

HEARING BEFORE the Gisborne District
Council Independent
Commissioners

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of applications by
Eastland Port Ltd to
redevelop Wharves 6 & 7
and the Slipway at the
Port of Gisborne.

STATEMENT OF EVIDENCE OF MAX DUNN

INTRODUCTION

1. My full name is Maxwell Joseph Dunn. I am a Principal Planning and Policy Consultant at 4Sight Consulting Ltd (4Sight hereafter) in Auckland. I hold a Bachelor of Science, a Bachelor of Arts and a Diploma of Town Planning. I am a full Member of the NZ Planning Institute. I am a Ministry for the Environment certified hearings commissioner. I have around thirty-five years planning experience in both local government and private practice.
2. This evidence is presented in support of the resource consent applications by Eastland Port Ltd (Eastland Port) to redevelop Wharves 6 and 7 and the slipway. I prepared most of the application 'package', including the required Assessment of Environmental Effects (AEE), in conjunction with other 4Sight staff. I subsequently coordinated the responses to the Council's request for further information.
3. I have reviewed the submissions received by the Council and along with Marty Bayley of Eastland Port, Mark Poynter of 4Sight and Malcolm Hunt of Malcolm Hunt & Associates, I provided written responses to the submitters and attended the subsequent pre-hearing meeting on 29 April in Gisborne. I have also reviewed the Council Section 42A report on the applications, along with the associated expert reports on ecology and water quality, noise, coastal processes and traffic from Council staff and consultants.
4. My evidence covers the RMA planning framework surrounding the applications and submissions, although primarily in respect of the few matters that are still under contention. I also provide some evidence on a couple of related planning process matters that are mentioned one of the submissions and in the Council Section 42A report.
5. My evidence has been prepared in accordance with the 'Code of Conduct for Expert Witnesses' in the Environment Court Consolidated Practice Note. It is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

THE APPLICATIONS

6. Section 2 of the Council Section 42A report summarises the nature of the two redevelopment projects, which are the subject of separate resource consent application packages. This is because the Wharf 6 and 7 application package was well advanced in draft form before the slipway one, and the two projects are expected to be tendered and constructed separately. The Wharf 6 redevelopment is likely to be undertaken two stages, as set out in the AEE and accompanying WorleyParsons plans in the folio of figures, and independently of the Wharf 7 redevelopment.
7. The WorleyParsons Port Assets Plan and Project Development Plan in in the AEE folio of figures in the powerpoint display show the location of the two redevelopment sites relative to the logyards and other facilities at the port. As outlined in the AEE for the slipway redevelopment project, this facility was decommissioned in 2005. The proposed redevelopment is aimed at remediating the historically contaminated site and providing more space for vessels to manoeuvre and berth within the port. The slipway area will be reduced in area from approximately 4,015m² to approximately 3,774m², with the redeveloped area able to be utilised by the Council for a pedestrian bridge landing in the future if required. The redevelopment project involves a declamation of approximately 867m², along with two areas of reclamation totalling approximately 646m². The excess material not used on the site is to be transported (by barge and then truck) to the Tonlyn restricted waste disposal site.
8. The AEE for the Wharf 6 and Wharf 7 redevelopment, along with the subsequent responses to the Section 92 further information requests, explain the basis of this project. Both wharves are old and structurally in poor condition. Wharf 6 is being upgraded to better accommodate the port tugs and dredge, along with the fishing fleet. Wharf 7 is being upgraded so it can better withstand the live and mooring loads associated with the log and other vessels visiting the port. The two existing piled structures are to be replaced by reclamations approximately 8-14m wide over approximately 365m, giving a total reclamation area of approximately 4,630m².
9. The Wharf 6 redevelopment involves approximately 28,500m³ of capital dredging affecting an area of approximately 7,400m². The dredge spoils are to be disposal of at the offshore disposal ground. The Wharf 7 redevelopment component of the application package does not include any capital dredging of an associated berth pocket. The capital dredging involved here is being investigated by WorleyParsons and MetOceans Ltd, in conjunction with Eastland Port staff. It will be included in a port wide capital and maintenance dredging resource consent package expected to be submitted to the Council in the next few months.
10. Mr Bayley will explain in his evidence how the redeveloped wharf and slipway facilities fit into the Eastland Port wider redevelopment plan for the port, and in particular the 'Twin Berths' project that is expected to be completed over the new few years. Mr Bayley will also cover the extensive consultation process, including with local iwi and nearby residents, that has been initiated primarily through the Port Community Liaison Group (PCLG hereafter) as part of the 'Twin Berths' planning work and the two particular projects under consideration.

11. Mr Aubourg will explain in his evidence the key engineering design and construction aspects of the two projects.
12. Mr Hunt will focus in his evidence on how noise emissions from the redeveloped Wharf 6 and 7 areas are to be managed and monitored. This is because the slipway project (other than through construction) will have no ongoing operational port noise effects.
13. Mr Poynter will, in his evidence, also tend to focus on the effects of the Wharves 6 and 7 redevelopments on the ecological and water quality values of the port. This will be primarily in terms of the effects on juvenile crayfish that inhabit parts of this area.

SUBMISSIONS

14. Section 2 of the s42A report sets out the nature of the submissions as they relate to the two redevelopment projects. It also covers the pre-hearing meeting and the subsequent Eastland Port summary table of mitigation measures that was produced for one of the submitters, the Rongowhakaata Iwi Trust.
15. The meeting minutes note that several matters raised by submitters were clarified, such as the current port noise monitoring programme and the recent installation of further recording equipment on the roof of the Portside hotel. However, no matters raised by submitters were effectively resolved as such at the meeting.
16. The eight submitters raise concerns with the following aspects of the projects:
 - Cultural values;
 - Ecology and water quality;
 - Noise emissions (primarily Wharf 6 and 7);
 - Traffic (primarily Wharf 6 & 7);
 - Planning.
17. Mr Bayley will address the cultural concerns raised by submitters. Mr Hunt and Mr Poynter will cover in their respective evidence the noise and ecological/water quality effects matters raised in the submissions. I, along with Mr Bayley, will address the traffic concerns. I will also address the submissions which raise planning matters. I will do this primarily with reference to the information and assessments in the respective AEE's, along with the more recent written responses to the Council further information requests and the submissions.

PLANNING OVERVIEW

18. Section 2.1 of the s42A report summarises the various zoning and overlay provisions in place in the Tairāwhiti Resource Management Plan (TRMP hereafter) that apply to the two sites. The land areas are zoned 'Port Management B' and the water areas are zoned 'Port Management Area'. Both areas have a 'Coastal Environment' overlay. The Wharf 6 and Wharf 7 area also has a 'Heritage Alert' overlay. The port water area has a 'SC water classification', whilst the offshore disposal ground has a 'SA water classification'.

19. Section 2.5 of the s42A report sets out the activity status of the different land use consent, coastal permit and discharge permit applications and the associated rules in the Tairāwhiti Resource Management Plan (TRMP hereafter). As noted in the report the proposed activities are either controlled, restricted discretionary or full discretionary.
20. None of the proposed activities are of a non-complying activity nature. Some of the proposed activities are also permitted and do not require any form of resource consent. This includes continued use of the Wharf 6 and 7 areas for port related activities, including log vessel loading.
21. Section 2.6 of the s42A report sets out the wider RMA framework surrounding the applications, with reference to Sections 104, 104B, 105 and 107, plus also Part 2. Section 3 of the report addresses the 'effects' matters in Section 104 (1)(A), whilst Section 4 addresses the 'policy' requirements in Section 104 (1)(B).
22. My evidence responds to a few related 'effects' and 'policy' queries in the Section 42A report. Some of these same matters are raised in the submissions. I will do this on an 'effects' basis first and then cover the associated 'policy' framework. In respect of the effects of the projects on cultural values, noise emissions, ecology/water quality and traffic I will draw on the evidence from the other Eastland Port witnesses. Like the s42A report I focus on the 'lower order' TRMP provisions, which give the most guidance, rather than the 'higher order' national policy statement and RMA provisions.
23. On the above matters I generally agree with the s42A report findings that the applications, subject to appropriate conditions, are consistent with the various 'policy' directives. I also generally agree with the report findings regarding the 'effects' of the projects (construction and operation) being of a 'minor' or 'less than minor' (or 'acceptable') nature. The only differences I have concern some of the recommended consent conditions, that in my view are not consistent with the 'effects'/'policy analysis' findings and/or other port related consents.

EFFECTS OVERVIEW

24. Section 3.1 of the s42A report identifies the following categories of 'effects'.
 - Noise and vibration;
 - Ecological and habitat;
 - Cultural values and heritage sites;
 - Transportation options and vehicle emissions;
 - Site contamination;
 - Positive effects.
25. The report also deals with some of these same matters in the ensuing sub sections on 'assessment criteria/performance standards', 'other matters' and 'consent conditions/mitigation measures'. I deal with the effects purely on a 'topic by topic' basis, including the relevant TRMP assessment criteria and recommended consent conditions.

NOISE & VIBRATION

26. The noise related effects of the projects are assessed in Sections 3.2 of the s42A report and the appended Chiles Ltd technical report. They refer to the relevant Port Management zone rules, the Hunt & Associates and 4Sight AEE reports, subsequent letters, along with matters raised by the submitters.
27. The Council s42A and Chiles Ltd reports also address the vibration aspects of the projects and recommend some changes to the conditions proposed by Eastland Port and their consultants in the original application packages. Mr Hunt and I are generally satisfied with the amended conditions on page 78 (Wharves 6 &7) and page 96 (Slipway) of the Section 42A report.
28. The AEE's submitted to the Council outlined the general nature of the consent conditions expected to be imposed to ensure that the noise effects of the redevelopment projects were of an 'acceptable' nature. Two detailed sets of actual conditions were provided in late November 2017 in response to a Section 92 further information request. The draft conditions, including those on noise, were modelled on the most recent of conditions attached to resource consents issued by the Council in late February 2017 for the Wharfside logyard.
29. The Wharfside logyard is adjacent to Wharf 6 and, as outlined in the application package, the stormwater system for this logyard is being utilised for the Wharf 6 and 7 areas. The draft noise conditions for the Wharf 6 and Wharf 7 redevelopment project provided to the Council effectively adopted those in place for the adjacent logyard, which are in turn based on the noise emission rules in the TRMP. Following discussions and correspondence with the Councils planning and noise consultants Eastland Port agreed to consider an alternative approach that is more based on the NZ Standards, rather than the TRMP rules. This is because the rules are not consistent with the NZ Standards, and in particular NZS 68909 1999 Acoustics–Port Noise Management and Land Use Planning. The TRMP rules are based around inappropriate/out of date noise contours and an artificial distinction between 'essential' and 'non –essential' port noise.
30. The Council s42A and Chiles Ltd reports recommend significant changes to the conditions originally proposed by Eastland Port in respect of port operational noise from the redeveloped Wharf 6 and Wharf 7 area, which in turn are also being recommended for the redeveloped slipway area. Mr Hunt generally supports the amended conditions, with the exception of a few matters, which he explains in his evidence. As outlined in Mr Hunt's evidence the proposed noise emissions limits are expected to be more 'effects' based and easier for Eastland Port and the Council to monitor and for adjacent landowners/occupiers to understand any infringements, should they occur, than those limits in place for the logyard.
31. From my review of the Council s42A and Chiles reports I have been unable to fully understand how the different noise emission limits (L_{dn} , $L_{Aeq\ 9hr}$, $L_{Aeq\ 15min}$ and L_{AFmax}), in the conditions for the five specified zones (Amenity Reserve, Heritage Reserve, Amenity Commercial, Residential General and Inner City Residential) and one specific site (Portside Hotel) identified, relate to those recently set for the adjacent Wharfside logyard (L_{10} , L_{max} and L_{Aeq15}).

32. I note that Wharfside logyard consent refers to a different number of zones and no specific sites. It has some different noise emission limits. However, Mr Hunt will provide an explanation of the key differences in his evidence.
33. Mr Hunt will also provide an explanation of the term 'port operational area' used in the new conditions. He also clarifies the reference in the new conditions to the 'port inner control boundary' from the TRMP, that I understood from the Hunt and Chiles reports to be one of the 'problematical' issues with the TRMP provisions.
34. I note Mr Hunt proposes a change to the applicable conditions (Ref. Condition 43 of the Wharf 6 and Wharf 7 consent on page 82 and Condition 39 of the Slipway consent on page 99). He also proposes a change to the L_{dn} noise emission limit for the proposed Portside Hotel monitoring site. (Ref. Condition 43 of the Wharf 6 and Wharf 7 consent and Condition 39 of the Slipway consent).
35. Mr Hunt explains in his evidence why the Portside Hotel has been chosen as the monitoring site, rather than one of the apartment buildings as formally requested by the submitters (notably the Harbourview Apartments Body Corporate). This matter was also raised by other submitters at the pre-hearing meeting.
36. I raise these matters so all parties to the hearing are able to fully understand how the consent conditions for the adjacent redeveloped wharf and logyard sites will effectively 'play out' in the future. In this regard, I consider it important to understand whether, in terms of Mr Hunt's report on Port Activities–Compliance Monitoring of August 2017 submitted with the applications, the redeveloped wharf area will, like the existing wharf area, remain compliant in respect of noise emissions from the 'port operational area'. From my review of the expert noise reports and evidence I understand this to be the situation.
37. Mr Hunt covers in his evidence how the Noise Management Plan (NMP) and monitoring conditions, as they apply to redeveloped Wharf 6 and Wharf 7 area, will work in terms of his discussions with Stephen Chiles during the preparation of the Chiles Ltd report and more recently as part of the evidence preparation. As outlined below I have a couple of planning concerns with them.
38. The revised noise monitoring and NMP conditions will be of most immediate application to the redeveloped Wharf 6 and Wharf 7, where vessels will be berthed and worked from (Ref. Conditions 42-45 on pages 81-83). Although I understand the desire for consistency of conditions across the different port areas I see the conditions for the redeveloped 'slipway' (which will not generate any noise) in a completely different light. In this regard, I have concerns with the NMP condition (Ref. Condition 38 on pages 98-99).
39. The recommended NMP condition appears to have been simply copied from the Eastland Port Wharf 6 and Wharf 7 'set' (as they refer to the wharves and traffic), with little consideration of the benign (non-port) end use of the redeveloped landing. For instance, there will be no need to have machinery and vehicle use guidelines, education programme, PCLG consultation, a complaint's register and the like for the landing. In my view Condition 38 should be deleted, or replaced with one that simply requires an NMP be submitted to the Council if the landing is used for any port operational activity.

40. Looking at the NMP condition for Wharves 6 and 7 I note that the list of matters to be covered has been extended from six (6) to fourteen (14) in the latest Council set (Ref. Condition 42 on page 81). The list of matters is in my view fairly 'heavy handed' and include some monitoring requirements, that duplicate those in the noise monitoring conditions (Ref. Condition 44 and 45 on pages 82 & 83). In my view, the NMP and noise monitoring conditions could be more precise and focused, so that the responsibilities of Hunt & Associates (as the 'monitors') and Eastland Port (as the 'site managers') are clearer. Mr Hunt has reviewed these same conditions and proposes a few changes, which I agree with.
41. In terms of noise monitoring I note that Mr Hunt has proposed some changes to Conditions 44 and 45 for the Wharf 6 and Wharf 7 consent (on pages 82 and 83). I note that no noise monitoring is being proposed for the redeveloped slipway area, which I agree with. As outlined earlier the redeveloped landing will not be used for any port operational activities that generate noise.
42. Six submitters raise noise concerns. Three of the submitters are 'adjacent landowners and occupiers', being the Bayview Apartments Body Corporate, the Harbourview Apartments Body Corporate, Denis Ramsey and Marilyn Callahan. I understand that Mr Ramsey and Mrs Callahan are Bayview apartment owners. The two other submitters, Winston Morton and the Rongowhakaata Iwi Trust have wider area interests. The locations of the two respective apartment buildings in relation to the two application sites will be shown in a powerpoint aerial photograph presented at the hearing.
43. The noise concerns raised by submitters were responded to in a 4Sight letter of 16 March and attached letters from Malcolm Hunt on the recently installed noise monitoring equipment on the Portside hotel and Marty Bayley on traffic noise. The letters covered the noise from project construction, port operations and vehicles using the port. These same matters are addressed in the more recent Section 42A and Chiles Ltd reports. Based on the recommended conditions in these reports, and the refinements proposed by Mr Hunt in his evidence, I believe the matters raised by submitters have been appropriately addressed.
44. In terms of construction noise, I refer to Section 3.2.3 of the s42A report and the recommended conditions on pages 79 and 97 that require compliance with the widely recognised NZ standard, NZS 6803 1999 Acoustics –Construction.
45. In terms of operational noise, I am relying on the expert evidence from Mr Hunt and his proposed revisions to the recommended consent conditions.
46. In terms of traffic noise, I noted in the letter of 16 March, the limitations of Eastland Port to control noise from vehicles on Council roads (as opposed to port land), which I believe it still the situation. Also, as noted in the letter traffic noise was addressed in the two September 2017 reports from Malcolm Hunt & Associates. I refer to Section 8.6 of the Wharves 6 and 7 Redevelopment report and Section 9.2 of the Slipway Redevelopment report. I also provided further information on expected construction traffic movements for the two projects in the 4Sight Section 92 response letters of 28 November 2017 (Ref. Item 4 of both letters).

47. I noted in the letters to the Council that the NMP condition proposed by Eastland Port requires that noise from log truck movements within the port land be managed with respect to surface treatment (clause i), speed (clause ii) and truck maintenance (clauses iii–v) within the port. On this basis, I consider the matters raised by the submitters have effectively been dealt with.
48. The Council s42A and Chiles reports possibly consider otherwise, with the former report noting (on page 28) that *“traffic noise should be addressed through consent conditions in so far as explicit reference to driver education, truck maintenance and recording of complaints from part of the Noise Management Plan.”* As noted above some additional requirements have been added to the Wharves 6 and 7 NMP condition in the s42A report.
49. Condition 42 on page 81 includes the following:
- “(xi) - Management of off-site transportation noise effects”*
- The additional clause is ‘open to interpretation’ and will be difficult for Eastland Port to implement and for the Council to verify compliance. As such, I consider that it should be deleted.
50. Eastland Port cannot be ‘reasonably’ expected (as required under the RMA) to monitor and take action against drivers, for say speeding/bad driving or poor vehicle maintenance, on their way to and from the port. In my view, the NMP should be confined to activities within the Wharf 6 and Wharf 7 site and not extend onto Council roads in the wider Gisborne area.

ECOLOGY & WATER QUALITY

51. Section 3.3 of the s42A report identifies five key ecological and water quality matters with reference to the 4Sight expert reports submitted with the application packages, subsequent responses to s92 further information requests, the Eastland Port proposed consent conditions, and the Council expert reports from Shane Kelly (of Coast and Catchment) and Sally McKinnon and Paul Murphy. This section of the report also refers to the submission on these matters from the Department of Conservation (DOC) and the iwi organisations.
52. Mark Poynter will in his evidence respond to a few concerns or issues raised in the respective Council/consultant reports and the submissions. As outlined in his evidence the key matters of concern/interest are:
- The effects of the projects (primarily the Wharf 6 and Wharf 7 reclamations) on juvenile crayfish habitat and associated need for, and form, of the proposed mitigation measures (Section 3.3.2 of s42A report);
 - A change to the Wharves 6 and 7 stormwater discharge monitoring programme to include ‘first flush’ monitoring;
 - An addition to the sediment sampling programme being proposed by Eastland Port as part of the Wharf 6 capital and maintenance dredging monitoring in the form of testing for a range of organic compounds (Section 3.3.4).

53. The last two matters have planning/resource consenting components, so I will address them in my evidence too. The s42A report also proposes to remove from the Wharf 6 application package the proposed maintenance dredging component (of approximately 1,500m³/year), along with its associated disposal at the offshore disposal ground (Section 3.3.4), which is related to one of the above matters, so I will address it here too.
54. The Wharf 6 and Wharf 7 redevelopment application package includes capital and maintenance dredging of the Wharf 6 berth pocket. The s42A and Council technical report recommend the maintenance dredging component not be approved because an application package for port wide capital and maintenance dredging is planned in the near future, there could be inconsistencies between the consents, and it is best to have just one set of them. I see some merit in the argument, but would prefer the Wharf 6 maintenance dredging component was retained.
55. The Eastland Port proposed consent conditions for the Wharf 6 maintenance dredging area are the same as those in place for the adjacent Wharves 7 and 8, vessel turning basin and port navigation channel areas. Also, the existing consents for Wharves 4-6 expire on 30 June 2018 and there is no guarantee that the replacement port wide consent applications will be lodged by then and be subject to the 'savings' provisions in Section 124 of the RMA.
56. The Wharf 6 and Wharf 7 redevelopment applications were lodged with the Council in October 2017 and have taken to date approximately 7 months to process. The current Wharves 7, 8, vessel turning basin and port navigation channel consents do not expire until September 2020. In my view, it is best that the capital and maintenance dredging consents for Wharf 6 area are relinquished once the port wide consents are approved.
57. The Council staff/consultant proposal to add an organic material testing requirement to the capital (and maintenance) dredging monitoring programme in my view runs counter to the 'consistency' of consents argument being advanced for the Wharf 6 maintenance dredging component. Mr Poynter has noted in his evidence that those monitoring conditions are unnecessary if the proposed maintenance dredging is considered simply to be a small extension to the existing maintenance dredging footprint for the port. He also notes that if they are to be incorporated into this consent, then they should be the same monitoring conditions as currently expressed in the existing port maintenance dredging consent. He discusses why the additional monitoring parameters proposed by Council are unwarranted.
58. The Council staff/consultant proposal to add a further 'first flush' testing requirement to the coastal permit for the Wharf 6 and Wharf 7 stormwater discharge (via the approved Wharfside logyard outfall) also seems to run counter to the earlier argument that a 'consistent' approach across consents is required. This proposed 'first flush' testing requirement is not part of the Wharfside logyard consent, that was only issued in February 2017. Condition 47 of the Wharfside logyard consent is the relevant condition here. It simply requires Eastland Port to submit a Stormwater Monitoring Programme (SMP) to the Council for approval, which amongst other things, is required to *"specify monitoring frequencies, (that will be at least once every three months) and sampling and testing methods."*

59. Mr Aubourg will explain in his evidence that the stormwater from the Wharf 6 and 7 areas will be 'stored' on site before being gradually pumped through the treatment system, so it will not really have a 'first flush' component. This matter was set out in the WorleyParsons engineering report and AEE submitted with the applications.
60. Mr Poynter will, with reference to recent reports from Dr Andrew Jeff's of Auckland University, set out the Eastland Port position in respect of the values of the current juvenile crayfish habitat within the port and the proposal to install settlement devices as a mitigation measure to offset the 'loss' of habitat associated with the proposed Wharf 6 and Wharf 7 reclamations. He responds to some concerns in the Council s42A and Coast and Catchment reports about the 'loss' and effectiveness of the mitigation measure.
61. Mr Poynter will also provide some views which he describes as 'contextual', that are intended to assist the Panel with considering what 'weight' should be given to ecological mitigation of an artificial habitat 'loss' within a working port environment.
62. I note that the Council s42A report does not propose any changes to the most recent Eastland Port consent conditions (Ref. Conditions 50 -52), although there is report footnote indicating that they may be refined based on the Eastland Port hearing evidence. Mr Poynter has not identified any proposed technical changes to the conditions and from a planning perspective I consider them to be 'acceptable' and 'fair and reasonable'.

HERITAGE & CULTURAL VALUES

63. The AEE for the Wharf 6 and 7 area refers to the recorded archaeological and other recorded heritage sites, in the vicinity of Wharf 6, along with the In-Situ archaeological assessment of the effects of the proposed works on them. It also notes the Heritage NZ authority that is in place (in Appendix I to the AEE). On this basis, and in light of in of the Eastland Port proposed conditions (Conditions 18 and 19 on page 76), in my view the effects on heritage values will be 'acceptable'.
64. Section 3.4 of the s42A report backgrounds the two submissions from iwi organisations, their involvement in the PCLG and the more specific consultation undertaken to date by Eastland Port on the two redevelopment projects. It refers to the culturally significant rock (Te Toka a Taiau) that was located upstream of the slipway, that also referred to in the AEE and In-Situ report. The s42A report also refers to the Council Tairawhiti Navigations project as a vehicle for more formally recognising the cultural values of the Turanganui River and harbour area.
65. Mr Bayley will cover the current situation regarding the consultation with iwi on the cultural values of the port and the request by the two iwi submitters to prepare a Cultural Impact Assessment (CIA). In this regard, I note that Condition 27 of the Wharfside logyard consents requires Eastland Port to prepare a CIA in consultation with Ngati Oneone, prior to the commencement of construction works. A similar condition could be attached to the two subject sets of consents being sought. I suggest that such a condition include an advice note that highlights under the Heritage NZ Authority, Eastland Port are required to establish accidental discovery and other works protocols with Ngati Oneone during the construction process and provide them with a copy of the final works completion report.

TRAFFIC EFFECTS

66. Section 3.5 of the s42A report assesses the traffic related effects of the projects. It notes the findings of the 4Sight and Eastland Port letter responses to the submitters who have raised traffic concerns and indicates some support for them. However, other than some relatively minor changes to the Eastland Port sets of conditions, no significant changes to the scope or form of the consents are proposed. In the former regard, I refer to some additional matters included in the Construction Management Plan (CMP) conditions (ref. Conditions 35 and 29 on pages 79 and 95).
67. The CMP conditions are proposed by Council staff/consultants to include the following:
- “(ii) Measures to recognise and mitigate the where practicable the effects of heavy traffic along the public road network”*
68. I agree with this proposed addition, although have concerns as to its scope and implementation. In my view, it should focus on any adverse effects ‘on streets adjacent to the site’, rather than ‘along the public road network’
69. Following on from this point I note that the Council staff/consultants recommended sets of conditions do not place any similar obligations on Eastland Port in terms of operational traffic serving the redeveloped Wharf 6 and 7 areas. I support this approach. As outlined in the 4Sight letter response to submitters of 16 March, the Wharves 6 and 7 and slipway redevelopment projects are not expected to result in significant additional log or other truck movements to and from the port. The redevelopment projects are simply directed at providing more effective and safer vessel manoeuvring/berthing, log and other cargo handling/loading and berthing/refuelling of the port tugs.
70. Four submitters have raised concerns about the traffic effects of the redeveloped wharf facilities on the wider Gisborne area. Mrs Callahan and others have concerns with the condition of roads serving the port and the Customhouse St rail crossing. The Gisborne Rail Network are concerned that the Wharf 6 and Wharf 7 redevelopment project, along with others in future, are based on a reliance on road transport, and they should be based on restoring the Gisborne rail line and an associated connection to the port.
71. The s42A notes the work being done by the Council, Eastland Port and other organisations on these wider Gisborne and port traffic matters. It also highlights the RMA ‘scope’ limitations involved in addressing them as part of the subject consent applications. I agree with this approach. As outlined in the 16 March letter to submitters the two redevelopment projects are simply directed at fixing ageing port infrastructure and making better use of the limited available water space.
72. The proposed wharf redevelopment is not expected to result in a significant increase in logs or other goods passing through the port. Some growth in goods shipment is expected with time, but it will be largely through their increasing availability and shipping trends, which Eastland Port has little control over.

HISTORICAL SITE CONTAMINATION

73. Section 3.6 of the s42A report highlights the 4Sight Detailed Site Investigation (DSI) and a Contaminated Site Management Plan (CSMP) submitted with the slipway applications, along with the subsequent set of Eastland Port proposed consent conditions. The report also notes the proposal to undertake a DSI for the Wharf 6 and 7 areas, before any construction works are undertaken, given their proximity to the Wharfside logyard (ex Weddel freezing works site). Consent conditions were also proposed on behalf of Eastland Port to cover this matter.
74. The s42A report and technical memo from Council staff generally agree with the Eastland Port consent conditions, except in respect of the timing of the DSI and related procedures for the Wharf 6 and 7, where longer timeframe for Council approvals are sought. Mr Nigel Mather, the 4Sight contaminated site scientist, who undertook the slipway DSI and is expected to undertake the Wharf 6 and 7 work, agrees with the amended conditions, as do I. The amended conditions are Numbers 28, 29 and 31 on page 78 of the s42A report.
75. One additional matter that is identified in this part of the s42A report and technical memo is a proposed Council requirement for a 'robust engineered cap' on the slipway. This matter is briefly explained on page 7 of the technical memo and subject of an additional consent condition, being No.27 on page 95.
76. Mr Mather, along with David Aubourg from WorleyParsons have reviewed Condition 27 and the associated report explanation requirement and Mr Aubourg will present evidence on this matter. As outlined in his evidence the redeveloped landing has been engineered to a high/conservative standard. In my view, the differences of opinion here probably relate to what is meant by a 'robust engineering cap'. From a contaminated site perspective, I expect that this matter will effectively be dealt through the Post Remediation Works Validation Report (PRWVP) required under Condition 28 (Ref. page 95 of the s42A report). As noted in this condition the PRWVP is required to be prepared in accordance with the Ministry for the Environment (MfE) Contaminated Land Management Guidelines No.5. Site Investigation and Analysis of Soils 2011.

PLANNING POLICY MATTERS

77. The AEE's submitted with the applications contained policy assessment of the two projects with reference to the TRMP, NZ Coastal Policy Statement and Part of the RMA. Section 4 of the s42A report contains a similar and more detailed assessment.
78. The s42A report does not identify any 'policy' inconsistencies in respect of the two projects. Section 4.2 – Regional Policy Statement, gives qualified policy support to the projects consistency with the provisions as they relate to cultural values.
79. As outlined earlier in my evidence the NZ Heritage archaeological authority places iwi consultation obligations on Eastland Port during the construction phases of the projects. Consent conditions also can be imposed requiring a CIA be prepared before construction commences on the respective sites, if the Panel considers this is required.

80. As outlined in Mr Bayley's evidence, Eastland Port would like to avoid a situation where CIA's are prepared for each redevelopment project and there is a preference for a 'port wide' CIA that sits alongside, and builds on, the In-Situ archaeological assessment and other reports. Beyond this, in terms of the operation of the redeveloped wharf and slipway facilities, the PCLG is an effective forum for consulting on any wider cultural issues that arise.
81. Section 3.9 of the s42A report refers to a submission from Mr Morton expressing concerns with the resource consent processes to date, including those for the adjacent logyards, and the need for a 'port precinct' plan change. These matters were responded to in the 4Sight letter of 16 March 2018 to submitters.
82. As outlined in the letter the resource consent applications for redevelopment of Wharves 6 and 7 and slipway are part of a wider Port redevelopment process that began with plans in the early 2000's to upgrade the Southern logyard. The resource consents for this logyard upgrading were issued in December 2010, followed by those for the Upper logyard in December 2013 and the Wharfside logyard in February 2017.
83. The Upper logyard has been fully redeveloped in accordance with the resource consents. In each of these consents noise and vibration impacts, have along with dust management, stormwater collection and treatment, landscaping/visual amenities and other environmental effects have been thoroughly assessed by Eastland Port and Council experts.
84. The noise and vibration effects of the Wharves 6 and 7 and slipway redevelopment projects have been thoroughly assessed in reports from Malcolm Hunt and Associates and reviewed by Chiles Ltd. They (and other effects) are being assessed on a project specific basis because that is how the port is being redeveloped to meet customer demands.
85. The suggested alternative one 'plan change' approach is not really feasible. This is because some of the projects, such as the planned upgrading of the port breakwater and redevelopment of Wharf 8, are still in the early stages of investigation and will not be ready for consenting for possibly another year or more. On the other hand, the initial Southern logyard upgrade investigations were initiated almost 10 years ago and this project was consented over 7 years ago.
86. Eastland Port Ltd has advised the Council that it willing to work on a plan change for the port area that corrects a few outdated and/or inappropriate rules, notably those on noise and vibration. However, most the current Port Management B zone (covering the land) and the Port Management Area (covering the water) are providing an effective environmental 'bench mark' for port operations and not in need of any updating or tightening. In this regard, a plan change would be of limited benefit to the port company, and we expect, the neighbouring landowners and occupiers and other parties with interests in the area.
87. Any plan change also would not 'consent' the proposed Wharf 6/7 and slipway redevelopment works, as it is most unlikely that all of the proposed activities would be permitted activities. So, a longer 'two-step' process (plan change, then resource consents) would be involved.

88. Also, under the RMA any new plan change provisions (at least for the land based components) have no legal effect until they have been through the public submission process and Council decisions have been made on them. This process, even if one was an optimist, would likely take approximately one year to complete.

CONSENT CONDITIONS

89. The s42A report recommends the applications be approved subject to a detailed set of conditions. For the Wharf 6 and Wharf 7 project there are 67 conditions (pages 72-89 and for the Slipway project there are 45 conditions (pages 90-101). The report recommendation has a 'proviso' regarding clarification of both projects effects on cultural values from the submitters and clarification of the effects of the Wharf 6 and Wharf 7 project on juvenile crayfish from Eastland Port. Mr Poynter has done the latter.
90. I, along with the other the Eastland Port witnesses, have identified in our respective statements of evidence a few proposed changes to the Council staff recommended consent conditions, along with a couple of deletions. The consent conditions we are proposing be changed or deleted are:

Wharves 6 & 7

- Condition 35- Construction Traffic Management;
- Condition 42– Noise Management Plan;
- Condition 43– Noise Emissions;
- Condition 44- Noise Monitoring;
- Condition 47- Stormwater Discharge Monitoring;
- Condition 53- Area of Capital and Maintenance Dredging;
- Condition 57- Maintenance Dredging Area & Sediment Sampling Sites.

Slipway

- Condition 27 –Contaminated Site Management;
 - Condition 29- Construction Traffic Management;
 - Condition 38– Noise Management Plan;
 - Condition 39– Noise Emissions.
91. I will produce a complete set of Eastland Port 'tracked' changes conditions and email a copy to Council staff for circulation to the Panel and all submitters before the hearing.

SUMMARY

92. The resource consents being sought by Eastland Port for the Wharves 6 and 7 and Slipway redevelopments are consistent with the RMA, NZCPS, and TRMP. The effects of the activities for which consents are being sought (being overall of a discretionary activity nature) will, subject to appropriate conditions, be of an 'acceptable' nature.

93. The consent conditions bring recommended by Council staff and consultants are similar in many respects to those proposed by Eastland Port and in turn those in place at the Wharfside, Upper and Southern logyards. I am of the view that the amended conditions in the Eastland Port evidence will ensure that the adverse effects of the project will be effectively avoided, remedied or mitigated to an 'acceptable' degree.

Max Dunn

10 May 2018