Port Activities within the existing Port facility (Berths 1 – 3, zoned PORTZ) aligns with the expectations of the WDP-OP and that, for the most part, adverse effects are managed in accordance with the hierarchical framework (avoid, mitigate, manage) of the policies. I provide the following additional comments:
- a. Acknowledging that the WDP-OP does not contain any mapped areas of terrestrial Significant Natural Area ('SNA'), the Marsden Bay beach, including areas above MHWS, and associated dune system are assessed by Council's terrestrial ecology specialist as significant under the ECO criteria and therefore the loss of indigenous biodiversity needs to be considered. The application generally aligns with the direction to avoid, remedy, or mitigate effects on areas of significant indigenous biodiversity – this matter is detailed further in **Section 12.2.3.9** below;
 - b. I concur that the proposed expansion of Northport, as RSI, will likely generate benefits for the region. With regard to O13 and O14, based on the advice of Council's economic specialist, Mr Clough, it is important to recognise the extent of these benefits (namely economic and social) may accrue beyond the District;
 - c. The identified amenity values associated with NOSZ (signalled in DGD-P12) reflect the existing and anticipated use of the esplanade public land for conservation and recreational activities, not Port activities. On that basis, the proposed expansion of a Port

⁶³ With the exception of the relevance of the Waterbodies chapter, noting the WDP-OP defines water body as "... fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the Coastal Marine Area". My interpretation of this definition is that the chapter only applies to freshwater bodies, not the CMA. There are no freshwater bodies within immediate proximity of the site.

into this zone is not considered commensurate with the amenity values and characteristics anticipated by the NOSZ;

- d. The transport policies set a clear direction to enable a safe, as well as an effective, efficient, and accessible transport system. Transport matters are addressed in Section 12.2.3.4 above. In summary, subject to recommended conditions (including relating to incorporating safety into the intersection monitoring regime) I consider the intent of these policies can be met; and
- e. DGD-P16.8 reflects RPS Policy 5.3.3 and directs that adverse effects created by new RSI is managed by ensuring damage to or loss of the relationship of iwi with ancestral sites, sites of significance, wāhi tapu, customary activities and/or taonga is avoided or otherwise agreed to by the affected iwi or hapū. For the reasons set out previously within this report, resolution of cultural effects is necessary to demonstrate alignment with this component of the DGD policy framework.

12.2.3.2 Port Zone (PORTZ)

- 505. Objectives O1 – O4, Policies P1 – P2, P5 – P6: Use and Development, RSI, Environmental Effects, and Public Access
- 506. In so far as consenting Port activities on Berths 1 – 3, these objectives and policies provide strong support for the proposal.
- 507. With regard to the expansion (Berth 5), this component of the proposal finds support from the PORTZ as it enables RSI and by default, recognizes the contribution to the economic and social wellbeing of the District and Region. The proposed use of Berth 5, being for Port Activities, aligns with adjacent land uses and the planned intent of Port Management Area A. Adverse environmental effects from land use activities undertaken on Berths 1 – 3 (noise and visual amenity effects associated with landscaping, artificial lighting, and bulk and location of buildings) are, subject to recommended mitigation, for the most part appropriately managed.
- 508. With regard to the proposed consent surrenders, the only control of the existing consent conditions that is not formally reoffered as part of the application are the visual and landscape controls on building form and colour – which given the nature of container terminal operations, fall away as a result of function.
- 509. Regarding public access to the CMA, the PORTZ policies enable the preclusion of public access where it is required to protect public health and safety and to enable the efficient operation of the Port, which the proposal finds support from. The policy framework, in recognition of the direction of the NZCPS, also requires that public access to and along the CMA is maintained and enhanced where practicable. Whilst the proposed reinstatement of public access aligns with the policy framework, on the advice of Council’s recreation and navigation specialists, further consideration of the location and layout of the proposed public facilities (water taxi, fishing pontoon, and pocket park) would assist to demonstrate consistency with O4 and P6.
- 510. Objective O6, Policy P9: Cultural Considerations
- 511. The cultural policies of the PORTZ direct that the relationship of Māori and their culture and traditions with their cultural landscapes is recognised and provided for. The means to which the WDP-OP seeks to achieve these outcomes is by limiting the height of buildings and outdoor storages areas to minimise effects on cultural landscapes, and by framing where cultural values assessments may be required for developments within the PORTZ.

512. The procedural element of these policies are reflected in the application, whereby a CVA and CEA has been commissioned from PTB. As highlighted within the PTB submission (#164) many of the concerns raised and recommendations of those assessments remain unaddressed by the proposal, although I acknowledge that engagement with iwi and hapū is ongoing and resolution will be necessary to conclude a view on policy consistency.
513. With regard to the minimisation of impacts on cultural landscapes, the application proposes building height limitations across Berth 5 that reflect the permitted standards of the PORTZ (PORTZ-R2). Whilst this represents a consistency with the WDP-OP provisions, I note the concerns raised in the PTB CEA that *“we consider the “before and after” shots with and without the reclamations and port infrastructure (e.g. gantry cranes etc) demonstrate a substantial change and a significant adverse visual effect on our viewshafts to, on and around our harbour, maunga, mātaītai and other sites that collectively make up our cultural landscape”*.⁶⁴

12.2.3.3 Natural Open Space Zone (NOSZ)

514. O1 – O2, P1 – P5
515. I agree with the position set out in the AEE that the proposal does not align with the NOSZ policy framework and generally concur with the Applicant’s assessment. The exception, based on the advice of Council’s recreation specialist Mr Jones, is that the proposed recreation mitigation falls short of maintaining or appropriately compensating for the loss of recreational value resulting from the proposed expansion. It is anticipated that this can likely be resolved via further expert liaisons and conditions of consent.
516. Further to the Applicant’s assessment, and in the absence of contrary opinion expressed by WDC Infrastructure, I consider the provision of ongoing public access to the pocket park would be strengthened through the use of legal mechanisms (easements) and ongoing maintenance requirements for public facilities (noting these are not proposed to be vested in Council) would need to be via conditions of consent.

12.2.3.4 Transport (TRA)

517. O1 – O6, P1, P3 – P5, P7 – P12, P14
518. I generally agree with the Applicant’s assessment that, based on the specialist transportation assessments and information provided within the Waka Kotahi submission, there is sufficient capacity within the SH network to accommodate the additional traffic volumes generated by the proposal and that, subject to recommended conditions, the efficiency of the transport network can be maintained. In the absence of contrary opinion provided by the Northland Transportation Alliance (‘NTA’), the advice of Mr Inman is relied upon for considering potential impacts on the local roading network.
519. Further to the Applicant’s policy analysis, I note:
- a. Subject to recommended conditions to incorporate safety (and LOS) in the monitoring of key SH intersections, based on the advice of Mr Inman, I consider that the proposed

⁶⁴ Section 7.3.1, page 31 PTB CEA (Final) December 2022.

monitoring framework will appropriately address the safety element of the TRA provisions;

- b. With regard to the direction to encourage and promote active transport (O3), P5 promotes the consideration of cycle and pedestrian connectivity within new developments and, where appropriate, to existing developments, reserves, and other public spaces. P10 further directs that bike parking and end-of-trip facilities are to be provided for activities with high numbers of employees, although activities establishing within the PORTZ are exempt from these requirements.

Whilst no walking or cycling facilities are formally proposed as part of the application, the Applicant's TIA and Council's landscape, recreation, and traffic specialists all identify potential opportunities to encourage the uptake of active transport modes. In response to the anticipated staffing increase, the recommendations set out within the TIA, and residual safety and amenity concerns raised by Council's recreation and landscape specialists regarding the proposed recreation facilities, opportunities appear available to achieve policy consistency in facilitating the uptake in walking and cycling for Northport staff, local residents, and tourists alike (including users of the Te Araroa Trail). As set out within this memo attached as **Appendix C11**, Mr Inman supports the strengthened provision for active modes, in appropriate locations⁶⁵; and

- c. Conditions of consent are recommended to implement the Applicant's intent to provide 100 additional car parks and, given the industrialised receiving environment and existing Port infrastructure, the lack of car park landscaping is not expected to compromise visual amenity of the PORTZ or the means of managing stormwater.

12.2.3.5 Three Waters Management (TWM)

520. O1 – O5, P1, P3 – P4, P6 – P7

521. I generally agree with the position set out in the AEE and consider that the proposal is likely to align with the TWM policy framework and make the following additional comments:

- a. The existing Port is located within a Reticulated Wastewater Area and Reticulated Water Supply Area and the Applicant's policy assessment notes that the Port will remain connected to reticulated wastewater and water networks. Acknowledging the potential constituent parts of a container terminal, as listed in **Section 2.4.1** above, conditions of consent are proposed to require connections be provided at the time of building consent for any further development on Berth 5;
- b. Whilst the application notes that liaisons with WDC's Infrastructure division has been undertaken, no correspondence has been appended to the application. In the absence of any specific concerns (including regarding capacity) being raised by the WDC Infrastructure department, it is considered that suitable wastewater servicing and water supply solutions are available, of which will be determined at the time of construction;

⁶⁵ As set out within his technical memo (**Appendix C11**), whilst several submitters request relief sought in the form of new walking and cycling facilities along SH15, Mr Inman concurs with Waka Kotahi (submission #153) that it is not safe, nor appropriate to provide such facilities along the entire length of SH15. Mr Inman does however support the improvement of walking and cycling networks on local roads (including Mair Road) which may require a new SH15 crossing to achieve connectivity.

- c. The Port is not known to be located within a Reticulated Stormwater Area and therefore treatment and management via private system aligns with the TWM policy framework. The proposed stormwater design has been reviewed by Mr McLaren, who concludes it is appropriate. Based on the advice of Mr McLaren, significant adverse effects are not anticipated as a result of the proposed stormwater treatment and discharge. Similarly, given the proposed coastal discharge, no flooding concerns have been identified; and
- d. The TWM information requirements (REQ1 – REQ3) are not engaged by the proposal as proposed Berth 5 is not subject to a subdivision component or located within a Business Zone. As such, it is considered appropriate that future servicing requirements of development within Berth 5 are managed via conditions of consent as proposed.

12.2.3.6 Lighting (LIGHT)

522. O1 – O3, P1 – P2, P4 – P5

523. I generally agree with the position set out in the AEE that the proposal aligns with the LIGHT policy framework, although note the following additional matter:

- a. The proposed Pocket Park seeks to create a new publicly accessible road, carpark, and public facilities (public toilet, beach access etc.). Rule LIGHT-R7 requires that all subdivision developments, irrespective of zoning, provide artificial lighting for all streets, walkways, cycleways, and roads created by that subdivision.

Acknowledging the proposal creates a new land parcel without undergoing a Council subdivision consent process, rule LIGHT-R7 is not engaged. In this instance however, similar outcomes are achieved, and it is therefore considered appropriate to impose conditions of consent requiring that artificial lighting be provided within the proposed Pocket Park to achieve consistency with O3 and P4 – P5.

12.2.3.7 Signs (SI)

524. O1, P1

525. For the same reasons expressed within the Applicant's policy analysis, I do not consider that the proposal contradicts the policy direction of the SI chapter, noting that the application is silent on the use of signage across proposed Berth 5.

12.2.3.8 Riparian and Coastal Margins (Chapter 11)

526. O1 – O5, P1 – P2, P6 – P10, P16

527. The applicant's policy analysis concludes that the proposal aligns with the policy direction of the Riparian and Coastal Margins chapter. Whilst I agree with several aspects of this assessment, I arrive at a different conclusion for the following matters:

- a. Whilst not directly located within, the proposal is identified by Mr Farrow as having an impact on mapped ONL's and by PTB and indirectly by Mr Lohrer as having potential impacts on Mair Bank (mapped High Natural Character). Mr Farrow and Mr Brown conclude that adverse effects on natural character are anticipated as a result of the proposal (more than minor at Marsden Bay Beach and Mid-Harbour). By its design, the proposal is unable to preserve (O1) and avoid effects on natural character within the Coastal Environment (P1);

- b. Based on the information provided by iwi and hapū submitters, the relationship of tangata whenua with their sites and other taonga is not enhanced by the proposal but reduced; and
 - c. As set out above, whilst public access is provided for, based on the advice of Council's recreation expert, Mr Jones, the proposed Pocket Park and recreational mitigation features are not enhanced. Further, given the location of the tug facility with regard to the CINZ prohibited NS Bylaw area, the public's ability to access the proposed water taxi/fishing pontoon via sea is uncertain. On the advice of Council's recreation and navigation specialists, I consider further consideration of the proposed public facilities (water taxi, fishing pontoon, and pocket park) are required to demonstrate consistency with the policy direction of Chapter 11.
528. Overall, I consider that whilst certain aspects of the proposal finds support under the policy framework of Chapter 11, the avoidance directive of P1 (implementing O1) is simply unachievable, and the public access and tangata whenua provisions require further consideration to demonstrate consistency.

12.2.3.9 Indigenous Vegetation and Habitat (ECO)⁶⁶

529. O1 – O2, P1 – P4
530. As identified within the Applicant's avifauna assessment, four bird species with elevated protection status under ECO-SCHED2 were identified as foraging or roosting within the proposed reclamation footprint.⁶⁷ Council's terrestrial ecology specialist, Ms Webb, therefore considers that the proposed port footprint above MHWS is deemed a significant habitat of indigenous fauna under the ECO provisions, where effects are to be avoided, remedied, or mitigated.⁶⁸ Similarly, the presence of pingao (formerly *D. spiralis*), whilst limited in extent, indicates the dunes are also considered significant under ECO-P1 (threatened plant listed in ECO-SCHED3 High Value).
531. Recognising that the significance ECO policies are engaged by the proposal and that the permanent removal of the beach, dune system, and associated esplanade reserve is not anticipated by the ECO policy framework, I do agree that, subject to offset mitigation and compensation, effects will be avoided and/or mitigated in accordance with the policy direction.

12.2.3.10 Natural Hazards (Chapter 19)

532. O1 – O2, P1 – P6

⁶⁶ Referenced within the AEE as Chapter 17.

⁶⁷ NZ Dotterel - High Value (Vulnerable Endemic Species), White-Fronted Tern and Caspian Tern - Moderate-High Value (Rare Endemic or Regionally Threatened Species), Variable Oystercatcher - Moderate Value (Restricted Distribution).

⁶⁸ ECO P1 sets out that indigenous vegetation and habitats of indigenous fauna which are of Moderate, Moderate-High, High and Outstanding value (using the criteria set out in ECO-SCHED1) are recognised as significant and to be protected. As above, the proposed footprint is identified as having High, Moderate – High, and Moderate Value under ECO-SCHED1.2(2), ECO-SCHED1.3(2), ECO-SCHED1.4(2).

533. As set out in section 11.3.1.7 above, I consider the proposal appropriately responds to the risks of natural hazards.
534. With regard to the proposed removal of the foredune system to the east of the existing Port, O2 and P3 seek that existing natural features (including dunes) that provide a buffer against natural hazards are protected and enhanced to maintain function and integrity. Whilst the proposed removal of the dune system does not sit comfortably with this policy direction, Council's coastal processes specialist, Mr Trelour, considers that risks associated with coastal hazards can be appropriately managed via the recommended conditions of consent.

12.2.3.11 Local Authority Cross Boundary Issues (Chapter 27)

535. O1, P1 – P3
536. I agree this policy intent is achieved through a joint processing and hearing approach to the WDC and NRC functions.

12.2.3.12 Coastal Environment (CE)⁶⁹

537. O1 – O13, P1 – P6, P8, P13, P15, P18 – P21, P25
538. I agree with the Applicants assessment insofar as acknowledging the presence and operational effects of the existing Port are recognised and provided for within the coastal environment planning provisions of the WDP-OP, specifically those of the PORTZ. I also agree that there are no mapped natural character or landscape features within the proposed development footprint and that the Port has demonstrated a functional and operational need to locate within the Coastal Environment.
539. I provide additional analysis as follows:
- a. CE-O1 directs that the qualities and characteristics that contribute to the natural character of the Coastal Environment are protected from inappropriate use and development. CE-P2 states that natural character, natural features and natural landscapes in the Coastal Environment are to be protected by:
 - i. Avoiding significant adverse effects and avoiding, remedying, or mitigating other adverse effects on the qualities and characteristics of natural character, natural features and natural landscapes outside Outstanding Natural Character Areas; and
 - ii. Restricting earthworks, the extent of indigenous vegetation clearance, and the location and design of buildings and structures including in relation to ridgelines, skylines and prominent headlands;
 - b. Both the Applicant's and Council's landscape specialists conclude that significant landscape effects are anticipated at Marsden Bay beach. The extent of earthworks and vegetation clearance required to construct the reclamation far exceed the permitted activity thresholds of the CE and the proposal will introduce a level of built development that not considered to be provided for by the current underlying NOSZ zoning of the reclamation footprint;

⁶⁹ Referenced within the AEE as Coastal Area (CA)

- c. The proposal does not entirely align with the direction set out within CE-P1⁷⁰ to avoid significant effects on natural landscapes within the coastal environs as both landscape experts concur that significant landscape effects will be experienced at Marsden Bay Beach. The proposal otherwise generally aligns with the policy direction as other adverse effects are avoided, remedied, or mitigated (where practicable) noting both landscape specialists acknowledge the industrialised context of the receiving environment and consider there is little landscape mitigation available given the nature of the proposal;
 - d. The CE policies direct that proposals avoid increasing risks from coastal hazards by controlling minimum floor levels of buildings at the time of subdivision and that earthworks within sand dunes are avoided, in recognition of the natural defences dune systems provide against coastal hazards. In response to this direction, I note:
 - i. Whilst the proposal does not involve subdivision, the design of proposed Berth 5 has been designed to take into account coastal hazards. Further, while no restrictions are proffered within the application, the end use of the container terminal for Port Activities does not appear to introduce sensitive uses within an area known to be subject to coastal hazards; and
 - ii. The permanent removal of 7,200m² of foredune system is not assessed within the Applicant's policy analysis. In the absence of contrary specialist opinion, this component of the proposal does not sit comfortably with the direction to avoid earthworks (and presumably the permanent removal of) sand dunes and to protect indigenous vegetation that contributes to the character or visual quality of the coastal environs. This aside, I acknowledge that the removal of dune systems is not raised by either the Applicant's nor Council's coastal process or landscape specialists as being of notable concern in this instance and that conditions are proposed to manage potential risks of coastal hazards;
 - e. As noted in Section 12.2.3.3 above, I consider that formalising the provision of public access to the Applicant's proposed recreational features (Pocket Park, water taxi, and fishing pontoon) by way of easement (or other legal mechanism) would be supported by the public access provisions of the CE (noting these would typically be secured through a subdivision process). As stated previously, I also consider further refinement of the proposed public facilities (water taxi, fishing pontoon, and pocket park) is required to demonstrate public access is maintained, if not enhanced; and
 - f. I consider conditions of consent (relating to building form and landscaping) can manage the proposed location of the replacement public toilet within the pocket park (located within the permitted coastal setbacks) to demonstrate consistency with P8, P15.
540. In summary, I acknowledge the support provided to the existing Port and the expansion (as RSI) and the lack of direct impact on mapped landscape features. Notwithstanding, I note the policy thrust that directs focus to protecting and preserving natural features of the coastal environs, and maintaining/enhancing public access. The latter can be addressed by conditions, the former is simply a result of the proposal need to convert these features into port hardstand.

⁷⁰ CE-P1(2): Protect natural character, natural features and natural landscapes in the Coastal Environment by... avoiding significant adverse effects and avoid, remedy, or mitigate other adverse effects on the qualities and characteristics of natural character, natural features and natural landscapes outside Outstanding Natural Character Areas...

12.2.3.13 Natural Features and Landscapes (NFL)⁷¹

541. O2 – O5, P2 – P3, P6, P8, P11

542. I agree that the proposal does not directly impact (by being located within or on) mapped ONF and ONL features. As discussed in the regional provisions above, further landscape expert engagement would assist in determining policy consistency with regard to the proposals indirect impacts on the nearest ONL across the harbour at Reotahi.

12.2.3.14 Tangata Whenua (TWP)

543. O1 – O3, P1 – P4

544. As set out above in the relevant regional provisions, consistency with the intent of the procedural components of the TWP policy framework is being achieved because tangata whenua have engaged with the consenting process both pre and post-lodgement and have representation on the decision making panel.

545. I note that O3 directs that the implementation of the WDP-OP shall not result in any action which knowingly exacerbates registered treaty claims. Concern over this matter is raised within the PTB submission (#164) which states:

“The proposal will result in permanent significant changes to the environment (including people and communities) including the permanent loss of takutai moana and the creation of new whenua with associated Crown land title and will generate new Crown ownership instruments (easements) in the Coastal Marine Area (CMA). These causal outcomes of the activity, in the absence of a completed Treaty claims process, inclusive of MACA (Marine and Coastal Area (Takutai Moana) Act 2011) processes, have high potential to impact the relationship of mana whenua and Crown. Recent evidence before the Waitangi Tribunal indicates the act of lodgement of these applications will negatively prejudice the current Patuharakeke MACA process”.

546. Whilst the PTB submission and CEA does not appear to detail how the proposal will exacerbate the unresolved Treaty claim, PTB do consider the actions (i.e. reclamation and development of the coastal environment) will likely prejudice concurrent legal Treaty claim and MACA processes.

547. As noted above, engagement between the Applicant and tangata whenua is understood to be ongoing. It would be helpful for the Applicant and iwi and hapū submitters to provide an update on any further advancements following those liaisons at the hearing to demonstrate alignment, or otherwise, with the TWP policy framework.

12.2.3.15 Noise and Vibration (NAV)

548. O1, P1 – P3, P5

⁷¹ Referenced within the AEE as Landscapes and Features (LAN).

549. The NAV policy framework has two policy thrusts – enable a mix of activities and manage environmental effects of noise and protect the operation of lawful activities from reverse sensitivity.
550. Whilst the Applicant’s proposed noise management regime seeks to move away from the WDP-OP framework, the general approach to managing port noise and associated expected outcomes are not inconsistent with the direction of the NAV policies.
551. With regard to effect management, subject to conditions, adverse effects of daytime port noise are assessed as being within permitted WDP-OP levels. On that basis, daytime port noise is not expected to compromise the amenity values anticipated and provided for the WDP-OP. Night-time noise levels are expected to exceed permitted WDP-OP noise levels at the most exposed Reotahi receivers, but with the successful implementation of the proposed mitigation (via acoustic treatment and management of operations under a PNMP), these noise effects can be managed to reasonable levels.
552. The rules of the NAV chapter do not currently impose acoustic mitigation requirements for existing noise sensitive activities within proximity to the Port. Subject to successful implementation, the proposed acoustic mitigation and treatment responds to both arms of the policy framework whereby adverse effects are managed, and the Port, as RSI, is protected from reverse sensitivity impacts.

12.3 Other Regulations – Section 104(1)(b)(ii)

553. No regulations are identified as relevant at this point in the process.

12.4 Conclusion on Consistency with Planning Provisions – Section 104(1)(b)

554. The relevant policy framework can be distilled into four themes:
- a. Management of environmental effects;
 - b. Tangata whenua;
 - c. Infrastructure; and
 - d. Reclamation and allocation of coastal space.
555. On the whole, the Applicant has promulgated an assessment and mitigation package that effectively manages the wide range of consequential effects to an acceptable level and Council experts have proposed additional or modified conditions to address residual effects, in a way that responds to and demonstrates policy consistency.
556. There are five areas where better definition of effects, additional mitigation effort or agreement on proposed mitigation is necessary to address areas to a level that achieves policy consistency. These areas are:
- a. Marine ecology accumulative effects;
 - b. Avifauna cumulative effects;
 - c. Recreational mitigation;
 - d. Landscape effects on the closest ONL; and

e. Cultural effects.

557. Relevant tangata whenua provisions flow from Part II of the RMA down through all the statutory hierarchy of relevant documents and into the non-statutory Hapū Management Plans. At this point in the process the only information available to inform a policy assessment is the CVA and CEA prepared on behalf of the Patuharakeke Iwi Trust Board and the Iwi / Hapū submitters discussed above. This information indicates significant and unmitigated adverse cultural impacts and a proposal basis (reclamation) that is culturally offensive. The policy framework has a procedural and a substantive thread being recognition of cultural values and provision for kaitiakitanga in decision making, and impacts on cultural landscapes, places/sites of significance.
558. Procedurally the policy intent is generally being applied, through the commissioning and reliance on the CVA and CIA, the appointment of a commissioner with Te Ao expertise, and part hosting the hearing at Takahiwai Marae, in accordance with the Te Mana Whakahono agreement. Substantively the unmitigated cultural effects and identified impacts on cultural values, at this point in the process, creates a challenge for policy consistency. Determination around the proposals location being a place/site of significance is important to the substantive policy consideration.
559. Recognition of the role infrastructure provides for community wellbeing is reflected in a number of policy provisions through the hierarchy of relevant documents. This ranges from Infrastructure generally, to Regionally Significant Infrastructure which the Port is identified as in the RPS, to specific and strong policy support for Ports in the NZCPS and via the Port zones in the PRP-AV and WDP-OP. There is little difference in opinion on consistency with the relevance supportive parts of these provisions to the proposal. Any potential inconsistency generally links to effects, discussed above.
560. As a commons (or a nullis under the MACA), use and allocation of coastal space attracts a high degree of scrutiny. Relevant provisions on reclamation and use of coastal space are included in the NZCPS and flow down into the RPS and PRP-AV. The provisions for both reclamation and allocation of coastal water space are 'gateway' tests that direct avoidance except in specific circumstances.
561. The policy tests for using the method of reclamation to provide for the activity have been satisfied. With no immediate need and in the absence of demand for the activity to occupy coastal space, a lack of national direction and commitment to Northlands role in the upper north island freight task and supporting freight infrastructure (road, rail, coastal shipping), and customary marine title claims to this space, there is uncertainty that the Northport expansion satisfies the policy tests for allocation of this scarce coastal space.
562. In summary, there are a range of effect areas that would benefit for further evidence and expert interaction to conclude policy consistency, particularly tangata whenua / cultural, and further evidence to demonstrate efficient use and need for the allocation of coastal space.

13. OTHER MATTERS – SECTION 104(1)(C)

563. Section 104(1)(c) requires the council to have regard to ‘...any other matter the consent authority considers relevant and reasonably necessary to determine the application’. Other matters considered include:

- a. Consideration of Alternatives;
- b. Iwi and Hapū Environmental Management Plans;
- c. Other relevant legislation;
- d. Other relevant documents; and
- e. National Planning Standards – Port Noise.

13.1 Consideration of Alternatives

564. The applicant in the Issues and Options Report has set out the basis for the proposal and the alternatives considered. The basis for the proposal as the preferred option is heavily reliant on an operational and functional rationale. This approach has been criticised in the CIA due to its lack of any multi-criteria analysis of the options. In my experience, an MCA approach is not unusual for this scale of project.

565. The functional need for the location has been established and there is agreement that the scale of reclamation area sought is of a size that would enable a 500,000 TEU container terminal.

566. A matter to consider further is the availability of CINZ land to accommodate some of the required footprint, or even to assist with improved mitigation of open space / recreation effects. CINZ has indicated that land along the northern boundary of their site containing a carpark and grassed area is available for redevelopment and potentially available for acquisition – refer **Figure 12-1** below.



Figure 13-1: CINZ land, tanks, and facilities available for repurposing

567. This opportunity would benefit from a response by the Applicant, including whether this land would assist to reduce the extent of reclamation necessary and thus assist to better manage

navigational and recreational conflict in the residual limited remaining water space and or enable recreational effects to be largely or wholly mitigated in this area, rather than off site.

568. It would also be helpful to understand whether the Applicant is intending to seek Requiring Authority status, as is indicated in the Bill, to be available under the pending Natural and Built Environments Act, and if so, how that status may or may not assist in acquisition of this land.

13.2 Iwi / Hapū Environmental Management Plans

569. The applicant outlined the relevant Iwi Management Plans in Section 4.2.6 of the application AEE. The following Iwi and Hapū Environmental Management Plans are identified as having particular relevance to this proposal:

- a. Te Iwi o Ngātiwai Environmental Policy Document (2007);
- b. Patuharakeke Hapū Environmental Management Plan 2014; and
- c. Ngāti Hau Hapū Environmental Management Plan 2016.

570. Each management plan is comprehensive and covers a range of issues of importance to the respective iwi and hapū. The plans contain statements of identity and whakapapa, and identify the rohe over which mana whenua (and mana moana) are held. The cultural and spiritual values associated with the role of kaitiaki over resources within their rohe are articulated.

571. Many of the identified issues within the management plans relate to concerns over indigenous flora and fauna, minerals, soil, air quality and water quality.

572. There were no matters identified within the Ngāti Hau Environmental Management Plan as having direct relevance to the proposed port expansion.

573. The Ngātiwai Environmental Policy Document makes specific reference to port activities. In particular, Water Policy 15 and Engagement Policy 1 require that tāngata whenua are an affected party to any resource consent application within their rohe. Further, they are also provided with resources to monitor compliance with conditions. Methods to achieve water policies include preventing anti-fouling, discharging of ballast water and other contaminant discharges into coastal waters. There are also policies relating to air quality, indigenous biodiversity and wāhi tapu that require engagement with tangata whenua.

574. The Patuharakeke Hapū Environmental Management Plan makes a number of references to the port and activities associated with the proposal. The plan outlines concern over discharges to air, vegetation clearance, coastal water quality, access to the coastal environment, health of kaimoana resources, and the right to kaitiakitanga and rangatiratanga over marine mammals. More specifically, the plan asserts that Patuharakeke will participate with the management and development of infrastructure, cumulative effects from development are avoided, and Council shall not allow private ownership of the foreshore. Additionally, it emphasises that customary access to the coastal environment is a right, and Patuharakeke will oppose development that results in loss of customary access to the CMA. The plan also specifically references Northport, including requiring advising Patuharakeke of oil spills, and requiring Northport and NRC to avoid major dredging programmes and recognise and provide for the relationship of Patuharakeke to the harbour and mahinga kai.

575. Northport engaged Patuharakeke to provide a Cultural Effects Assessment for the application AEE. Section 5.2.6 of the application notes that Patuharakeke questioned whether the proposal aligns with the objectives, policies and methods of the Management Plan. Northport has proposed a number of mitigation measures to address tangata whenua concerns, but acknowledges that further consultation and collaboration is required to determine conditions to this effect.
576. The Patuharakeke Trust Board made a submission opposing the application. It asserts that the application fails to appropriately address the concerns raised within the Cultural Effects Assessment, including a failure to respond to cumulative impacts of the proposal on the harbour and provision of a kaitiaki role. It also notes that it would preclude hapū and iwi from having their rights recognised under the Marine and Coastal Area (Takutai Moana) Act. The Ngātiwai Trust Board also submitted in opposition, and supported the Patuharakeke Trust Board's submission in its entirety.

13.3 Mana Whakahono a Rohe Agreements

577. As raised in the submission by the Patuharakeke Trust Board, WDC and NRC have signed Mana Whakahono ā Rohe agreements with Te Patuharakeke Iwi Trust Board. Under s 58L to 58U of the RMA, these agreements facilitate tangata whenua in resource management and decision-making processes under the RMA.
578. In accordance with sections 8.2 and 15 of the agreements, the Patuharakeke Trust Board have requested that an Independent Māori Commissioner be appointed from each council to the hearing panel for this consent. In accordance with section 6.6.2 of the Mana Whakahono ā Rohe agreement with NRC, Patuharakeke Trust Board have recommended that the hearing be held at Takahiwai Marae.

13.4 Other Legislation

13.4.1 Marine and Coastal Area (Takutai Moana) Act 2011

579. The Marine and Coastal Area (Takutai Moana) Act 2011 (MACA Act) acknowledges the importance and access to the common marine and coastal area, and protects navigation and fishing rights (bar wāhi tapu areas). It also provides for recognition and protection of customary marine title. As asserted in the Patuharakeke Trust Board submission⁷², reclamation and occupation of the foreshore and seabed will preclude customary right recognition under the MACA Act.
580. In accordance with section 62 of the MACA Act, prior to lodgement of a resource consent application the Applicant must notify and seek the views of customary right applicants. There are 15 current applications covering the Northport application area.
581. As set out within the AEE and Appendix 8 of the Application (MACA Act Correspondence), the Applicant (Northport) has satisfied their requirements of the MACA Act.

⁷² Submission 164

13.4.2 Marine Mammals Act 1978

582. The Marine Mammal Act 1978 was enacted to provide for conservation, protection and management of marine mammals. A permit is required under this act to 'take' a marine mammal, which includes actions that harm, harass, injure or attract. It also enables the Department of Conservation to establish and manage marine mammal sanctuaries.
583. The mitigation measures proposed by the application are designed to prevent injury to and noise disturbance of marine mammals are consistent with the intention of this Act. There is a legislative framework defined by the Act, which the applicant will need to apply under if required. Impacts on marine mammals have been assessed in **Section 10.4.7** of this report.

13.4.3 Biosecurity Act 1993

584. The Biosecurity Act 1993 provides the framework for exclusion, eradication and management of pests and unwanted organisms. This includes border controls, surveillance, and control and eradication of pests if they enter New Zealand. Biosecurity functions are split between the Ministry for Primary Industries, government departments, and regional councils.
585. As outlined in Section 10.4.9, biosecurity risks are managed under the Regional Pest and Marine Pathway Management Plan, prepared under this Act. In conjunction with proposed mitigation measures, this should be adequate to appropriately manage biosecurity risks.

13.4.4 Wildlife Act 1953

586. The Wildlife Act 1953 provides a protection framework for animals classified as wildlife. Through three tiers of protection, the Act controls how people interact with wildlife and specifies what species are protected. The Department of Conservation ('DoC') regulates this Act.
587. The Director-General of Conservation raised this legislation within their submission⁷³. It is understood that approval under this Act will be required prior to construction of the proposed port expansion. There is no legislative requirement for parallel considerations under the RMA and WA and as such, this will not be considered further through this resource consent process. Assessments of effects on wildlife are detailed in Section 10.4.

13.4.5 The Conservation Act 1987

588. The DoC is tasked under the Conservation Act 1987 ('CA') with the protection of and advocacy for the conservation of natural resources and historic heritage. The principle of 'protection' underpins the Act, which has primacy over the sustainable management principle of the RMA.
589. The CA was raised in the Director-General of Conservation's submission.⁷⁴ The Director-General is concerned there is a risk of inconsistency between consent requirements and permit requirements, and thus permits should be applied for at the same time. There is no regulatory requirement for parallel considerations under the RMA and CA. The Director-General has raised

⁷³ Submission 158

⁷⁴ Submission 158

concerns regarding coastal processes, marine ecology and indigenous avifauna. These concerns are addressed in section 10.4 above.

13.4.6 Reserves Act 1977

590. The Reserves Act 1977 was established to acquire, preserve and manage areas for conservation, public recreational, or educational values. The reserves are classified under eight categories, and are administered by DoC, local authorities, boards and trustees, or organisations where reserves are vested.
591. The esplanade proposed to be altered by the application is classified as a reserve under this statute and is administered by the WDC's Parks and Recreation department. An application will be required to be made to the Minister for Conservation to alter the classification of the reserve, however this process is separate to this resource consent application and will involve further liaisons with WDC's Infrastructure Planning department.

13.4.7 Civil Defence Emergency Management Act 2002

592. The Civil Defence Emergency Management Act 2002 created a framework for New Zealand to prepare for, deal with, and recover from local, regional and national emergencies. It identifies the roles and responsibilities in the emergency management system, and the lifeline utilities that must have a plan in place and be resilient to emergencies.
593. As raised in their submission,⁷⁵ CINZ is classified as a lifeline utility as it distributes petroleum products. They are concerned that the proposed works may impact their ability to use their jetty, compromising their ability to operate as required by the Act. Navigation has been addressed in **Section 10.4.8** of this report. It is recommended that the Applicant provide further information regarding navigation at the hearing to address these concerns.
594. Additionally, Northport can be classified as a lifeline utility under Schedule 1 of the Act. Under this Act, they are required to develop an emergency plan and maintain arrangements to respond to warnings, including to natural hazards. While this is outside the scope of this report, this plan will need to be updated to reflect the change in scope of the port.

13.4.8 Marine Reserves Act 1971

595. The Marine Reserves Act 1971 operates to protect marine habitats and life through the establishment of marine reserves. Marine reserves can be proposed by any individual, organisation or authority, and provide the highest level of protection for marine ecology in New Zealand. Marine reserves prohibit the removal habitats and life.
596. The harbour contains the Whangārei Harbour Marine Reserve, which comprises of two areas off the coast of Motukaroro and Waikaraka. This marine reserve was established in 2005. Submission raised concerns⁷⁶ regarding the impact of the proposal on the marine reserve.

⁷⁵ Submission #176 (CINZ)

⁷⁶ Submission #171 (Te Hononga Whakaruruhau o Whangārei Terenga Paraoa - Whangārei Harbour Marine Reserve Advisory Committee)

597. There are no direct impacts on the extent of Marine Reserve. Turbidity from dredging and underwater noise could have an adverse impact on the flora and fauna in the reserve area. The underwater noise impacts have been concluded to be appropriately managed to avoid this outcome, and turbidity management conditions are intended to avoid habitat impacts from smothering and sediment deposition.

13.4.9 Maritime Transport Act 1994

598. The Maritime Transport Act 1994 formalises broad principles of maritime law, and formed Maritime New Zealand. These include safety standards for people and ships, and provide marine protection rules including prevention of waste and marine pollution disposal from ships.
599. Of relevance to this application are the navigation laws and marine oil spill response. Submissions raised concerns regarding adherence to maritime laws with an increase in large ships dominating the harbour. Navigation within NRC waters are managed through the NS Bylaw, as summarised in **Section 3.4.1** above.
600. Marine oil spill response is classified into three tiers. In the first tier the spiller is able to adequately respond to the spill; the second and third tiers require Regional Council and Maritime New Zealand intervention to address the spill. All industries with oil refuelling sites must have a contingency plan to deal with spills. As outlined in section 10.4.8 of this report, it is recommended a Marine Oil Spill Risk Assessment is required in conditions of this consent. It is anticipated that this measure will assist with ensuring the proposal is compliant with this Act.

13.4.10 Local Government Act 2002

601. The Local Government Act 2002 provides the general framework for regional, district and unitary councils to operate. This framework includes authority to enact bylaws.
602. Concerns were raised regarding navigation in the Whangārei Harbour in submissions. Under this Act, NRC has enacted the Navigation Safety Bylaw 2017. As outlined in section 3.4.1 of this report, speed limits, right of way, navigational aids and prohibited areas are governed by the bylaw under this Act.

13.4.11 Local Government Act 1974

603. The Local Government Act 1974 has largely been repealed in favour of the Local Government Act 2002. However, provisions relating to road are still operative.
604. Road stopping is a separate process managed by WDC in accordance with Part 21 of the Act. Road stopping is undertaken outside the RMA consenting process that involve Council and usually requires the land controlling authority to confirm the road is no longer required, written approval of all adjoining landowners, and purchase of the land as per current market valuation. The proposal may impact the Ralph Trimmer Drive cul-de-sac, and may require this process to be undertaken.

13.5 Other relevant documents

13.5.1 Tai Tokerau Northland Economic Action Plan 2019

605. The Tai Tokerau Northland Economic Action Plan was developed by Northland Inc in 2019. Northland Inc is owned by NRC, with Far North District Council, Kaipara District Council and WDC

as shareholders. This plan outlines priority outcomes for the economic and social development of the region.

606. As noted by Submission 78, supporting Northport's Vision for Growth is the key project for the 'improving logistics/transport infrastructure and services' work stream. The economic basis of support for the project, as set out within the Tai Tokerau Northland Economic Action Plan, is acknowledged.

13.5.2 Sustainable Futures – Whangārei District Growth Strategy 2021

607. Sustainable Futures – Whangārei District Growth Strategy 2021 (Sustainable Futures) was adopted by WDC in 2021 and outlines nine strategic drivers to inform the district's future growth. The long-term expansion of Northport is identified as a '*Strategic Driver: projects to support prosperity*' and outlines the role of Northport in meeting future freight needs across New Zealand.
608. The value of Northport is stated to be the opportunities for industry, business and employment in the district and region, as noted in submission 78. The document identifies '*advocating and supporting decision making on Northport*' as a priority. The strategic economic priorities for the district are acknowledged.

13.5.3 Northland Regional Council Navigation Safety Bylaw 2017

609. NRC enacted this bylaw, which governs speed limits, right of way, navigational aids, and prohibited areas. This is outlined in section 3.4.1.
610. Concerns were raised in submissions regarding the domination of large vessels and navigational hazards associated with the port expansion. As outlined in section 10.4.8, vessels will need to comply with the bylaw within the harbour and conditions to address this have been proposed by Mr Keane, Councils Navigation expert.

13.5.4 Aotearoa New Zealand's First Emissions Reduction Plan

611. The first Emissions Reduction Plan was published in May 2022 and was referred to by submissions 92 and 107. As outlined in section 6.6, this report is precluded from considering greenhouse gas emissions and thus this plan.

13.5.5 Government Policy Statement on Land Transport 2021

612. The Government Policy Statement on Land Transport ('GPS-LT') outlines how the National Land Transport Fund is allocated to achieve the Government's transport priorities.
613. As outlined in submission 153, Waka Kotahi must carry out its functions in a way that delivers the transport outcomes in the GPS-LT. Waka Kotahi asserts that the proposal will improve freight connections. The freight links potentially associated with this proposal are addressed in section 10.4.18.

13.5.6 Upper North Island Supply Chain Strategy Reports

614. Numerous investigations have been undertaken regarding port capacity and the upper North Island supply chain in the past decade. Notable investigations include:

- a. Transforming Auckland; Transforming Northland: Final Report of the Upper North Island Supply Chain Strategy Working Group (November 2019); and
 - b. Analysis of the Upper North Island Supply Chain Strategy Working Group Options for moving freight from the Ports of Auckland (June 2020).
615. The November 2019 report by the Upper North Island Supply Chain Working Group recommended the CBD freight operation of Ports of Auckland is progressively closed, and Northport should take over Auckland's existing and future freight business in conjunction with expansions of Port of Tauranga. This is supported by the assertion that sale of Ports of Auckland could create \$6 billion in revenue, the current structure of ports in the upper North Island is inefficient, transport links are more easily upgraded at Northport, and the environmental cost for continued use of Auckland is greater than Northport.
616. The analysis report issued in June 2020 argued that Northport and Port of Tauranga combined could accommodate the 60 year freight task, but would require significant expansion and would be at capacity. A cost-benefit analysis indicated that a new port at Manukau Harbour and an expansion of Port of Tauranga were recommended ahead of expansion of Northport, in part due to the transport infrastructure requirements at Northport. Emphasis was placed on the proximity of ports to markets by supply chain participants, which supported Manukau Harbour. This is a different conclusion from the Working Group report.
617. At this point in time, there is no clear direction for the upper North Island supply chain, as reports have different recommendations to the Government. The Government has not adopted the recommendations of any report at the time of writing and is currently preparing a National Freight Strategy. Unhelpfully, there is no conclusive national strategy underpinning the proposal.

13.6 National Planning Standards – NZS Port Noise

618. The NP Standards include mandatory direction to apply the noise measurement methods and symbols of the New Zealand Standard 6809:1999 Acoustics – Port noise management and land use planning (NZS Port Noise).
619. Whilst I do not consider that the NP Standards go as far to direct plan makers to adopt the noise limits of those standards, the NZS Port Noise are accepted standards for measuring port noise within a NZ planning framework.

14. OTHER RELEVANT RMA CONSIDERATIONS

14.1 Matters Relevant to Discharge and Reclamations – Section 105

620. Section 105(1) sets out matters to have regard to, in addition to Section 104(1), when considering discharge consents. The application includes discharge consent for stormwater associated with the land-based activities, discharge of decant water from reclamation activities, and discharge of sediment plumes associated with dredging.
621. The sensitivity of the receiving environment to adverse effects is primarily dependent on water quality due to the discharges. Adverse effects will largely be experienced by non-migratory marine ecology.
622. In sections 4.16 and 5.7.11 of the AEE the Applicant has detailed that the existing stormwater system is working effectively and will be extended for the proposal. As confirmed in section 10.4.13, the canals will be sufficient to contain the first flush rainfall events and convey the majority of contaminants to the stormwater treatment ponds. The stormwater ponds also have adequate capacity to accommodate additional flows and account for climate change. The existing discharge after mixing achieves TP10 standards, and Mr McLaren's assessment has confirmed that additional discharge volumes will achieve the same standards. Therefore, the proposed discharge approach is appropriate, and there is no reason to discharge to an alternative receiving environment.
623. The Applicant has proposed a number of methods to manage decant water discharges from reclamation, and any residual effects from discharges will be managed by the proposed conditions. As the decant water is expected to meet turbidity standards, I do not consider it necessary to discharge the decant water to another receiving environment.
624. Sediment plumes will be discharged into coastal waters from the dredging proposed by this application. Management and mitigation of adverse effects of sediment plumes are proposed through the condition set, related to methods of dredging. Subject to compliance with the proposed conditions, the matters of s105(1) can be satisfied.
625. Section 105(2) requires consent authorities to consider whether an esplanade reserve or strip is appropriate for a reclamation. As discussed above regarding public access in the policy framework, it is accepted that this is not practicable for a functioning port and public access up either side of the reclamation is an appropriate remedy in lieu of an esplanade reserve.

14.2 Restrictions on Discharge Permits – Section 107

626. Section 107 places specific restrictions on discharge permits. It requires that after reasonable mixing, if the discharge is likely to give rise to effects outlined in s107(1)(c)-(g), a discharge permit will be denied. As outlined in section 13.1 above, the discharges to water will include stormwater discharges, discharge of decant water associated with reclamation, and sediment plumes from dredging activities.
627. Due to the tidal velocity and extent of mixing within the Whangārei Harbour in conjunction with the stormwater quality management and mitigation measures, it is expected that the effects outlined in s107(1)(c) – (g) will not be given rise to.

14.3 Conditions of Resource Consents – Section 108

628. Recommended conditions of consent are attached to this report. The conditions address the full suite of consent applications to both the NRC and WDC and include conditions to implement the Applicant's proffered mitigation.
629. The attached conditions use those pro-offered by the Applicant as a starting point with tracked changed additions and deletions to reflect recommendations in the technical memos and conclusions of this report. It is noted that turbidity and cultural conditions were not proffered but acknowledged by the Applicant and necessary to manage effects.
630. It is expected that these conditions will continue to be refined based on evidence and further expert engagements.
631. New or amended conditions are proposed include the following:
- a. Pre-construction and construction communications and engagement plan to manage community and stakeholder uncertainty and expectations;
 - b. Coastal processes: additional mitigation of cumulative impacts from sediment transportation including long-term shoreline monitoring, functioning of the bird roost and adaptive response measures. Heavy metal sampling was also recommended by Mr Trelour prior to dredging;
 - c. Landscape, natural character and visual amenity: new conditions are proposed relating to height and bulk of cranes and stacked container storage, setbacks, stockpiles, and ensuring works are in general accordance with visual simulations and plans. Mr Farrow also proposes conditions relating to relocation of the water taxi landing facility and swimming jetty, and design of the pocket park;
 - d. Marine ecology: dredging methodologies to minimise sediment suspension and dispersal, using best practice methodologies for turbidity, removing key species prior to reclamation or dredging, and monitoring recovery including reseeding dredging areas if required;
 - e. Avifauna: identification and enhancement of alternative roost areas that may be used by displaced avifauna. Other conditions are proposed to require implementation of sediment controls during dredging, an Avifauna Management Plan to manage construction effects, restrictions on lighting, and inclusion of avifauna management measures in an operational management plan;
 - f. Marine mammals: strengthening of marine mammal navigation controls to be equivalent to the Hauraki Gulf Transit Protocol, amendments to the MMMP, and use of bubble curtains to reduce underwater construction noise;
 - g. Navigation and safety: development of operational controls and a risk management register;
 - h. Terrestrial noise: modification of night-time noise conditions to reflect the highest noise levels predicted in the acoustic assessment, and preparation of a CNMP either separate to or included in the CEMP;
 - i. Archaeology: extension of the accidental discovery protocol to encompass any underwater archaeology;
 - j. Recreation: ensuring that the disruption in access to Marsden Bay beach is limited to 6-12 months, and construction of recreation facilities within 6 months of access being restored to mitigate effects on recreation. Additional offsite mitigation to address residual effects;

- k. Stormwater: discharge structures and treatment, stormwater quality and contamination, monitoring, floatables, Engineering Plan approval, and Operation and Maintenance Plan are proposed to mitigate effects of stormwater discharge;
- l. Air quality: adoption of all of PDP's recommended mitigation as conditions. Conditions are also proposed to extend dust control measures beyond the extent of the reclamation to the construction of the bird roost;
- m. Transport: strengthening the use and uptake of the Marsden Rail Link when operation, adoption of traffic reduction methods recommended in the WSP TIA, incorporation of safety requirements into monitoring, and implementation of an Operational Traffic Management Plan;
- n. Terrestrial ecology: contribution to Coastal Care groups for higher ecological benefits as the preferred method of mitigations proposed;
- o. Dredge disposal – an advice note that additional consents may be required if dredge disposal is proposed to a location other than the reclamation; and
- p. Three waters: development of connections for water supply and wastewater for the proposed expansion.

14.4 Duration of Resource Consents – Section 123

- 632. Section 123 specifies that the duration of a coastal permit for reclamation, or land use consent in respect of a reclamation, or any other land use consent is unlimited, unless specified. Any other permit or consent shall have a duration not exceeding 35 years.
- 633. The applicant has applied for an unlimited duration or 35 years where restricted. Duration is discussed in section 11.3. If the activity is established to be efficient allocation of space, then a longer duration has merit. If not, and due to uncertainty around effects and timing of benefits arising, then the policy directive is for a short duration.
- 634. As directed by the PRP-AV policy framework, NRC endeavours to have consistency of expiry dates in an area or catchment. The Crude Shipping project (Channel Deepening) consents held by CINZ expiry dates are 2052. If a longer duration is deemed appropriate, then this expiry date would be consistent with the above policy approach.

14.5 Lapse of Resource Consents – Section 125

- 635. The Applicant has applied for a 10 year lapse date on the WDC consents under Section 116(2)(b) from commencement and identified that commencement would occur once the reclamation is completed and a Section 245 certificate issued.
- 636. It is unclear from the application what lapse date is sought for the regional permits. The default period is 5 years. However due to uncertainty around the timeframe for construction, the application may mean that no lapse date is sought as it may be up to 35 years away until the need to exercise the consent occurs.
- 637. It would be useful for the Applicant to clarify this matter.

14.6 Review Condition – Section 128

638. Given the size, scale and complexity of the project a review condition is recommended for inclusion in any granted Regional and District consent conditions. The review condition would allow each council the opportunity to review the consent condition to:
- a. Deal with any adverse effects on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
 - b. Require the consent holder to adopt the best practicable option to avoid or mitigate any unforeseen adverse effects on the environment; and
 - c. Deal with any other adverse effects on the environment which the exercise of the consent may have an influence on.

14.7 Reclamations – Section 245 and 246

639. The proposal involves creation of an area of reclamation of approximately 11.7ha. In order to legally recognise the area of reclamation as land, these sections set out the requirements for undertaking a survey and generating a Record of Title for the land. The Regional Council is required to approve the survey plan in accordance with Section 245(5), after which the survey plan is lodged with Land Information New Zealand for depositing.
640. These matters are a requirement of the Act and generally are not included as conditions of consent. However, an advice note is commonly appended to the consent to remind the consent holder of their obligations in respect of those sections.

15. PART II RMA

641. As defined under current case law, an assessment of Part II matters is not required unless there are issues of invalidity, incomplete coverage or uncertainty in the planning provisions. The proposal has required consideration against a suite of planning provisions, of which the NZCPS is the prevailing document.
642. All the documents considered contain provisions that are relevant to the proposal. There is no evidence to suggest the relevant provisions are invalid, incomplete, or present uncertainty in making any decision. At worst, the validity of the RCP may be in question given its promulgation under a previous version of the NZCPS. However, this has no significance in terms of the manner in which the application has been assessed, given that the PRP-AV assumes significant weight as part of the assessment.
643. No recourse to Part II is considered necessary.

16. CONCLUSION AND RECOMMENDATION

644. Northport have applied for a suite of resource consents from the NRC and WDC to construct, operate, and maintain an expansion of the existing Northport facility. Northport seek to enable the transition of its existing facility into a high-density container terminal.
645. The existing Northport facility consists of three berths (Berths 1 – 3), with a fourth berth (Berth 4) consented but not yet constructed. The proposed expansion seeks to construct a fifth berth (Berth 5) to adjoin (consented, but not yet constructed) Berth 4, which involves:
- Reclaiming approximately 11.7ha of CMA to form land for the proposed berth and container terminal;
 - Extending the existing wharf a further 250m along the northern face of the proposed reclamation to form an extension to the consented (but not yet constructed) Berth 4; and
 - Undertaking bulk earthworks and filling within an area of approximately 2ha above MHWS to the east of the existing Port facility, including over the existing dune system and Esplanade Reserve.
646. The application made to the NRC seeks consent for approximately 11.7ha of reclamation and associated coastal structures, 1.72million cubic metres of capital dredging and associated disposal and maintenance dredging, riparian earthworks, construction and operational stormwater discharges, creation of a sandbank high-tide bird roost, and ancillary coastal structures for tug berths and a public water taxi/fishing pontoon.
647. The application to the WDC seeks consent to undertake Port Activities on the proposed reclamation, apply the Port Zone permitted building height limits on proposed Berth 5, manage Port noise under the Port Noise Standards (NZS 6809:1999) rather than the WDP-OP on proposed Berth 5 and across the existing Port, undertake earthworks and vegetation clearance (including removing Public Trees), and erect new buildings (a new public toilet) within permitted coastal setbacks.
648. Northport also propose to surrender three existing resource consents that manage the existing Port stormwater management system and place controls on Port operations (including relating to operational noise and landscaping). The requirements of these three consents are proposed to be incorporated into these resource consent applications. Some of the land use consents sought by Northport therefore apply to the existing Port area and operations, as well as the future land within on the proposed reclamation area.
649. The reasons for resource consents and permits required are detailed in section 4 of this consent. Overall, resource consent is required from WDC as a **Discretionary Activity**. Resource consent and permits are required from NRC as a **Discretionary Activity**. As these consents have been bundled within the application, consent is sought as a **Discretionary Activity** overall.
650. Overall, the proposal is assessed as generating some positive effects and adverse effects range from negligible to significant.

Effects	Applicant's Conclusions	Council Conclusions
Cultural	N/A	Significant
Coastal Processes	More than minor	Negligible – More than minor
Navigation and Safety	Negligible	Minor
Archaeology and Heritage	Negligible	Negligible

Marine Mammals	Less than minor	Less than minor
Marine Ecology	Less than minor – significant	Less than minor - significant
Terrestrial Ecology	Less than minor – minor	Less than minor
Avifauna	Less than minor – minor	No more than minor
Terrestrial Noise	Reasonable	Reasonable
Landscape, Natural Character, and Amenity	Less than minor – significant	Less than minor – significant
Economics	Positive	Positive
Recreation	Less than minor – significant	Less than minor – significant
Stormwater	-	Minor
Transport	No more than minor	No more than minor
Air Quality	Negligible to minor	Less than minor

651. The relevant policy framework can be distilled into four themes:
- Management of environmental effects;
 - Tangata whenua;
 - Infrastructure; and
 - Reclamation and allocation of coastal space.
652. On the whole, the Applicant has promulgated an assessment and mitigation package that effectively manages the wide range of consequential effects to an acceptable level and Council experts have proposed additional or modified conditions to address residual effects, in a way that responds to and demonstrates policy consistency.
653. There are five areas where better definition of effects, additional mitigation effort or agreement on proposed mitigation is necessary to address areas to a level that achieves policy consistency. These areas are:
- Marine ecology accumulative effects;
 - Avifauna cumulative effects;
 - Recreational mitigation;
 - Landscape effects on the closest ONL; and
 - Cultural effects.
654. Relevant tangata whenua provisions flow from Part II of the RMA down through all the statutory hierarchy of relevant documents and into the non-statutory Hapū Management Plans. At this point in the process the only information available to inform a policy assessment is the CVA and CEA prepared on behalf of the Patuharakeke Iwi Trust Board and the Iwi / Hapū submitters discussed above. This information indicates significant and unmitigated adverse cultural impacts and a proposal basis (reclamation) that is culturally offensive. This causes policy consistency issues.
655. Recognition of the role infrastructure provides for community wellbeing is reflected in a number of policy provisions through the hierarchy of relevant documents. This ranges from Infrastructure generally, to Regionally Significant Infrastructure which the Port is identified as in the RPS, to specific and strong policy support for Ports in the NZCPS and via the Port zones in the PRP-AV and WDP-OP. There is little difference in opinion on consistency with the relevance

supportive parts of these provisions to the proposal. Any potential inconsistency generally links to effects, discussed above.

656. The policy tests for using the method of reclamation to provide for the activity have been satisfied, however in the absence of demand for the activity to occupy coastal space, a lack of national direction and commitment to Northlands role in the upper north island freight task and supporting freight infrastructure (road, rail, coastal shipping), and customary marine title claims to this space, there is uncertainty that the Northport expansion satisfies the policy tests for allocation of this scarce coastal space.
657. In summary, there are a range of effect areas that would benefit for further evidence and expert interaction to assist with concluding on policy consistency, particularly marine ecology and tangata whenua / cultural, and further evidence to demonstrate efficient use and need for the allocation of coastal space. If the above can be adequately resolved then there is a likely consenting pathway, if not it is more difficult to see a pathway to the granting of consents.
658. Should the Hearings Panel determine that consents can be granted for both NRC and WDC applications, a suite of recommended conditions of consent have been prepared for each Council, attached to this report as **Appendix D**. Further expert engagement would assist through the pre-hearing phase to refine many of these conditions.

16.1 Recommended Actions prior to the Hearing

16.1.1 Information / Evidence

659. It would assist if the Applicant considered providing further detail on the below matters:
- a. **Number of cranes:** As outlined in Section 2.4.5 and 10.4.4, clarification over the number of cranes proposed (including any limits proposed) would assist in determining the proposal's impact on landscape and visual amenity.
 - b. **Tug facility:** Further detail prior to or at the hearing regarding the location and layout of the proposed tug facility with consideration given to how navigation issues and potential impacts on CINZ infrastructure and operations can be avoided or mitigated. This encompasses detailed plans of the facility to demonstrate how safe access to and within the proposed tug facility and taxi berth is achieved, and how this is achieved outside of the CINZ prohibited areas under the Navigation Safety Bylaw.
 - c. **Surrendering of consents:** As outlined in Section 2.7.2 of this report, the Applicant is proposing to surrender a number of consents. Prior to the hearing, it would be helpful if the Applicant provides detailed analysis of the consents that currently apply to the port. In particular, identification of which consents are intended to be surrendered, retained, and/or varied and the triggers for these actions. The analysis should include an assessment of all of the conditions of the identified consents to demonstrate whether they have been fulfilled or are no longer necessary/relevant, or those that need to be included as proposed conditions of consent for this application.
 - d. **Marine ecology receiving environment:** As raised in Section 10.4.5 above, it would be helpful if the Applicant and their coastal specialists provide further evidence on what reasonably constitutes the receiving environment with regard to the existing and proposed dredging extents.

- e. **Air quality:** As outlined in Section 10.4.14, confirmation is sought from the Applicant that stockpiling is not proposed within the container terminal.
- f. **Efficient allocation of space:** Section 11.3.1.9 discusses the policy tests around allocation of coastal space. If the applicant has additional information, including from its port shareholders that is not commercially sensitive, and could be shared to indicate future demand that would assist with this policy direction.
- g. **Alternative land to minimise reclamation:** Section 12.1 identifies potentially surplus CINZ land. Information on whether this is available and suitable for use to minimise the reclamation extent or assist to achieve adequate recreation / open space mitigation.
- h. **Lapse dates:** Confirmation of sought lapse dates for the Regional Permits (other than the default 5 years)
- i. **Turbidity conditions:** Have yet to be proposed and would be helpful to receive. Council's marine ecology and coastal process experts have reviewed the Crude Shipping project dredging turbidity management conditions, and both agree these are suitable to apply to this application, with amendments for context.

16.1.2 Expert conferencing

660. The following expert areas would appear to benefit from facilitated expert conferencing:

- a. **Marine Ecology:** As set out in Section 10.4.5 of this report, the adequacy of mitigation measures for adverse effects on marine ecology has not been demonstrated. It is recommended that facilitated expert conferencing be undertaken to inform a conclusive view of marine ecology effects, including turbidity monitoring and response mitigation detail.
- b. **Avifauna:** As outlined in Section 10.4.6 above, cumulative effects on avifauna have not been adequately determined. It is recommended that expert conferencing occur between the Applicant's and Council's avifauna specialists to inform a robust cumulative effects conclusion.
- c. **Recreational mitigation:** As outlined in Section 10.4.12 of this report, it is recommended that alternative recreation mitigation is considered regarding replacement of recreation facilities. Instead of condensed recreational setting, it is recommended that some built recreational assets could be distributed to surrounding off-site recreational areas.
- d. **Cultural Effects:** As outlined in Section 10.4.2 of this report, the cultural effects of the proposal are considered to be significant. While it is acknowledged in section 5.2.8 of the AEE that engagement with tangata whenua is ongoing, no mitigation for adverse effects on cultural values have been proposed. This also creates policy consistency challenges.
- e. **Landscape effects on ONL:** As outline in Section 10.4.4 there is a potentially more than minor impact on the mapped ONL at Reotahi and this has policy implications under the NZCPS. The impact is described as one of perception by Mr Brown and the magnitude of effects is inferred by Mr Farrow.
- f. **Planning Policy:** There are a few of policy interpretations identified in Section 11 above that may benefit form conferencing, but many require the above effect matters to be resolved first.

16.1.3 Conditions

661. Section 13.3 sets out the areas where new or amended conditions are proposed. Many of these matters / expert areas would appear to benefit from expert interactions to refine condition intent and wording to achieve that intent.

Report Prepared for NRC by:

Signed:  _____

Date: 3 August 2023

Blair Masfield, Consultant Planner

Reviewed and Authorised for Release for NRC by:

Signed:  _____

Date: 3 August 2023


Stuart Savill
Consents Manager

Report Prepared for WDC by:

Signed:  _____
Stacey Sharp, Consultant Planner

Date: 3 August 2023

Reviewed and Authorised for Release for WDC by:

Signed:  _____
Roger Quinton
Manager – RMA Consents

Date: 3 August 2023