

HAWKES BAY REGIONAL COUNCIL

HEARING OF RESOURCE CONSENT APPLICATIONS BY PORT OF NAPIER LIMITED

COMMISSIONER HEARING PANEL: EXTENSION OF TIMEFRAMES: SECTIONs 37 & 37A, RMA

Hearing of applications by Port of Napier Limited to construct a new wharf and undertake capital dredging beneath the proposed new wharf; to undertake maintenance dredging; to dispose of dredged material from capital and maintenance dredging within an offshore area; and to occupy the common marine and coastal areas for existing Port activities at Port of Napier, Breakwater Road, Napier and various locations within the Coastal Marine Area (CMA). The location is fully described by the application for resource consent.

It was brought to our attention at the hearing that the applicant's proposed adjournment and timetable when the hearing is to be reconvened would mean that compliance with the timeframes as outlined in section 103A of the RMA could not be achieved.

Section 37 provides for a consent authority in any particular case to extend a time period specified in the RMA. In particular, the provisions of section 37A(4) apply given the applications are for resource consents, and are outlined as follows;

- "(4) A consent authority may extend a time period under section 37 only if—
- (a) the time period as extended does not exceed twice the maximum time period specified in this Act; and
 - (b) either—
 - i. special circumstances apply (including special circumstances existing by reason of the scale or complexity of the matter); or
 - ii. the applicant agrees to the extension; and
 - (c) the authority has taken into account the matters specified in subsection (1).
- (6) A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver."

We have considered this matter and are of the opinion that special circumstances exist through the recent provision of confidential information related to the Hawkes Bay fishery that may be of relevance to our consideration of the applications. We also note that the applicant through Mr Majurey agreed at the hearing to an extension.

In reaching our decision we have taken into account the interests of any person who may be directly affected by the extension (applicant and Council officers have agreed to extension of time), the need to achieve an adequate assessment of the proposal in particular relating to the Hawkes Bay fishery, and the duty to avoid unreasonable delay. We are satisfied that the delay is reasonable and that the extension would be appropriate in light of all of the above matters.

We therefore grant an extension of time for the reasons outlined above in respect of the time limit imposed by section 103A of the RMA, to allow the hearing to be completed no later than 110 working days after the

closing date for submissions on the application. This would require the hearing to be closed by Friday, 12 October 2018.

Dated this 27th day of August 2018

A handwritten signature in black ink, appearing to read "Bill Wasley". The signature is written in a cursive style with a large initial "W".

Bill Wasley
Chair, on behalf of the Commissioner Hearing Panel