

Decisions following the hearing of two applications for resource consent under the Resource Management Act 1991

Proposal

To redevelop Wharf 6 and Wharf 7 at the Port of Gisborne and to dispose of capital dredgings for Wharf 6 at the existing Off Shore Disposal Area and to redevelop the existing Slipway at the Port.

The resource consents are **GRANTED** subject to conditions. The reasons are set out below.

Application numbers:	For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00. For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.
Site address:	Port of Gisborne, Rakaiatane Road, Gisborne
Applicant:	Eastland Port Limited
Hearing commissioners:	Alan Watson (Chair) Brent Cowie Rauru Kirikiri
In Attendance:	Caroline Wilkinson, Hearing Advisor Bonita Mackey, Hearing Advisor
Appearances:	<p>For the Applicant: Max Dunn, planning and resource management consultant Martin Bayley, Ports Infrastructure Manager for Eastland Group Limited David Aubourg, Ports engineer Malcolm Hunt, noise and acoustics engineer Mark Poynter, ecologist</p> <p>For the Submitters: <u>Gisborne Rail Action Group</u> Gillian Ward Marlis Haertel John McLean</p> <p><u>Bayview Apartments</u> Denis Ramsay (chair of the Body Corporate)</p>

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

	<p>Bev Ramsay Marilyn Callahan Ingrid Ramsay (tabled statement)</p> <p>Winston Moreton</p> <p><u>Ngāti Porou Seafoods Group, Te Rūnanganui o Ngāti Porou, Ngāti Oneone, Te Aitangaā Māhaki Iwi Trust and Te Rūnanga o Tūranganui ā Kiwa</u></p> <p>Ian Ruru</p> <p><u>Rongowhakaata Iwi Trust</u></p> <p>Jody Wyllie Murray Palmer Amohaere Houkamau</p> <p>For the Council: Todd Whittaker, planning and resource management consultant Dr Shane Kelly, coastal and marine ecologist, consultant Dr Stephen Chiles, acoustic and noise consultant Sally McKinnon, Senior Water and Coastal Resources Officer, Gisborne District Council</p>
Hearing dates:	30 and 31 May 2018 and adjourned before a right of reply was presented by the applicant. A Memorandum dated 6 June 2018 was issued by the Commissioners which gave the parties the opportunity to address three matters that had arisen during the hearing. A final right of reply dated 29 July 2018 was provided in writing.
Commissioners' site and locality visits:	30 May and 1 June 2018
Hearing Closed:	30 July 2018.

1 Introduction

1. These two decisions are made on behalf of the Gisborne District Council (**Council**) by Independent Hearing Commissioners Alan Watson, Brent Cowie and Rauru Kirikiri, appointed and acting under delegated authority in accordance with sections 34 and 34A of the Resource Management Act 1991 (**RMA**). The applicant was Eastland Port Limited (**the applicant** or **Eastland Port**).
2. There were two separate groups of applications considered. They were for activities associated with the demolition and reconstruction of Wharves 6 and 7 on the south east side of the harbour basin, and for the demolition and replacement of a disused and derelict Slipway on the north east side of the harbour.

3. This decisions report contains the findings from our deliberations on the two suites of applications for resource consent and has been prepared in accordance with section 113 of the RMA.
4. The applications were publicly notified. Eight submissions were received to either one of the two applications or to both applications. Six of the submissions were in opposition and two were either neutral or conditional.

1.1 Summary of Proposal and Activity Status

5. The proposal was fully described in the application and in the Council's section 42A RMA report. In brief, the proposal is for two separate but interrelated suites of consents for redevelopment and upgrade works at the Port. The first group of applications is for the redevelopment of Wharves 6 and 7 and associated dredging works. Their objective is to upgrade and replace the quay wall and deck for those wharves, including capital works dredging, to enable the berthing of larger tugs along Wharf 6 and to improve the operational capacity of Wharf 7.
6. The second group of applications are for the demolition of the derelict Slipway. The existing Slipway has no functional or operational purpose and its location within the Port basin will hinder the future manoeuvring of ships. It is proposed to excavate and remove most of the existing structure and then to reclaim part of it, so that it has a more regular shape and height. Although outside the current consent process, the application states the upgraded Slipway may in future be used as part of a public observation/recreational platform. Part of the site works will involve the decontamination of the existing structure and fill material which contains hazardous substances.
7. The reasons for the proposal requiring resource consents are again, detailed in the section 42A RMA report. The various aspects of the applications are controlled, restricted discretionary or discretionary in the Tairāwhiti Resource Management Plan.
8. Overall the proposal has been considered as a discretionary activity.

1.2 Tairāwhiti Resource Management Plan (TRMP)

9. The relevant zones and other notations affecting the sites are as below:

Wharves redevelopment

Zone/Land Status	: Land Based Zones Port Management B
Overlays and Features	: Coastal Environment Overlay Heritage Alert
Coastal Marine Area	: Port Management Area

Water Classification (SC) adjacent to Wharf 6 & 7
and (SA) Disposal Ground

Slipway upgrade works

Zone/Land Status	: Land Based Zones Port Management B
Overlays and Features	: Coastal Environment Overlay Heritage Alert
Coastal Marine Area	: Port Management Area Water Classification (SC) adjacent to Wharf 6 & 7 and (SA) Disposal Ground.

1.3 Site and Locality Visit

10. We undertook a site visit on Wednesday 30 May prior to the hearing commencing. We thank Jamie Gallagher of Eastland Port and Alice Kranenburg from the Council for organising and accompanying us on the site visit. We record that neither of these persons were involved in the hearing of the applications and their role was only to show us details of the sites.
11. We walked along Wharves 6 and 7, and while doing so we saw the present development of the neighbouring Wharfside log yard, including the stormwater treatment areas being built as part of that development, and to which the stormwater from the redeveloped wharves is proposed to be diverted and treated.
12. We were next taken by boat into the Port area where we could see the current state of the wharves. We also saw the exposed papa underneath Wharf 7 where the juvenile crayfish habitat presently exists.
13. We were also able to inspect the current derelict state of the Slipway from the boat.
14. Following the adjournment, and on the following day, we walked the area opposite Wharves 6 and 7 and the Slipway to gain an appreciation of truck movements in that area and of the location of the apartments on the opposite side of the river from the Port.

1.4 Relevant Statutory Provisions Considered

15. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including Part 2 and section(s) 104, 104A, 104B, 104C, 105 and 107.

1.5 Relevant standards, policy statements and plan provisions considered

16. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents:

- Tairāwhiti Resource Management Plan, 30 June 2017 (**the TRMP**). We note that this also includes the Regional Policy Statement for the Gisborne District.
- New Zealand Coastal Policy Statement, 2010.

17. We note that with the amalgamation of earlier planning provisions to form the TRMP that three plan changes and variations have earlier been notified. Submissions had been received but no hearings held as at the time of the hearing for these applications. We accept the advice of Mr Todd Whittaker, as the reporting planner, that these plan changes and variations have no relevance to the current applications. In addition, no iwi management plans were brought to our attention by any of the parties to the application.

18. There were no other matters brought to our attention that were considered relevant and reasonably necessary to determine the applications in accordance with section 104(1)(c) of the RMA.

2 Summary of Evidence Heard

19. The Council's section 42A RMA report, along with supporting reports from expert witnesses, was circulated prior to the hearing and taken as read. It included a full suite of recommended draft conditions for both applications.

20. The evidence presented at the hearing responded to the issues and concerns identified in the section 42A RMA report, the applications and the submissions made on the applications. We do not provide a specific section in this decisions report addressing the evidence but rather we summarise the key evidence as part of our discussion of our findings on the principal issues in contention. In particular, the evidence that has contributed to, or that is determinative of, the decisions we have made on the applications. We consider this is a more effective and useful way of providing the basis for our decisions.

21. The applicant did not provide a right of reply at the hearing because, following hearing from the applicant, the submitters and the Council officers we discussed and agreed with the parties that an adjournment was appropriate. This was so that further potential agreement could be reached on the draft conditions. We advised the hearing that a Memorandum or a Direction in that respect would be provided in writing to the parties, which was circulated on 6 June 2018.

22. Responses were received with those from Eastland Port and the Rongowhakaata Iwi Trust, both seeking some additional time to respond. On 5 July 2018 the response from Eastland Port was received, that including its right of reply and updated proposed

conditions for each of the two suites of consents being sought by the applicant. The response from Rongowhakaata Iwi Trust was due on 16 July 2018. Given it is important that the applicant has the right of reply to all submissions and evidence at the hearing, we provided Eastland Port with the opportunity to address the material received from Rongowhakaata. The Second Right of Reply dated 29 July 2018 was received by us on 30 July 2018 and we closed the hearing on that date.

3 Principal Issues in Contention

23. After analysis of the applications and evidence (including proposed mitigation measures), undertaking the site and locality visits, reviewing the Council's section 42A RMA report, reviewing the submissions and concluding the hearing process, the proposed activities raise a number of issues for consideration. The principal issues in contention are:

- Effects on water quality
- Effects on the habitat of juvenile crayfish
- Effects of offshore disposal of sediment
- Effects of demolition and construction on noise in the local environment

- Effects on Māori cultural values
- Effects on heritage values

- Effects of log transport by heavy vehicles on local communities
- Positive effects
- What the TRMP seeks for this location.

24. Our main findings on the principal issues that were in contention are now discussed.

3.1 Effects on Water Quality

25. There are three potential effects on water quality from the full proposal. The first is effects that will occur during demolition and reconstruction of the two wharves and the Slipway; the second is the long term discharges of stormwater from the reconstructed wharves (we do not expect the much reshaped Slipway to result in any long term adverse effects on water quality); and the third is the disposal of sediment that may be contaminated to the Off Shore Disposal Ground (**OSDG**) (which we discuss in a later section).

26. It is inevitable that the demolition and reconstruction of each of Wharf 6 and Wharf 7 and the Slipway will have adverse local effects on water quality in the Port basin. The most obvious effect will be elevated sediment concentrations in the water column. While these effects can be mitigated to some extent by the use of "curtains" and good

practice (such as working behind sheet piling), such effects will be visible during much of the demolition and reconstruction of the Wharves 6 and 7 and the Slipway.

27. We do not have particular concerns about these short term effects, particularly as they will only be temporary. Existing water quality in the Port basin is degraded, as reflected in its SC grading, which is the lowest water quality standard for inshore and coastal marine waters. Water quality is affected both by Port operations and quite high suspended sediment levels in the adjacent Turanganui River. The Port basin is not suitable for any form of contact recreation.
28. At present any stormwater discharged off Wharves 6 and 7 runs either directly off the wharves or drains directly to the Port basin via old stormwater outlets beneath the wharves. We would expect this stormwater to be contaminated by compounds such as hydrocarbons, sourced primarily from heavy transport, along with other contaminants associated with activities at the Port.
29. The applicant proposes to divert all stormwater from the reconstructed wharves to two treatment ponds already being constructed as part of the upgrade of the neighbouring Wharfside log yard. This stormwater will be treated by the use of flocculants to remove sediment and other contaminants before it is discharged. The standards that have to be met are specified in consent conditions for the Wharfside log yard and are suitably stringent. For this reason, we are satisfied that the long term adverse effects of stormwater discharges from the reconstructed Wharf 6 and Wharf 7 on water quality in the Port basin will be avoided or mitigated.

3.2 Effects on the Habitat of Juvenile Crayfish

30. Perhaps the most unusual effect of the proposed demolition and reconstruction of Wharves 6 and 7 is that juvenile crayfish habitat that presently exists under Wharf 7 will be destroyed. This habitat has been created by the actions of boring shellfish in the soft papa rock exposed under the wharf. The holes they have left provide ideal refuge for often large numbers of juvenile crayfish, whose larvae have been swept on shore by marine currents after they have drifted in the marine zooplankton for about 18 months.
31. The applicant proposes to mitigate these effects by the creation of artificial habitat slightly offshore from the Port. This mitigation has been designed to provide replacement habitat for juvenile crayfish to settle and develop.
32. As Dr Shane Kelly, a reporting officer for the Council, said to us there is “*no guarantee*” that this artificial habitat will be utilised to the same extent as the existing exposed papa below Wharf 7. However, expert reports attached to the evidence of Mr Mark Poynter strongly suggested that they have a very good chance of being successful. For this reason, we are satisfied that this aspect of the applicant’s proposal should adequately mitigate the effects of the loss of juvenile crayfish habitat beneath Wharf 7.

33. Conditions of consent require that the efficacy of the artificial habitat providing refuge for juvenile crayfish be monitored. If it is not working as intended, we would expect the Council to require further or additional mitigation through a review of consent conditions.

3.3 Effects of Offshore Disposal of Sediment

34. Eastland Port, like all other larger ports that we are aware of, has the shipping channel and the area alongside the wharves dredged to maintain sufficient channel depth to allow ships to enter, leave and berth in the ports.

35. The dredged sediment at Gisborne is taken out to sea and disposed of in what is known as the OSDG. This is several kilometres to the south, and immediately offshore from the mouth of the Waipaoa River, which carries very high levels of suspended sediment to the coast. The area is shown in the TRMP as being available for the disposal of dredgings from the Port.

36. Eastland Port separates dredging spoil into “capital” and “maintenance” dredging. To our knowledge this is common among port companies. Our understanding of the current situation with resource consents that authorise this activity is that existing capital dredging consents for the reconstruction of Wharf 5 have been exercised and have expired, but that the existing consent for maintenance dredging from the entire Port basin expired on 30 June 2018, and at the time of the hearing no new resource consent application had been lodged.

37. The present applications include provision for the disposal of 27,500 cubic metres of capital dredging and 600 cubic metres of maintenance dredging. Quite how the two are separated is a little bemusing to us.

38. There have been substantial investigations of sediment quality alongside Wharves 6 and 7. According to Mr Mark Poynter concentrations of all contaminants tested are low, based on testing against ANZECC¹ guidelines.

39. However, the area surrounding the Slipway does because anti-fouling chemicals were used to clean the hulls of ships prior to it being decommissioned in 2005. Some of those anti fouling chemicals, notably tri-butyl tin (**TBT**) have subsequently been shown to have potentially significant adverse effects on aquatic life. For these reasons, some of the demolition material and the associated sediment from the demolition of the Slipway will have to be disposed of in a landfill designed to handle the safe disposal of hazardous waste.

40. One of the Council officers, Ms Sally McKinnon, urged us to have further tests undertaken for a number of chemical compounds, including a suite of Polycyclic

¹ Australian and New Zealand Guidelines for Fresh and Marine Water Quality.

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

Aromatic Hydrocarbons (**PAH's**) and Dehydroabiatic Acid in the sediment from the Port basin near Wharves 6 and 7, as she considered there was a possibility that these would be present in elevated concentrations. Through Mr Poynter, the applicant opposed this, saying it was expensive to test for these compounds, there was no evidence that they were present and that all the many other compounds tested were well under ANZECC guidelines.

41. We largely agree with the applicant, and we have only required additional monitoring of total PAH's in the sediment. In saying this, we note that even if elevated concentrations of PAH's were discovered, it seems improbable that this would lead us towards any decision that many thousands of cubic metres of marine spoil would have to be disposed of at a hazardous chemicals facility at a registered landfill. The very thought of many hundreds of trucks carrying large volumes of wet marine sediment through the City is not something that we can envisage being endorsed by the local community. It would simply be sensible and practical to continue to dispose of the spoil at the OSDG, as has occurred for many years.
42. We also do not want to set any firm precedent for what should be monitored in the sediment in upcoming consent decision for the long term disposal of sediment generated from maintenance dredging to the OSDG. That is a matter more properly considered as part of the assessment of environmental effects of this maintenance dredging. We would expect that to include a full evaluation of the biota present in the OSDG, and if any of the marine species present warrant some form of protection from contaminants in the dredging.
43. One significant concern that did come to light during the hearing was that the Mediterranean fan worm had been discovered in the Port in 2015. This invasive exotic species, which can travel on the hulls of ships, was first discovered in Lyttelton Harbour in 2008. It has since spread via coastal shipping from the Far North to Gisborne in the North Island, and north along the east coast of the South Island. It can form dense, habitat modifying mats.
44. It is inevitable that the disposal of spoil to the OSDG will have already spread the Mediterranean fan worm to these offshore waters. We have no information on how far they have spread off shore from the OSDG to other coastal habitats, or the extent to which they have successfully colonised the soft sediment in the OSDG.
45. Given this we see no need to decline or otherwise limit the applicant's proposal to dispose of sediment offshore. We have however required that the Marine Pest Management Plan required by Condition 9 of each consent granted includes a requirement to manage sediment discharges to the offshore disposal ground to avoid or mitigate the effects of spreading any pest organism present in sediment dredged from the port basin.

3.4 Effects of Demolition and Construction on Noise in the Local Environment

46. One of the main concerns about the effects of the proposals before us was that both demolition and construction activities could result in noise reaching levels that are unacceptable to residents who live near the Port.
47. These concerns were expressed most strongly to us by Mr Denis Ramsay, who lives at Bayview Apartments, just opposite the Port. Of course, nearby residents choose to live in an environment that is close to a large industrial activity, and therefore must expect a significant amount of noise from Port operations on a reasonably regular basis. They should not however, have to tolerate excessive noise from the demolition and reconstruction activities associated with the applicant's proposal.
48. Noise effects were discussed particularly by Mr Malcolm Hunt for the applicant and Dr Stephen Chiles for the consent authority. There was little disagreement between them, apart from differences about draft consent conditions and particularly, what should or should not be in them. Both these experts considered the noise contours around the Port in the TRMP to be inappropriate and recommended we refer instead to NZS noise standards. We agree with them, noting this was also the approach adopted in an earlier resource consent for the neighbouring Wharveside log yard, and this is what we have used in the conditions of consent.
49. An associated matter is the hours that can be worked. We have restricted these so that activity that may be considered noisy cannot operate on some statutory holidays, including Christmas Day, Waitangi Day and the statutory Easter Holidays. We also note that there are greater restrictions on noise on Saturdays and Sundays than during the working days of the week.
50. There was also some disagreement about whether data from a noise monitor to be established on the roof of the Portside Hotel should be able to be viewed in real time on the applicant's website. Dr Chiles supported this, and Mr Hunt was ambivalent about it. We have decided that such condition is appropriate, and so it is provided for in the conditions of consent.

3.5 Effects on Cultural Values

51. The applicant, submitters and the section 42A RMA report all directed our attention to the provisions of the TRMP that require particular attention to the interests of tangata whenua. The submissions from Rongowhakaata Iwi Trust (**Rongowhakaata**) and from Ngāti Porou Seafoods Group, Te Rūnanganui o Ngāti Porou, NgātiOneone, Te Aitanga ā Māhaki Iwi Trust and Te Rūnanga o Tūranganiūā Kiwa (**the TeToka a Taiau Collective**) comprehensively address their concerns of tangata whenua. These included the need to demonstrate regard to protecting the mauri of coastal resources, the need to develop a cultural assessment framework for doing so and, protection for the juvenile crayfish resource beneath the present wharf structures. Their

submissions opposed the applications, although at the hearing that opposition was more measured with some general acceptance that the proposals should go ahead subject to stringent conditions.

52. Rongowhakaata stated in their submission:

*“Rongowhakaata do, however, view the development of an effective process of engagement with EPL, and the undertaking of a cultural impact assessment in collaboration with them, as providing key tools to ensure that the cultural and ecological goals of the iwi are able to be achieved. This is true both for the current proposals, and the ongoing management and development of the Port”.*²

53. We acknowledge that is a statement from Rongowhakaata but it also applies to the other tangata whenua groups with an interest in the Port area. We agree with the need for *an effective process of engagement* and this was also highlighted in the presentation by Mr Ian Ruru for the Te Toka a Taiiau Collective. We consider that engagement is a two-way process whereby all the respective parties need to act together to discuss matters and we are keen to see a mechanism for that to occur as part of our decisions on the current applications.

54. The submissions and presentations by both Rongowhakaata and the TeToka a Taiiau Collective at the hearing pointed to the need to be able to address the cultural impacts of the current and ongoing Port activities in the whole Port area rather than the more restricted, or historic approach of considering just specific proposals on a more piecemeal basis. This point was made strongly by both Mr Ruru and by Messrs Murray Palmer and Jody Wyllie.

55. We acknowledge the limitations of the historic approach to considering cultural impacts at the Port which is piecemeal or incremental. Such an approach does not sufficiently respond to the range of provisions in the TRMP that require attention to cultural impacts and the need to address these cultural considerations in an effective manner. We are however limited to the scope of the present applications, and without the applicant’s co-operation we could not adopt an approach that requires regard to the cultural impacts across the whole Port area.

56. We adjourned the hearing following the presentations by the parties and, in a Memorandum dated 5 June 2018, sought further comments, those including ideas for a more comprehensive, port wide a cultural impact assessment. We recognise that it is often the case that the most effective contact between parties is made during the hearing and decision-making associated with applications. It is the time that applicants are more receptive to conditions of consent and, also the time that submitters acknowledge decisions are to be made and they need to participate in the process.

² Executive Summary, para 3

57. We were subsequently informed, in the right of reply dated 5 July 2018 from the applicant, that Mr Whittaker had identified an option as being that the applicant establishes and maintains a Kaitiaki Partnership Group (**KPG**) as part of the projects and that it offer a condition to the consents to extend the brief of the KPG to the “whole” of the Port operations. That offer could be made based on the “*Augier*” principle, a principle that derives from case law and provides for an applicant to offer a condition that cannot otherwise be imposed by the consent authority. In its right of reply, Eastland Port has adopted that approach and has made that offer. We think it commendable on the part of Eastland Port, and that action contributes to goodwill between the parties. It will provide a mechanism for the concerns of the tangata whenua to be addressed and for Eastland Port to proceed with its current and future plans for the Port, recognising those matters that need to be addressed in terms of the TRMP and the RMA.
58. Eastland Port also sought through its right of reply, amendments to a number of the related conditions in order that they are clear and effective. We have largely adopted those amendments, some of which are discussed under the heading “Conditions of Consent” below, and importantly, we accept the offer from the applicant for cultural considerations to extend to the wider Port area. The preparation of a Port wide cultural impact assessment will serve to meet much of the concern of the submitters. There may be a need for an initial cultural values survey or assessment first, but we note the current extent of knowledge of Rongowhakaata and the TeToka a Taiau Collective in this respect.
59. With that approach, we find that the relevant provisions of the TRMP can be met and more particularly, there is an opportunity for tangata whenua to be involved in addressing their continued concerns for cultural impacts. We find this process, supported by the submitters and Mr Whittaker for the Council is a significant component of our decisions on the applications.
60. This process, that we could address in conditions of the resource consents, was further developed by Rongowhakaata in their response of 16 July 2018, which followed a request from them for some additional time to respond. We were happy to grant the time extension in the interests of receiving informed comments from them. In their response, Rongowhakaata provided details of the composition of the proposed Kaitiaki Partnership Agreement that had been discussed at the hearing and later drafted by Mr Whittaker.
61. While we acknowledge the importance of Rongowhakaata in these matters concerning the Port area, we also wish to see the interests of the other tangata whenua considered as part of any associated conditions. We note the “tracked” version of the draft conditions which Rongowhakaata has “amended” to refer specifically to Rongowhakaata whilst excluding other tangata whenua. The logic is that the other *groups may participate in their own right in similar programs of engagement, except where there is unanimous agreement amongst participants to collaborate.*

62. We do not support this approach, as we wish to see a condition or conditions that provide an opportunity for all tangata whenua to participate in current and future considerations of port related projects and operations.
63. We decided that, in conjunction with the *Augier* approach, we would include a condition that provided the opportunity for the respective tangata whenua groups to be part of a forum at which they could resolve matters relating to cultural values at the Port, and how they could be addressed, without us directing which group or groups should be involved.
64. Having received the 16 July 2018 response from Rongowhakaata we were wanting to close the hearing but, in order to follow due process, we provided Eastland Port with the opportunity for a final right of reply. That was received on 30 July 2018 when we then closed the hearing.
65. We note that Rongowhakaata sent an email to Council on 30 July 2018 attaching its response to the draft conditions of 25 June 2018. They state in the cover note it was sent to be clear that they had indeed commented on all the draft conditions and not just the KPG concept. Although that is outside the time for the Commissioners receiving any further information we have taken it into account in the interests of taking account of all the information available to us and noting our view that no new information is included as part of it.
66. The final right of reply addressed Rongowhakaata's response of 16 July 2018 to the draft conditions of consent referred to above. Eastland Port states:

The KPG has been drafted and then revised by EPL to facilitate cultural collaboration and partnership with all relevant iwi stakeholders though. EPL wish to provide effective outcomes port wide for projects and operational activities of the port for all groups who have a kaitiaki relationship with the port by establishing the cultural values to create the forum to incorporate tikanga maori at EPL.³

67. This is sought to be achieved through a condition of the consents for the redevelopment of the two wharves.
68. We agree with that approach. It relies on the goodwill of EPL in offering a condition that goes beyond our ability to impose as part of consent to the proposed works at the wharves but which we consider is needed to bring the relevant parties together. It also relies on the input of the Council to determine the groups to be invited to participate, which we would expect to be at the least, those that submitted to the current applications. The condition provides for engagement and collaboration between the parties with the intent of including cultural values into EPL projects and operations. It also means that if the parties are not able to get together or to agree on

³ Section 18 of the Second Right of Reply

such matters, the condition becomes redundant. In short, the condition relies on the effective participation of the parties.

69. We see this approach as being potentially the most effective way of providing for the interests of the parties and meeting the range of provisions in the TRMP that support the involvement of tangata whenua in matters of significance to them.
70. In addition to the debate on collaboration and partnership, Mr Ruru expressed concerns for the juvenile crayfish habitat below the existing wharves. Dr Kelly, for the Council, recommended changes to the draft conditions of consent that had been presented to us in the section 42A RMA report. The conditions then better provide for monitoring of the crayfish settlement devices and, after five years, for an independent review of ongoing monitoring. These amendments were agreed by Eastland Port in its right of reply.
71. In all of the above respects, and with the conditions of the consents, we find that the applicant will be giving due regard to the cultural matters associated with the area. We acknowledge that regard requires an ongoing relationship in to be effective and respectful of these values and we encourage the parties to participate in that manner.

3.6 Effects on Heritage Values

72. The concerns in this respect include the rock known as Te-Toka-a-Taiau which is steeped in tribal heritage and mythology and the Tūranganui River has special significance as a repository of kōiwi as well as providing a food resource⁴. The cultural and heritage values of these features and sites, and indeed of the Port area, can largely be addressed by way of the condition of consent that establishes the framework for the KPG.
73. Mr Winstone Moreton raised concern at the hearing in relation to the “Cone of Vision” from the Port area, that being associated with Captain Cook’s Landing at Gisborne, and the development that has occurred in proximity to it. It was however not clear to us how the current proposals affected this cone of vision, rather the concern was directed towards current activities. We note that compliance with TRMP controls is a matter for enforcement where necessary and can be followed up with the Council directly.

⁴ Section 42A RMA report, para 125

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

3.7 Effects of Log Transport on Local Communities

74. One of the major issues raised by submitters was the disruption caused by noise and vibration from the heavy trucks and trailers that take logs to and from the Port. This was raised by Ms Gillian Ward, Messrs Marlis Haertel and John McLean and by Mr Moreton. Our understanding is the reconstruction of Wharf 7 will enable up to about five million tonnes of logs to be exported from the Port each year, up from about three million tonnes today.
75. On the morning of Friday 1 June, we independently walked over the Gladstone Road Bridge and around the area where the apartments are located, opposite the Port. We noted the large number of trucks, and the extent of both noise and vibration from loaded truck and trailer logging vehicles, particularly when passing over some old rail lines on Customhouse Road. There is a need for repair, by filling and resealing where the road surface had been “broken” away, creating a noise as trucks cross. Where the rail line crosses Customhouse Road, close to Awapuni Road, is an example. That could quite readily be repaired and will only get worse from vehicle movements over it. We were also bemused to see fully laden logging trucks passing each other in different directions, one going to the Port, one leaving. This left us in no doubt that the truck volumes counted by Professor McLean on a number of days are quite representative of what generally occurs.
76. The submitters made suggestions to overcome this problem. Those advocating for the restoration of the Napier to Gisborne rail line, such as Ms Ward, said that the line re-opening would reduce log truck traffic from the south. While that may well be the case, it is not a matter that we have any jurisdiction over in considering the applications before us. Similarly, these submitters sought that the old rail line between the Port and the log yard at Dunstan Road, which Mr Martin Bayley told us was a distance of 9km, could be re-opened. Again, this is not a matter we can address in this decision as it is beyond our scope.
77. However, we do think there are likely steps that Eastland Port can undertake to reduce the numbers of loaded logging trucks on local roads. In particular, it is likely that “double handling” of logs can be more effectively minimised. This will, at least in part, result from the completion of the new Wharveside log yard, which we saw was well underway. So, while we cannot compel Eastland Port to limit or reduce log truck movements to and from the Port, we would seek that every possible step is taken to minimise such movements to reduce impacts on local communities living on or very close to the main access roads within the City to the Port. This would go some way to meeting the concerns of submitters.

3.8 Positive Effects

78. There will be significant positive effects from the proposals before us.
79. Taking the Slipway first, our site inspection revealed that this is a derelict structure that if not either reconstructed or demolished in the near future, will literally start falling to bits as the wall that separates the structure from the Port is gradually disintegrating. Demolishing the Slipway will avoid such future adverse effects, and it can be replaced by a structure that is more attractive and robust.
80. When one walks along Wharves 6 and 7 they appear reasonably robust, but when looked at underneath from a boat it is very clear that they are reaching the end of their serviceable life. Cracked pilings, rusting reinforced concrete and obsolete infrastructure (such as old oil pipes) abound underneath the wharves. While they might last some years yet, we think that it is essential that they are replaced soon so the safety of people and vehicles using the wharves is not eventually put in jeopardy. Our site visit supported the evidence we heard from the applicant in these respects.
81. This is one significant positive effect; the other is that by allowing the tug to berth at Wharf 6 (rather than Wharf 7 as it does now) Eastland Port will be able to significantly increase its capacity as both Wharf 7 and 8 will be suitable for the berthing of larger ships. This will be important to deal with widespread timber stands in the District that are approaching maturity. Similarly, it could allow Wharf 8 to be reconstructed in the future to handle container vessels, which is desirable given the increased horticultural activities in the District.
82. These positive effects will flow through into the wider community of the Gisborne District.

4 What the TRMP Seeks for this Locality

83. The TRMP has amalgamated the earlier set of planning documents into one single plan (except for the Freshwater Water Management Plan) and so it includes the provisions of the former regional policy statement, the regional plans and the district plan.
84. The relevant provisions in the TRMP were assessed in the assessments of effects on the environment (**AEE**) reports included with the applications, and further in the section 42A RMA report. We adopt that part of the section 42A RMA report for the purposes of this discussion in this decisions report, in accordance with section 113(3) of the RMA. In doing so, we particularly note the following:
- The strong direction in the TRMP to take into account tangata whenua values in the consideration of the proposals for resource consent. These include providing for the recognition and protection of Māori values and preferences for the management of their resources, promoting and

developing greater partnership and providing for active protection of resources and for effective consultation. These specific provisions are detailed in the TRMP.

- Objectives and policies regarding transport facilities, that include the Port, seeking to avoid, remedy or mitigate adverse effects, to be willing to consider new transport options that limit the region's dependence on roading and, to encourage efficient and sustainable port developments.
- Taking account of the natural character values of the coastal environment and having regard for the coastal marine area (**CMA**) by avoiding, remedying or mitigating adverse effects on ecosystems and habitats.
- Ensuring noise emissions are contained in a manner that provides for the health and safety on the community, maintaining noise at limits that reflect the amenity values and character of the locality and, recognising Port activities create noise and managing the effects of this noise with regards to the operational requirements of ports.
- The need to provide for activities at the Port that have an operational need to be located there.

85. The other relevant statutory document is the New Zealand Coastal Policy Statement 2010 (**NZCPS**). Its provisions, most notably those in Policy 9 "Ports" are largely reflected in the TRMP and covered by any discussion on those TRMP provisions.

86. The TRMP was discussed in the evidence for the parties and from that, we find the provisions are all appropriately covered. In this respect, we are mindful of the need to address the matter of cultural values, and how these are addressed in the context of the consent applications and, on an on-going basis. We acknowledge the manner in which the applicant and the submitters particularly concerned with these matters have been able to reach mutually agreeable arrangements to recognise and appropriately provide for those values in the manner sought by the TRMP and the RMA. Eastland Port has gone beyond what we can reasonably impose as conditions by offering additional measures to address the provisions in the TRMP and the RMA.

87. We are satisfied that we have had regard to all the relevant matters in the TRMP and the RMA.

5 Findings on Other Statutory Matters

5.1 Sections 105 and 107 of the RMA

88. Section 105(1) of the Act requires that we must, in addition to section 104 considerations, have regard to:

- a) *the nature of the discharge and the sensitivity of the environment to adverse effects;*
- b) *the applicant's reasons for the proposed choice; and*
- c) *any other possible alternative methods of discharge, including discharge into any other receiving environment.*

89. We have already extensively discussed the receiving environments and their general lack of sensitivity to discharges of sediment to the port basin and the OSDG, and of treated stormwater from the wharves. We do not know of any alternative means of discharge or what alternative receiving environments exist in addition to the OSDG, but we do note this area is specified for disposal of port dredgings in the TRMP. For these reasons we consider that the requirements of section 105(1) of the RMA are met.

90. The provisions of section 107 apply to all applications for permits to discharge contaminants to fresh or coastal water. It has two limbs; in this instance we consider that the discharge of sediment from the reconstruction of the wharves is temporary and so it meets one of the exemption provisions of section 107(2). We do not consider that either the discharge of stormwater, nor the disposal of sediment to the OSDG, will cause any of the adverse effects listed in section 107(1), although we note that this will need to be tested more thoroughly when the long term consent application to discharge sediment to the OSDG is evaluated.

5.2 Part 2 of the RMA

91. Decisions on resource consent applications are made "subject to Part 2 of the Act". However, recent Court decisions have seen debate on the application of Part 2 to resource consent decisions. In this respect, we have had regard to the earlier High Court decision⁵ but more particularly to the very recent Court of Appeal decision⁶, which is the current determination in this matter. For this reason, we make a brief assessment of Part 2 matters below.

92. In relation to section 5, the Purpose of the Act, we find that the present applications will help the applicant and the community of the District meet its social and economic

⁵ RJ Davidson Family Trust v Marlborough DC NZ High Court 52

⁶ RJ Davidson Family Trust v Marlborough DC [2018] NZCA 316

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

needs and that the conditions on which consent is granted will avoid or mitigate the most significant adverse effects of the proposals.

93. In relation to section 6 and 7 matters we agree with Mr Whittaker that the key matters relate to the relationship of Māori and their culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga and, to the efficient use and development of natural and physical resources, the quality of the environment and amenity values and the intrinsic value of ecosystems. These matters have all been addressed and in particular, the cultural considerations are addressed by the application details, by the conditions on which the consents are granted, and by the applicant offering to be involved in considerations beyond the scope of the applications.

6 Other Matters Raised in Submissions

94. Mr Moreton urged that we not grant the consents but rather direct Eastland Port to apply for a plan change to the TRMP to cover all upcoming project works at the Port. While this might be an ideal manner to proceed, it is not a matter that we can contemplate here. Eastland Port has lodged the current and earlier resource consent applications with the Council, and subject to the applicant meeting the criteria of section 88 and Schedule 4 of the RMA (which we consider has been done), the Council is legally obliged to process those applications. In this case, officers of the Council, acting under delegated authority, decided that the applications should be publicly notified, which they duly were with submissions received.

95. We were then subsequently appointed as independent commissioners as the Council (indirectly) owns Eastland Port, and our participation ensures that there is no conflict of interest in the process of the consideration of the applications. In this role we are fulfilling one of the obligations that any consent authority has to decide resource consent applications, and just like the Gisborne District Council, we are obliged to hear the applications and the submissions and make decisions on the applications. If we refused to do so in favour of “insisting” on a plan change, we have no doubt that such a decision would be subject to judicial review and overturned with costs awarded against the Council.

96. The submissions also included matters that we do not have scope to address as part of our consideration of the applications. These are specifically:

- a vehicle noise monitoring station on Customhouse Road (that being part of the State Highway);
- rationalising truck movements to and from the Port;
- repairing the old rail line where it crosses Customhouse Road to reduce the noise when it is crossed by trucks; and

- the monitoring of vibration if trains are to be used as a transport method to the Port.

97. Eastland Port may choose to be involved in these matters, in association with the owners/operators of the road and rail network but these are matters beyond our scope to deal with as part of the consideration of the present resource consent applications.

98. We have considered all the submissions. In doing so, we have given the submitters in opposition and the applicant the opportunity to comment further, on specific matters, as part of the hearing process. We record that the hearing was adjourned to allow further conference on specific matters including the final conditions. This has resulted in a large measure of agreement on conditions between the applicant and the Council officers, although not with the submitters. We have made some changes to those conditions while largely retaining the agreed position in respect of cultural considerations. We find that the conditions now take better account of the interests of local Maori, the interests of the neighbouring residential neighbours who are submitters to the applications and, matters that we considered needed to be addressed as conditions of the consents.

99. We note the opportunity for further input from the parties, supported by our Memoranda, has proven an effective means of reaching further agreement on some of the matters of concern, both in the context of the applications and the future of the Port area.

7 Conditions of Consent

100. We have already discussed a number of conditions of consent, particularly in relation to monitoring, stand down times on some public holidays and real time availability of noise monitoring. However, there are a number of other matters that we have also changed or modified in the conditions put before us by the applicant and Mr Whittaker for the consent authority (all numbers refer to the Wharf 6 and Wharf 7 consents, but all similar changes are made in the Slipway consents). In doing this we also took careful account of the right of reply for the applicant where there was discussion on many of these matters on behalf of the applicant, where they helpfully discussed many of these matters:

- We have referred to working days rather than weeks in all cases as this is consistent with the approach in the RMA. We have also made all timelines consistent, such as draft management plans being lodged with the consent authority at least 30 working days before any work commences on a particular activity. A default provision is also now in place if the Council is slow in certifying any draft management plan.
- We have no idea what the phrase “other key documents from evidence or hearing” means, and if we don’t understand it then no Council compliance officer can be expected to do so. It has been deleted.

- The activities listed under Condition 4 are now more specific
- In Condition 9, we agree with the applicant's proposal to prepare a Marine Pest Management Plan and we have not included what we saw as a cumbersome alternative put forward by the officers. As already discussed we have added a provision to this plan requiring that the sediment discharges be managed to avoid or mitigate the effects of spreading any pest organisms to the OSDG.
- We think proposed Condition 13, which required "visual monitoring" of dust, stormwater and sediment discharges" is redundant as all are required to be monitored on a more quantitative basis by other conditions of consent. This condition has been deleted.
- We do not agree at all with the applicant's proposed wording of Condition 15, so the Council's recommended condition is adopted.
- Conditions 27 to 30 were in our view quite messy and have been tidied up.
- Finally, we broadly agree with the applicant about the terms of the consents granted.

8 Decision

In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, 104A, 104B, 104C, 105 and 107 and Part 2 of the Resource Management Act 1991, we determine that the resource consents to redevelop Wharf 6 and Wharf 7 at the Eastland Port and to dispose of capital dredgings for Wharf 6 at the existing Off Shore Disposal Area and, to redevelop the existing Slipway at the Port are **granted** for the reasons and subject to the conditions set out below.

8.1 Main Reasons for the decision

The reasons for this decision are included in the above decisions report and can be summarised as being:

- a) The proposal will result in benefits for the community of Gisborne in utilising the existing areas of the wharves and the Slipway in an effective manner and in a way that will provide social and economic benefits for the Gisborne community and meet the reasonably foreseeable needs of future generations.
- b) The cultural considerations associated with the Port area have been given particular attention in the applications and in the decisions, and from the submissions made by the various tangata whenua groups through the conditions of the consents. In recognition of the matters raised by submitters, the applicant has offered to accept some conditions that go beyond our

ability to impose as part of their considerations, an offer that is commendable and in accord with the on-going relationships that are sought under the Resource Management Act.

- c) The concerns raised by submitters have been taken into account through details in the applications and by the additional input to the conditions during the hearing and decision-making processes.
- d) The proposal is consistent with the provisions of the Tairāwhiti Resource Management Plan, particularly given the manner in which concerns of submitters have been able to be accommodated.
- e) The proposal will, on balance, achieve the purpose and meet the associated principles of the Resource Management Act 1991.

Conditions

A handwritten signature in black ink, appearing to read 'AR Watson', written in a cursive style.

AR Watson

27 August 2018

**Conditions
Wharf 6 & Wharf 7 Redevelopment**

1.	<p>General Conditions (All Resource Consents)</p> <p>The construction and operation of the redeveloped Wharf 6 and Wharf 7 areas shall be carried out in general accordance with the following resource consent application documents and plans; except where the proposal is modified by, or is required to comply with, any specific conditions of the resource consents.</p> <table border="1" data-bbox="129 421 1369 1877"> <thead> <tr> <th>Report or Plan</th> <th>Prepared by:</th> <th>Reference No</th> <th>Version</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>Wharf 6 & Wharf 7 Redevelopment Assessment of Environmental Effects</td> <td>4Sight Consulting</td> <td></td> <td>Final</td> <td>5-10-17</td> </tr> <tr> <td>Wharf 6 & 7 Upgrade Engineering Report</td> <td>Worley Parsons</td> <td>301015-03880 – MA-REP 005</td> <td>Final</td> <td>13 -09-17</td> </tr> <tr> <td>Heritage Inventory and Whole of Port Archaeological Assessment</td> <td>InSitu Heritage Ltd</td> <td></td> <td></td> <td>30- 09-15</td> </tr> <tr> <td>Wharf 6 & 7 Redevelopment Assessment of Environmental Noise and Vibration Effects</td> <td>Malcolm Hunt Associates</td> <td>974-12/004/10</td> <td></td> <td>September 2017</td> </tr> <tr> <td>Wharf 6 & 7 Redevelopment Ecology and Water Quality Effects Report</td> <td>4Sight Consulting</td> <td></td> <td>V1.2</td> <td>27-09-17</td> </tr> <tr> <td>Wharf 6 Upgrade - Site Plan</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG-0007</td> <td>F</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 Upgrade –Typical Sections</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -008</td> <td>D</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 Upgrade –Lot Plan</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -009</td> <td>C</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 7 Upgrade –Typical Sections</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -015</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 & 7 Upgrade –Site Plan</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -016</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 7 Upgrade –Lot Plan</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -017</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 & 7 Upgrade –Dredge Extents Plan</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -018</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 Refuelling Area Hardstand Stormwater Layout</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -019</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 Refuelling Area – Typical Stormater Detail</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -020</td> <td>B</td> <td>03-10-17</td> </tr> <tr> <td>Wharf 6 & 7 Upgrade Eastland Port Stormwater Catchment Area</td> <td>Worley Parsons</td> <td>301015-03380-MA-DWG -021</td> <td>B</td> <td>03-10-17</td> </tr> </tbody> </table>	Report or Plan	Prepared by:	Reference No	Version	Date	Wharf 6 & Wharf 7 Redevelopment Assessment of Environmental Effects	4Sight Consulting		Final	5-10-17	Wharf 6 & 7 Upgrade Engineering Report	Worley Parsons	301015-03880 – MA-REP 005	Final	13 -09-17	Heritage Inventory and Whole of Port Archaeological Assessment	InSitu Heritage Ltd			30- 09-15	Wharf 6 & 7 Redevelopment Assessment of Environmental Noise and Vibration Effects	Malcolm Hunt Associates	974-12/004/10		September 2017	Wharf 6 & 7 Redevelopment Ecology and Water Quality Effects Report	4Sight Consulting		V1.2	27-09-17	Wharf 6 Upgrade - Site Plan	Worley Parsons	301015-03380-MA-DWG-0007	F	03-10-17	Wharf 6 Upgrade –Typical Sections	Worley Parsons	301015-03380-MA-DWG -008	D	03-10-17	Wharf 6 Upgrade –Lot Plan	Worley Parsons	301015-03380-MA-DWG -009	C	03-10-17	Wharf 7 Upgrade –Typical Sections	Worley Parsons	301015-03380-MA-DWG -015	B	03-10-17	Wharf 6 & 7 Upgrade –Site Plan	Worley Parsons	301015-03380-MA-DWG -016	B	03-10-17	Wharf 7 Upgrade –Lot Plan	Worley Parsons	301015-03380-MA-DWG -017	B	03-10-17	Wharf 6 & 7 Upgrade –Dredge Extents Plan	Worley Parsons	301015-03380-MA-DWG -018	B	03-10-17	Wharf 6 Refuelling Area Hardstand Stormwater Layout	Worley Parsons	301015-03380-MA-DWG -019	B	03-10-17	Wharf 6 Refuelling Area – Typical Stormater Detail	Worley Parsons	301015-03380-MA-DWG -020	B	03-10-17	Wharf 6 & 7 Upgrade Eastland Port Stormwater Catchment Area	Worley Parsons	301015-03380-MA-DWG -021	B	03-10-17
Report or Plan	Prepared by:	Reference No	Version	Date																																																																													
Wharf 6 & Wharf 7 Redevelopment Assessment of Environmental Effects	4Sight Consulting		Final	5-10-17																																																																													
Wharf 6 & 7 Upgrade Engineering Report	Worley Parsons	301015-03880 – MA-REP 005	Final	13 -09-17																																																																													
Heritage Inventory and Whole of Port Archaeological Assessment	InSitu Heritage Ltd			30- 09-15																																																																													
Wharf 6 & 7 Redevelopment Assessment of Environmental Noise and Vibration Effects	Malcolm Hunt Associates	974-12/004/10		September 2017																																																																													
Wharf 6 & 7 Redevelopment Ecology and Water Quality Effects Report	4Sight Consulting		V1.2	27-09-17																																																																													
Wharf 6 Upgrade - Site Plan	Worley Parsons	301015-03380-MA-DWG-0007	F	03-10-17																																																																													
Wharf 6 Upgrade –Typical Sections	Worley Parsons	301015-03380-MA-DWG -008	D	03-10-17																																																																													
Wharf 6 Upgrade –Lot Plan	Worley Parsons	301015-03380-MA-DWG -009	C	03-10-17																																																																													
Wharf 7 Upgrade –Typical Sections	Worley Parsons	301015-03380-MA-DWG -015	B	03-10-17																																																																													
Wharf 6 & 7 Upgrade –Site Plan	Worley Parsons	301015-03380-MA-DWG -016	B	03-10-17																																																																													
Wharf 7 Upgrade –Lot Plan	Worley Parsons	301015-03380-MA-DWG -017	B	03-10-17																																																																													
Wharf 6 & 7 Upgrade –Dredge Extents Plan	Worley Parsons	301015-03380-MA-DWG -018	B	03-10-17																																																																													
Wharf 6 Refuelling Area Hardstand Stormwater Layout	Worley Parsons	301015-03380-MA-DWG -019	B	03-10-17																																																																													
Wharf 6 Refuelling Area – Typical Stormater Detail	Worley Parsons	301015-03380-MA-DWG -020	B	03-10-17																																																																													
Wharf 6 & 7 Upgrade Eastland Port Stormwater Catchment Area	Worley Parsons	301015-03380-MA-DWG -021	B	03-10-17																																																																													
2.	<p>This consent is granted by the Council, subject to its servants or agents being permitted reasonable access to the relevant parts of the site at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples. Wherever possible, reasonable prior notice is to be given by the Council to the Consent Holder in order to address health and safety requirements.</p>																																																																																

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

3.	Any costs incurred in the Council's monitoring, supervision and enforcement of any or all of the conditions of this consent are to be fully met by the Consent Holder pursuant to Section 36 of the Resource Management Act 1991.
4.	<p>Port Community Liaison Group (PCLG)</p> <p>The Consent Holder shall maintain a Port Liaison Group (PCLG) to provide an ongoing point of contact between the Consent Holder, the Council, adjacent landowners and occupiers and the community, in relation to demolition, reconstruction and ongoing operations from Wharves 6 and 7 to ensure that channels of communication are kept open. The Consent Holder shall send invitations for the first meeting of the PCLG within 20 working days of the commencement of this consent.</p> <p><u>Advice Note:</u></p> <p>An independent chair is recommended for the PCLG to ensure that there is independence with the running and co-ordination of the meetings and the topics under discussion. Ultimately any decision of an independent chair can be made by the members of the PCLG given this is a voluntary membership group.</p>
5.	The Consent Holder shall invite a representative of the Council, and all the persons who lodged a submission on the application for this consent to attend the first meeting of the PCLG. At the time of this invitation the Consent Holder shall ask such persons whether they wish to receive further invitations to the PCLG meetings. If a positive response is received (whether by mail, email, telephone message or in person), that person shall be invited to PCLG meetings until the Consent Holder is advised that such invitations are no longer desired. The Consent Holder may also invite any other persons to provide assistance and to attend PCLG meetings.
6.	The Consent Holder shall provide a venue for PCLG meetings, chair the meetings and ensure that minutes are taken and circulated to attendees. Invitations to PCLG meetings shall be sent four (4) monthly during the term of this consent (with 10 working days' notice given of the date, time and venue of the next PCLG meeting), unless the PCLG agrees by a majority vote at a PCLG meeting to reduce the frequency of meetings. The Consent Holder shall make available all minutes of the PCLG meetings in a public accessible area of the Eastland Port website.
7.	An invitation to a special PCLG meeting shall be sent by the Consent Holder at least 30 working days prior to the commencement of earthworks, so that the PCLG can be informed about the proposed construction works and timetable, and any attendees can be provided with a copy of any draft or certified Construction Management Plan available at that time.
8.	<p>Construction Management Plan (CMP)</p> <p>Not less than 30 working days prior to commencement of construction works onsite, the Consent Holder shall submit to the Council's Consents Manager, for certification a Construction Management Plan (CMP) demonstrating how the wharf redevelopment is to be constructed in accordance with the relevant consent conditions, including the following matters;</p> <p>Contractor(s), key personnel and contact details; Consent holder project manager and contact details;</p> <ul style="list-style-type: none"> (iii) Construction hours, programme and methods; (iv) Compliance with consent conditions; (v) Engineering plans of the proposed works; (vi) Soil contamination and any required Remediation Action Plan and Validation reporting and associated management measures; (vii) Building demolition and removal of associated materials; (viii) Construction materials and storage, including refuse; (ix) Earthworks management, erosion and sediment control; (x) Stormwater treatment and discharge methods; (xi) Construction dust; (xii) Construction traffic management and parking following consultation with adjacent property owners/occupiers and the Council/road managers; (xiii) Construction noise and vibration, including any best practicable options; (xiv) Accidental archaeological discovery procedures; (xv) Communication with the Council; (xvi) Communication with adjacent landowners and occupiers; (xvii) Communication with the Port Liaison Group; (xviii) Procedures for dealing with any complaints including contact details for all periods where construction activities are taken place; (xix) Biosecurity methodology (prior to, and during construction); (xx) Disposal and waste and removed piles (including decontamination procedures); and (xxi) Procedures for dealing with emergencies. <p><u>Advice Note:</u></p> <p>If the Council fails to respond to the request to certify the CMP within twenty working days, the CMP can then be assumed to be certified.</p>

9.	<p>Marine Pest Management Plan (MPMP)</p> <p>The following conditions shall apply to the exercise of consent and shall also be adopted into the CMP.</p> <p>Not less than 30 working days prior to the commencement of construction works on-site the Consent Holder shall submit to the Council's Consents Manger, a Marine Pest Management Plan (MPMP) developed in conjunction with Ministry of Primary Industries and the Council, demonstrating how the redevelopment of wharves 6 and 7 is to be constructed and managed in accordance with the relevant consent conditions. This shall be provided as an appendix to the CMP required by Condition 8. It will include the following matters:</p> <p>Pre-construction site dive survey;</p> <p>(ii) Management of sediment discharges to the offshore disposal ground to avoid or mitigate the effects of spreading any pest organism present in sediment dredged from the port basin;</p> <p>(iii) Management of materials reused on site;</p> <p>(iv) Management of materials removed from site for recycled and/or future use;</p> <p>(v) Management of materials removed from site for disposal;</p> <p>(vi) Procedures to ensure all vessels and equipment entering Gisborne District waters are sufficiently cleaned and antifouled; and</p> <p>(vii) Procedures to ensure all machinery and equipment used during construction must be cleaned so that no fluid or materials drain into the marine environment.</p> <p><u>Advice Notes:</u></p> <p>The MPMP will form part of the CMP and be submitted to Council at the same time.</p> <p>If the Council fails to respond to the request to certify the MPMP within twenty working days, the MPMP can then be assumed to be certified.</p>
10.	<p>Any amendment to the CMP as the Consent Holder deems necessary to undertake construction works onsite, shall only be made with the prior written approval of the Council's Consents Manager.</p>
11.	<p>Construction Activity Notification and Monitoring</p> <p>No less than five working days prior to commencement of construction works the Consent Holder shall hold a pre-start meeting on the site to which representatives of Council and contractors are invited.</p>
12.	<p>A sign shall be placed on the site perimeter fence(s) adjacent to Rakaiatane Road and The Esplanade with the name and contact number of the Construction Site Manager or person appointed to discuss any concerns regarding the environmental effects of the construction activities.</p>
13.	<p>The Consent Holder shall keep a record of any complaints received during construction and the action(s) taken, whether received direct from the complainant or advised by the Council or its agent. The complaint records shall be made available to the Council upon request.</p>
14.	<p>Changes to Engineering Design and Methodology</p> <p>Any changes to the engineering design or methodology that may have implications in terms of the consent conditions and/or management plans shall be notified to Council's Consent Manager as soon as these are identified.</p>
15.	<p>The Consent Holder shall obtain any necessary building consent(s) before any associated building construction occurs. All building works shall be engineer designed by a CPEng engineer with calculations, design and a PS1 Producer Statement submitted with the building consent application. A geotechnical report completed by a suitably qualified geotechnical professional shall also be included with the building consent applications. The geotechnical report and associated building designs may be subject to peer review.</p> <p><u>Advice Note:</u> The Peer review will be at the Consent Holder's expense. The building consent(s) must be submitted within sufficient time to allow for processing and issuing before the work is intended to start. If work commences before the building consent for the works has been issued it will be subject to the stop work provisions of the Notice to Fix Procedures of the Building Act.</p>
16.	<p>Heritage NZ Archaeological Authority Procedures</p> <p>The Consent Holder shall comply with all the conditions 1-7 as held within the Archaeological Authority dated 21 March 2016 issued by Heritage New Zealand Pouhere Taonga.</p>
17.	<p>The Consent Holder shall during the period of construction, on a once monthly basis, inform the Council of the archaeological investigation and monitoring procedures being undertaken in accordance with the 21 March 2016 Heritage NZ Archaeological Authority (No.2016/820) issued by Heritage NZ under the Heritage NZ Pouhere Taonga Act 2014.</p> <p><u>Advice Note:</u></p> <p>The Consent Holder has through In-Situ Heritage obtained an Archaeological Authority from Heritage NZ Pouhere Taonga that recognises that archaeological material may be found on the site and sets out the procedures to be followed by contractors and an archaeologist approved by Heritage NZ Pouhere Taonga.</p>
18.	<p>Earthworks, Erosion and Sediment Control (EE&SCP)</p> <p>Not less than 30 working days prior to commencement of construction works onsite, the Consent Holder shall submit to the Council's Consents Manager, for certification an Erosion & Sediment Control Plan (EE&SCP). The EE&SCP shall cover the following matters:</p> <p>The staging of the earthworks, sheet piling and reclamation works;</p> <p>The location and extent of the temporary land based drying and storage areas;</p>

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

	<p>(iii) The temporary silt control measures to be taken to eliminate/minimise the discharge of silt laden runoff into the coastal marine area; and</p> <p>(iv) The protocols surrounding the use of a geotextile curtain to confine the silt laden runoff associated with the reclamation activities to the immediate works area within the coastal marine area.</p> <p><u>Advice Notes:</u> The EE&SCP will form part of the CMP and be submitted to Council at the same time. If the Council fails to respond to the request to certify the EE&SCP within twenty working days, the EE&SCP can then be assumed to be certified.</p>
19.	Earthworks on the site shall be undertaken in a manner to control silt contaminated stormwater in accordance with the Auckland Council's Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region (GD05) 2016 or any update of that guide.
20.	Temporary silt detention controls shall be installed where there is a potential discharge effect from land disturbance to the coastal marine area. Temporary silt detention controls shall also be installed directly down slope of any earthworks as an initial detention control.
21.	Apart from minor maintenance work, earthworks shall not be carried out during the period 1 June to 30 September inclusive, unless Council approved erosion and sediment control measures are in place.
22.	All cut material from the earthworks that is not re-used on site shall be removed from the site and deposited in an appropriately permitted fill disposal location or stockpiled at a suitable site with appropriate controls for future use. <u>Advice Note:</u> This consent does not cover fill placement, spoil disposal, or earthworks outside the consent area as depicted on the plans received in the application. The fill material carted off site, may require a separate land disturbance consent for disposal of fill material unless the disposal is at an already approved 'bulk fill' or 'clean fill' site, unless it is permitted under the Tairāwhiti Resource Management Plan.
23.	All disturbed areas (excluding cut faces) of land resulting from the activity shall be hard surfaces or have a groundcover established to the satisfaction of the Council.
24.	An 'as built' earthworks plan, and an earthworks completion report with photographs recording various stages of construction, shall be submitted to the Council for approval, within sixty (60) working days of the completion of earthworks. This shall include and show (but is not limited to) areas of cut and fill; volumes of fill; and drainage installation.
25.	At all times, the timing of construction shall be restricted to a period when ground conditions are such that spoil can be excavated and compacted, and that stripping, benching and filling can occur without wheeled vehicles causing rutting or puddling greater than 300mm deep.
26.	Contaminated Site Management The Consent Holder shall submit a Detailed Site Management Plan (DSI) on possible contamination of representative soils on the site to the Council for approval, at least 40 working days before any earthworks are undertaken. The DSI shall be prepared in general accordance with the Ministry for the Environment (MfE) Contaminated Land Management Guidelines No.5. Site Investigation and Analysis of Soils 2011.
27.	Should the DSI identify contaminants above typical background levels then the Consent Holder shall submit a Site Management Plan (SMP) and a Remediation Action Plan (RAP) to the Council for certification, at least 20 working days before any earthworks and associated remediation works are undertaken. The SMP and RAP shall be prepared in general accordance with the MfE Contaminated Land Management Guidelines No.5. Site Investigation and Analysis of Soils 2011. <u>Advice Note:</u> If the Council fails to respond to the request to certify these Management Plans within twenty working days, the Management Plans can then be assumed to be certified.
28.	The earthworks on the site shall be undertaken in accordance with the SMP, the RAP and the DSI, including any recommended site remediation works.
29.	If any site remediation works are required, then a Post Remediation Works Validation Report (PRWVR) shall be provided to the Council within 40 working days of the earthworks and associated remediation works being completed. The PRWVR shall be prepared in general accordance with the MfE Contaminated Land Management Guidelines No.5. Site Investigation and Analysis of Soils 2011.
30.	Construction Dust Management Dust from construction activities shall be controlled in accordance with the MfE Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions 2011 (ME408). Should any offensive or objectionable dust be observed beyond the site property boundaries, the discharge shall be modified so that dust is no longer observed beyond the site boundaries or the discharge should cease immediately and shall not restart until such time as compliance is demonstrated to the satisfaction of the Council's Consents Manager.

31. Construction vibration must be measured in accordance with ISO 4866:2010. The Category A construction vibration criteria in the following table must be complied with as far as practicable. If measured or predicted vibration from construction activities exceeds the Category A criteria, a suitably qualified person must assess and manage construction vibration during those activities. If measured or predicted vibration from construction activities exceeds the Category B criteria those activities must only proceed if vibration effects on affected buildings are assessed, monitored and mitigated by a suitably qualified person.

Receiver	Details	Category A	Category B
Occupied residential or visitor accommodation	Night-time 2000h - 0630h	0.3mm/s ppv	1mm/s ppv
	Daytime 0630h - 2000h	1mm/s ppv	5mm/s ppv
Other occupied buildings	Daytime 0630h - 2000h	2mm/s ppv	5mm/s ppv
All other buildings	Vibration – transient	5mm/s ppv	BS 5228-2* Table B2
	Vibration – continuous		BS 5228-2* 50% of table B2 values

32. **Construction Noise Management**

Construction work on the site shall be designed and conducted to ensure that noise measured at any dwelling does not exceed the limits in the table above from NZS 6803:1999 Acoustics - Construction Noise. Noise levels shall be measured and assessed in accordance with NZS 6803:1999 Acoustics -Construction Noise.

Time Period	Weekdays (dB)		Saturdays (dB)		Sundays & Public Holidays (dB)	
	LA eq	LA max	LA eq	LA max	LA eq	LA max
0630-0730	55	75	45	75	45	75
0730-1800	70	85	70	85	55	85
1800-2000	65	80	45	75	45	75
2000--630	45	75	45	75	45	75

Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics -Construction Noise.

33. No construction activities involving piling, excavation, dredging, compaction, drilling, concrete/rock breaking and/or the trucking of fill or waste material shall be permitted on Waitangi Day, Good Friday, Easter Monday, Christmas Day, Boxing Day or New Years Day

34. **Construction Traffic Management**

Not less than 30 working days prior to commencement of construction works onsite, the Consent Holder shall submit to the Council's Consents Manager for certification a Construction Traffic Management Plan (CTMP). Construction traffic to and from the Wharf 6 and Wharf 7 area and associated site shall be managed in accordance with the Council certified CTMP to ensure the following;

All trucks and other heavy vehicles associated with construction activities use the route(s) specified in the CTMP:

Measures to recognise and mitigate where practicable the effects of heavy vehicles along the public road network;

- (i) The maintenance of safe pedestrian access and thoroughfare on all footpaths adjacent to the site; and
- (ii) The maintenance of safe vehicular access and thoroughfare on all roads adjacent to the site.

Advice Note:

If the Council fails to respond to the request to certify the CTMP within twenty working days, the CTMP can then be assumed to be certified.

35. **Provision of As-Built Plans to Council**

The Consent Holder shall within three (3) months of completion of construction submit to the Council As-Built plans and a report of the completed works.

36.	<p>Wharf 6 & Wharf 7 Environmental Management Plan (EMP)</p> <p>Not less than 30 working days prior to completion of construction, the Consent Holder shall submit to the Council for certification an Environmental Management Plan (EMP) demonstrating how the redeveloped Wharf 6 and Wharf 7 areas are to be managed in accordance with the relevant consent conditions, including the following matters:</p> <p>Port Operations Manager and contact details;</p> <p>Bark and Other Debris: Management practices to reduce or restrict log bark and other debris that may become suspended within the stormwater runoff;</p> <p>Dust: Measures to control dust, including monitoring of weather, mitigation methods such as watering, sprinkler system, sweeping and signage;</p> <p>Noise: Measures required to ensure compliance with the specified noise emission limits;</p> <p>Site security: Measures to limit public access to the wharves for human health and safety reasons;</p> <p>Fuel supply: Measures to monitor use of the facility and fuel spill contingency planning;</p> <p>Stormwater system maintenance: Measures involved in the regular management of the site stormwater drainage network and associated treatment devices;</p> <p>Stormwater quality monitoring: A programme to monitor stormwater quality within the stormwater drainage network and the receiving environment;</p> <p>Contingency plans to deal with any pollution incidents and any dust, noise or stormwater discharges that exceed the 'thresholds' specified in this consent; and</p> <p>The recording of any complaints of an environmental nature and the procedures for effectively dealing with them, including advising the Council.</p> <p><u>Advice Note:</u> If the Council fails to respond to the request to certify the EMP within twenty working days, the EMP can then be assumed to be certified.</p>
37.	<p>The EMP shall be reviewed by the Consent Holder yearly for the first two (2) years of the operation of the wharves and then at five (5) yearly intervals thereafter.</p>
38.	<p>The Consent Holder may offer a review of the EMP at any time to deal with any particular issue that may arise in connection with operation of the wharves and require an amendment to the EMP. Any revised EMP shall be recertified by the Council's Consent Manager.</p>
Land Use Consent	
39.	<p>Wharf 6 & 7 Noise Management Plan</p> <p>Not less than 30 working days prior to the commencement of operations on the redeveloped Wharf 6 and 7 areas a Noise Management Plan (NMP) prepared by a suitably qualified and experienced person, shall be submitted to Council's Consent Manager for certification. The objective of the NMP is to set out the methods and procedures necessary to ensure that the noise levels from all port activities are minimised as far as practicable. The NMP shall include but not be limited to noise mitigation measures such as:</p> <p>Maintenance of surfaces to avoid the unnecessary generation of noise from vehicles travelling on rough surfaces.</p> <p>Speed restrictions on site for the purpose of noise management and for the reduction of braking and acceleration noise.</p> <p>Methods to prohibit the use of audible warning devices (including reverse alarms) as far as practicable.</p> <p>Vehicle operation guidelines to minimise noise emissions.</p> <p>Maintenance of machinery to minimise noise emissions.</p> <p>Education of staff to minimise noise emissions.</p> <p>Details of personnel responsible for port noise management.</p> <p>Consultation with the PCLG in the preparation of the NMP.</p> <p>Current NMP to be publicly available on EPL's website.</p> <p>NMP to be reviewed annually and any changes certified by Council.</p> <p>Management of off-site transportation noise effects with respect to matters over which Eastland Port Limited has control or responsibility.</p> <p>Details of permanent noise monitoring.</p> <p>Details of biennial noise monitoring at other locations.</p> <ul style="list-style-type: none"> (i) Details of noise monitoring that will be conducted in response to complaints or to investigate issues. (ii) Annual reporting of noise monitoring results to the PCLG and display on EPL's website. (iii) Reporting of noise management actions/initiatives to the PCLG. (iv) Reporting of complaints, investigations and remedial actions to the PCLG. (v) Details of the current TRMP noise contours and comparison with the annual monitoring results required by Condition 41. (vi) Display of current real time monitoring data on EPL's website for access to the public. (vii) Integration of concurrent construction and operational noise management. <p><u>Advice Note:</u> If the Council fails to respond to the request to certify the NMP within twenty working days, the NMP can then be assumed to be certified.</p>

40.	<p>Noise Emissions</p> <p>Sound from all activities in the Tairāwhiti Resource Management Plan Management Area excluding the rail bridge, Port A Management zone and area outside the breakwater must comply with the following noise limits when measured and assessed in accordance with NZS 6801 and NZS 6809.</p> <table border="1" data-bbox="229 472 1217 909"> <tr> <td data-bbox="229 472 724 645">At any point in the Amenity Reserve Zone outside the Port Inner Control Boundary (ii) At any point in the Heritage Reserve Zone more than 50m from the Port Management B Zone</td> <td data-bbox="724 472 1217 645">65 dB L_{dn}</td> </tr> <tr> <td data-bbox="229 645 724 779">At any point in the Amenity Commercial Zone, Residential General Zone or Inner City Residential Zone</td> <td data-bbox="724 645 1217 779">65 dB L_{dn} 60 dB L_{Aeq(9h)} (2200h-0700h) 65 dB L_{Aeq(15 min)} (2200h-0700h) 85 dB L_{AFmax} (2200h-0700h)</td> </tr> <tr> <td data-bbox="229 779 724 909">At the permanent port noise monitoring location (Portside Hotel)</td> <td data-bbox="724 779 1217 909">63 64dB L_{dn} 60 dB L_{Aeq(9h)} (2200h-0700h) 65 dB L_{Aeq(15 min)} (2200h-0700h) 85 dB L_{AFmax} (2200h-0700h)</td> </tr> </table>	At any point in the Amenity Reserve Zone outside the Port Inner Control Boundary (ii) At any point in the Heritage Reserve Zone more than 50m from the Port Management B Zone	65 dB L _{dn}	At any point in the Amenity Commercial Zone, Residential General Zone or Inner City Residential Zone	65 dB L _{dn} 60 dB L _{Aeq(9h)} (2200h-0700h) 65 dB L _{Aeq(15 min)} (2200h-0700h) 85 dB L _{AFmax} (2200h-0700h)	At the permanent port noise monitoring location (Portside Hotel)	63 64dB L _{dn} 60 dB L _{Aeq(9h)} (2200h-0700h) 65 dB L _{Aeq(15 min)} (2200h-0700h) 85 dB L _{AFmax} (2200h-0700h)
At any point in the Amenity Reserve Zone outside the Port Inner Control Boundary (ii) At any point in the Heritage Reserve Zone more than 50m from the Port Management B Zone	65 dB L _{dn}						
At any point in the Amenity Commercial Zone, Residential General Zone or Inner City Residential Zone	65 dB L _{dn} 60 dB L _{Aeq(9h)} (2200h-0700h) 65 dB L _{Aeq(15 min)} (2200h-0700h) 85 dB L _{AFmax} (2200h-0700h)						
At the permanent port noise monitoring location (Portside Hotel)	63 64dB L _{dn} 60 dB L _{Aeq(9h)} (2200h-0700h) 65 dB L _{Aeq(15 min)} (2200h-0700h) 85 dB L _{AFmax} (2200h-0700h)						
41.	<p>Noise Monitoring</p> <p>The Consent Holder shall maintain a permanent noise monitor at the Portside Hotel or an alternative location agreed by the Council's Consents Manager. The monitor shall be regularly calibrated and continuously measure sound levels to provide sufficient valid data for the Consent Holder to prepare reports regarding compliance with the limits applying at this location under these conditions. The Consent Holder shall prepare a summary report of monitoring results and submit this to the Council's Consents Manager and PCLG every three months, within one month of the end of the reporting period. Data from the monitor must be publicly available on a website in real-time.</p> <p>Within three months of the re-commencement of operations in the Wharf 6 and Wharf 7 areas the Consent Holder shall conduct noise monitoring over at least a one-week period at two representative locations agreed with the Council's Consents Manager, in addition to the Portside Hotel permanent noise recording position. The Consent Holder shall submit a report setting out the results to the Council's Consents Manager and the PCLG within one month of the measurements. A copy of the report shall be displayed on the EPL website.</p> <p>An annual report shall then be prepared collating the information from the above monitoring and discussing compliance with the noise contours, the reasons for any non-compliance and the measures which have been adopted and implemented to address any non-compliance issues. A copy of this report shall be displayed on the website.</p>						
	<p>Coastal Permit</p>						
42.	<p>Stormwater Discharge into the Coastal Marine Area</p> <p>The stormwater discharge into the coastal marine area (being from the combined Wharfside log yard and Wharf 6/7 area outfall) shall, after reasonable mixing, meet the following standards for Class SC classified water in the Proposed Regional Coastal Environment Plan:</p> <p>The natural water temperature shall not be changed by more than 3 degrees Celsius;</p> <p>The natural pH of the water shall not be changed by more than 0.1 unit and at no time shall be less than 6.7 or more than 8.5;</p> <p>There shall be no destruction of natural aquatic life by reasons of a concentration of toxic substances nor shall the waters emit objectionable odours; and</p> <p>The natural colour and clarity of the waters shall not be changed to a conspicuous extent.</p>						
43.	<p>Stormwater Discharge Monitoring</p> <p>The stormwater discharge shall be monitored and reported on to the Council as part of the Wharfside log yard stormwater monitoring programme. Details of the monitoring shall be included in the certified Wharf 6 and Wharf 7 EMP.</p>						
44.	<p>Stormwater sampling will be undertaken as specified in the consent conditions for the Wharfside logyard stormwater monitoring programme, but will target first flush conditions that occur within two hours of significant rainfall after several days of dry conditions.</p>						
45.	<p>In addition to the consent conditions for the Wharfside logyard stormwater monitoring programme, a copy of the stormwater monitoring laboratory report and associated csv file and field notes will be forwarded to the Council's Consents Manager as soon as they are received from the laboratory.</p>						

46.	<p>Juvenile Crayfish Settlement Devices</p> <p>Not less than 30 working days prior to construction of the reclamations the Consent Holder shall submit to the Council's Consents Manager for certification a confirmed design and deployment plan for the provision of crayfish pueruli settlement habitat within the port in conjunction with an independent expert in crayfish ecology. The design and deployment plan shall include the outcome of consultation with representatives of the Ministry of Primary Industries and the PCLG.</p>												
47.	<p>The approved design and deployment plan shall be implemented and operational before the first peak crayfish settlement period (May to September) following completion of the reclamations. A report on this matter shall be submitted to the Council's Consents Manager for certification by the end of the following October.</p>												
48.	<p>The juvenile crayfish settlement devices shall be monitored for a period of 5 years and then reviewed. An annual monitoring report shall be submitted to the Council's Consents Manager by March 31st each year. The monitoring report shall contain information on inspection dates, observations, conclusions on the effectiveness of the devices, and any changes to the devices. Copies of the monitoring report shall be provided to the Ministry of Primary Industries and the PCLG. After five years, an independent expert in crayfish ecology shall be commissioned to review the results and provide recommendations for ongoing monitoring. Based on the recommendations of that review, the ongoing monitoring requirements may be agreed between the Consent Holder and Council's Consents Manager.</p>												
49.	<p>Area of Capital and Maintenance Dredging</p> <p>The capital and maintenance dredging authorised by this consent is generally limited to the Wharf 6 and 7 operating area, shown on Worley Parsons plan submitted with the applications and referenced in Condition 1.</p>												
50.	<p>Management of Capital and Maintenance Dredging Operations</p> <p>The capital and maintenance dredging operations shall be carried out so that there is no conspicuous change in the colour and visual clarity of the seawater after two hours of the cessation of each dredge run, or when the dredging overlaps within this 2 hour period, within 2 hours after the last completed dredge run.</p>												
51.	<p>Sediment Quality Monitoring Programme</p> <p>The Consent Holder shall, annually in February or March, arrange representative sampling and analysis of metals, a metalloid (arsenic) and total PAH's within the sediments to be maintenance dredged. The sampling shall be related to the port wide sediment quality sampling programme involving the three sites shown in the figure below. A Standard Operating Procedure for the sampling and analysis is to be provided to the Council before provided the work is undertaken.</p> 												
52.	<p>Maintenance Dredging Area & Sediment Sampling Sites</p> <p>The sediment sampling and analysis shall involve the metals, metalloid (arsenic) and organics identified in Table 1 below. The results shall be carried with reference to the ANZECC Guidelines for Marine Water Quality 2000 Table 3.5.1 Recommended Interim Sediment Quality Guidelines – Low Trigger Value also listed below in order to assess the suitability of the dredged sediments for offshore disposal.</p> <p>Table 1: ANZECC Interim Sediment Quality Guidelines</p> <table border="1" data-bbox="204 1693 965 2016"> <thead> <tr> <th>Parameter</th> <th>Recommended Interim Sediment Quality Guidelines (ISQG) Low Trigger Value (mg/kg)</th> </tr> </thead> <tbody> <tr> <td>Arsenic</td> <td>20</td> </tr> <tr> <td>Cadmium</td> <td>1.5</td> </tr> <tr> <td>Chromium</td> <td>80</td> </tr> <tr> <td>Copper</td> <td>65</td> </tr> <tr> <td>Lead</td> <td>50</td> </tr> </tbody> </table>	Parameter	Recommended Interim Sediment Quality Guidelines (ISQG) Low Trigger Value (mg/kg)	Arsenic	20	Cadmium	1.5	Chromium	80	Copper	65	Lead	50
Parameter	Recommended Interim Sediment Quality Guidelines (ISQG) Low Trigger Value (mg/kg)												
Arsenic	20												
Cadmium	1.5												
Chromium	80												
Copper	65												
Lead	50												

For the Wharves, LU-2017-107936-00/CD-2017-107937-00/LL-2017-107938-00.

For the Slipway, LU-2017-107945-00/CD-2017-107944-00/DW-2017-107943-00/DL-2017-107942-00.

Mercury	0.15
Nickel	21
Silver	1
Zinc	200

In addition to this total Polycyclic Aromatic Hydrocarbons shall be monitored in the sediment at the same intervals as those for the parameters listed in Table 1 above. The trigger value for these is 4,000 µg Sn/kg dry wt.

Advice Note:

The ISQG - Low guideline values are those below which toxicological effects on biota are unlikely, and above which such effects are more probable. They are not 'compliance limits' that have to be met on all occasions as outlined in clauses (e) and (f).

53.	<p>All sampling and analysis shall be carried out by suitably qualified independent contractors and analytical laboratories approved by the Council and such sampling and analysis shall be carried out at the cost of the Consent Holder. The analysis shall be carried out in accordance with the American Public Health Association, American Water Works Association and Water Pollution Control Federation: Standard Methods for Examination of Water & Wastewater: 22nd (2012) or newer edition.</p> <p><u>Advice Note:</u> A copy of the sediment sampling laboratory report and associated csv file and field notes will be forwarded to the Council as soon as they are received from the laboratory.</p>
54.	<p>A report presenting and interpreting the results of each sediment metals and metalloids monitoring survey with reference to the ANZECC trigger value guidelines shall be prepared by an independent contractor(s), and a copy forwarded to the Consent Holder, the Council and PCLG within 20 working days of completion of the laboratory analysis.</p>
55.	<p>Where an ANZECC trigger value guideline is exceeded in a particular survey, further sampling shall be undertaken to verify the exceedance and background concentrations in other parts of Poverty Bay will be established. If background levels in other parts of Poverty Bay are also above the trigger value guideline then no further action is required. If the background levels are below the trigger value guideline limit, then the monitoring report provided to the Council shall identify the possible sources of the contaminant and if one or more of the sources can be related to port related activities then the report shall identify any possible management options for the reducing the levels of contaminants discharged to the port.</p>
56.	<p>Where an ANZECC trigger value guideline is exceeded in two or more surveys and for which background levels do not also exceed the guideline sediment limit, then a sediment quality survey shall be undertaken to representatively determine metal concentrations in the sediments at the Off Shore Disposal Ground (OSDG). The results of the OSDG survey shall be reported to the Council within 20 working days of completion of the laboratory analysis. The report shall assess the significance of the results in relation to the continued use of the OSDG, along with any recommended measures to avoid remedy or mitigate any adverse effects that are assessed to be of a more than minor nature.</p>
57.	<p>Annual Capital and Maintenance Dredging & Disposal Report</p> <p>The consent holder shall submit to the Council and the PCLG before the 30th of June each year a report on the year's capital and maintenance dredging and disposal operations, along with the results of the sediment and water quality monitoring required under the specific conditions of these consents.</p>
58.	<p>Review of Sediment and Water Quality Monitoring Programme</p> <p>The Consent Holder may as part of the any sediment or water quality monitoring report submitted to the Council request a review of consent conditions for changes to the nature of the testing, analysis and reporting to the Council where the concentrations of metalloids/metals have over a significant period of time been consistently below the ANZECC guideline trigger values.</p> <p><u>Advice Note:</u> This condition is intended to enable the Consent Holder to not test for certain parameters where they are consistently below the ANZECC trigger value guidelines. They are not intended to give the Consent Holder the ability to alter the frequency of the testing nor the ANZECC trigger values, which can only be changed through an application under Section 127 of the RMA.</p>

59.

Area of Dredgings Disposal

All dredged material shall be disposed of within the OSDG identified by the following NZTM co-ordinates and shown in the figure below.

Northings	Eastings
5703102	2032605
5704450	2034095
5702065	2034417
5702583	2034951



Offshore Spoil Disposal Ground Plan

60.

Spread of Dredged Material

The dredged material shall be evenly discharged so as to spread over the OSDG and not concentrated in any one particular location. Each dredge discharge track is to be logged and a copy of the log forwarded to the Council annually by the 31st of October in the year in which the disposal occurs until this consent expires.

61.

Management of Dredge Disposal Operations

There shall be no conspicuous visual change in colour and visual clarity of the seawater as a result of the consent holder's operations and activities that are authorised by this consent after six hours of the cessation of each dredge discharge run.

62.

Disposal Ground Surveys and Monitoring

The Consent Holder shall undertake annual hydrographic and side-scan sonar surveys of the OSDG. The results of the surveys are to be sent to the Council and PCLG by the 31st of October of each year in which the survey has occurred, until this consent expires.

Benthic Ecology Monitoring Programme

The Consent Holder shall every five years undertake in-faunal sampling and analysis of the sediments within and near the OSDG, until this consent expires. The sampling site's methodology and data analysis shall be generally consistent with the last previous programme undertaken and reported on by the National Institute of Weather and Atmospheric Research (NIWA) in May 2014.

The results of the sampling and analysis are to be reported to the Council and PCLG by the 31st October of the year sampling occurs.

Disposal Ground Investigations

The Consent Holder shall within 6 months of the commencement of this consent submit to the Council and the PCLG a report from a coastal processes engineer detailing the investigations to be carried out into the long term capacity of the OSDG for the duration of this consent, as generally outlined in the Worley Parsons report of 2 February 2015 submitted with the application.

The Consent Holder shall within 1 year of the commencement of this consent and at subsequent 1 year intervals submit to the Council and the PCLG a progress report from a coastal processes engineer on the OSDG coastal processes investigations, along with any preliminary findings and recommendations.

The Consent Holder shall not less than 6 months before the expiry of this consent submit to the Council and the PCLG a report on the findings of the OSDG coastal processes investigations, along with recommendations on the future use of the facility and/or any possible alternative facilities for the disposal of maintenance dredgings from the Port of Gisborne. The report shall:

- Determine settling velocity of dredge spoil sediments and relate this to plume longevity caused by the activities authorised by these consents.
- Determine and complete a programme of targeted data collection for spring and neap tide situations during dredging to characterise settling and dispersion patterns of sediment from dredging.
- Determine and complete a programme using Acoustic Doppler Current Profiler (**ADCP**) to characterise currents through the water column to inform settling rates and dispersal patterns caused by the activities authorised by these consents.
- Determine the long term capacity of the outer spoil disposal ground for the disposal of spoil from Eastland Port dredging.

Kaitiaki Partnership Group

- a) Within two months of the commencement of these resource consents the Consent Holder shall provide an offer in writing to the following local iwi (tangata whenua) to establish and maintain a Kaitiaki Partnership Group (**KPG**):
- i) Ngāti Oneone
 - ii) Ngāti Porou
 - iii) Te Atianga a Mahaki
 - iv) Rongowhakaata.

Note: Te Atianga a Mahaki a Mahaki are included at the request of the Consent Holder (Right of Reply dated 5 July 2018). The Consent Holder may also wish to confer with the Council regarding any other local iwi groups that could be invited to be a part of the KPG.

- b) Each of the iwi groups identified may nominate two representatives to the KPG. The Consent Holder and the Council may also each nominate two members to the KPG.
- c) As soon as practicable after acceptance of the offer by one or more of the iwi a Protocol establishing the KPG shall be executed by the Consent Holder, the accepting iwi and the Council representatives. The Protocol shall set out the following, as a minimum:
- i) The role, purpose and functions of the KPG;
 - ii) The composition of the KPG;
 - iii) The process for determining – and amending where necessary – membership of the KPG;
 - iv) How the KPG intends to carry out its functions, including the frequency and format of KPG meetings;
 - v) The role of the GDC with respect to the KPG; and
 - vi) The rates of remuneration for members of the KPG.
- d) On ratification of the Protocol the KPG shall be constituted.
- e) The role of the KPG shall be to provide a forum for the Consent Holder and tangata whenua to jointly discuss matters of interest to either party relating to the redevelopment of the Eastland Port in accordance with these resource consents and with other subsequent resource consents associated with the Consent Holder's Twin Berths project.
- f) The purpose of the KPG shall be to:
- i) recognise and provide for the kaitiakitanga responsibilities of tangata whenua as being an integral part of the redevelopment of the Eastland Port under these resource consents and with other subsequent resource consents associated with the Twin Berths project;
 - ii) acknowledge and provide for the importance of the landform, sites of cultural significance, and the mauri of the water bodies within and surrounding the port area, as tāonga to tangata whenua;
 - iii) facilitate involvement of tangata whenua in the preparation and implementation of resource consents associated with the Twin Berths project;
 - iv) assist in identifying potential opportunities for some involvement in the wider, long term activities of the port, and
 - v) facilitate processes to manage actual or potential Maori cultural impacts that arise from implementation of the two current resource consents and other subsequent resource consents associated with the Twin Berths project.
- g) The KPG shall exercise its purpose by:
- i) establishing a Cultural Values Framework consistent with the values of tangata whenua;
 - ii) reviewing and commenting on management plans and monitoring reports produced by the Consent Holder, including how any scientific and/or technical data may assist with the successful implementation of the Cultural Values Framework;
 - iii) identifying and recommending opportunities for the inclusion of applicable cultural site memorial structures; and
 - iv) managing any associated tangata whenua cultural ceremonies.
- h) The first KPG meeting shall be held as soon as practicable after the establishment of the KPG.
- i) The KPG shall meet at least twice per calendar year.
- j) The KPG shall exercise its discretion as to how it will conduct/administer its functions under this consent (such discretion to be exercised reasonably at all times).
- k) The Consent Holder shall:
- i) meet all reasonable costs incurred by the KPG in fulfilling its functions under these resource consents, including KPG meetings and the remuneration of KPG members – subject to normal business practices such as invoicing and accounting in accordance with the Protocol;
 - ii) give members at least 15 working days notice of the date, time and location of KPG meetings, and provide adequate time for the preparation and circulation of agenda papers;
 - iii) take minutes of KPG meetings, to be forwarded to members and the Council within 10 working days of a meeting;
 - iv) make minutes publicly available on the Eastland Port website (except for any sensitive information that all members agree shall be withheld); and
 - v) provide copies of relevant reports and other documentation to the KPG relating to the implementation of these resource consents and other subsequent resource consents associated with the Twin Berths project. This may also include information that relates to other projects associated with the Consent Holder's activities and/or operations.

Augier Condition

- l) The Consent Holder agrees to administratively and financially support the continued operation of the KPG until all decisions relating to these resource consents and other resource consents associated with the Twin Berths project – including for any variations on the Twin Berths project – are fully determined by the Council, and will use the KPG as a forum to verify/confirm a Cultural Values Framework for assessing this and all other RMA based resource consenting and monitoring during the period that the components of the Twin Berths project are being implemented. The Consent Holder also agrees to review in conjunction with the KPG and the Council the continued need for the KPG beyond this period.

64. Review Condition

The Council may serve notice on the Consent Holder of its intention to review the conditions of this consent pursuant to Section 128 of the Resource Management Act 1991,

- (i) at monthly intervals during the construction of the redeveloped wharves and associated infrastructure as authorised by this consent,
- (ii) within one month after the first anniversary of the commencement of the redeveloped wharves use, and
- (iii) thereafter within one month after each subsequent anniversary, for the following reasons:
- (a) To review the effectiveness of the conditions of these resource consents in avoiding or mitigating any adverse effects on the environment from the Consent Holder's activity and, if considered appropriate by the Council, to deal with such effects by way of further or amended conditions.
- (b) To review the appropriateness of conditions in the light of changes to relevant national standards, regulations and guidelines, and the Council's relevant regional and district plans.
- (c) To impose additional or modify existing conditions of this consent relating, but not limited to, the matters specified below if necessary to deal with any adverse effect on the environment which may arise from the exercise of this permit and which it is appropriate to deal with at a later date:
- Dust and noise emissions;
 - Marine pest management
 - Juvenile crayfish settlement devices; and
 - Stormwater management and water quality.

65. Consent Terms

The term of consent for the stormwater discharge shall be to 33 years and six months (which is the same period as the discharge consent for the wharf side log yard).

The consent term for the maintenance dredging consent shall be for 10 years from the consent decision, or upon the issue of any new or re-consenting for maintenance dredging within the harbour basin, whichever is the sooner.

The term of consent for the discharge permit for runoff containing contaminants to land and water from the earthworks and site remediation activities shall be five years from the date of commencement of these consents.



AR Watson