
Form 13: Submission on application concerning resource consent

Resource Management Act 1991

To: Gisborne District Council

Name of submitter: Penny Nelson, Director-General of Conservation (the **Director-General**)

This is a submission on an application from Eastland Port Limited (the **Applicant**) for a resource consent.

Description of activity: Eastland Port Limited is seeking consent for multiple applications to allow for the upgrade and extension of Gisborne Port. The proposed works include;

- Extension of Wharf 8 to accommodate concurrent berthing of 200m and 185m shipping vessels.
- Reclamation of the Coastal Marine Area next to the southern log yard.
- Rebuilding the outer breakwater.
- Upgrading stormwater treatment infrastructure in the Southern log yard.
- Capital and maintenance dredging with disposal of dredged material to the Off-Shore Disposal Ground.

Trade competition: I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991

My submission relates to: The whole application

My submission is: I am neutral on the application.

The Director-General's interest in the Application

1. The Director-General of Conservation (the **Director-General**) has all the powers reasonably necessary to enable the Department of Conservation (**DOC**) to perform its functions.¹ The Conservation Act 1987 (the **CA**) sets out DOC's functions which include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage.² Section 2 of the CA defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.
2. DOC is also the authority responsible for processing applications under the Wildlife Act 1953. I understand that approvals under this Act will be required for the Proposal prior to construction commencing.

Reasons for the Director-General's submission

3. The Proposal outlined in the Application would create **significant risk** to environments and native species.
4. The decisions sought in my submission are required to ensure that, the decision-maker:
 - a. Has particular regard to the intrinsic values of ecosystems as required in Section 7(d) of the Act.
 - b. Adopts a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, but potentially significantly adverse as required by New Zealand Coastal Policy Statement 2010 (NZCPS) Policy 3.
 - c. Avoids adverse effects of activities on indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists as required by NZCPS Policy 11.
5. The Applicant has provided insufficient information and I am concerned that the proposal does not adequately identify and address:
 - a. The potential adverse effects on Kororā (*At Risk-Declining*), including but not limited to:
 - b. How the proposal will avoid, remedy, or mitigate potential adverse effects;

¹ Refer section 53 Conservation Act 1987

² Conservation Act 1987, section 6.

- c. How the proposal will achieve the objectives of the NZCPS, particularly the use of a precautionary approach.
6. The Director-General's concerns have been identified following a review of the information that has been provided to date. The Director-General's submission relates to the whole Application.
7. Without being limited to such matters, the Director-General notes the following with respect to the Application:

Kororā
8. The AEE acknowledges that there is potential for adverse effects on Kororā and their habitat, including Kororā mortalities, reduced foraging ability, prey abundance, water quality effects and persistent disturbance from the ongoing construction and port operations.
9. The Application states within Appendix Y that a Twin Berths Kororā Management and Monitoring Plan (TBKMMP) is proposed to avoid effects on Kororā and manage effects on Kororā habitat. It is proposed to prepare the TBKMMP for certification by Council prior to the commencement of the deconstruction and reconstruction of the southern log yard revetment.
10. The Director-General is concerned that the development of the TBKMMP post the granting of consent does not adequately address the actual or potential effects on Kororā.
11. The objectives, targets and minimum obligations upon the applicant in regard to Kororā management in the vicinity of the proposed works are most appropriately established within conditions.
12. It is the view of the Director-General that the proposed timing, frequency and methods of monitoring efforts are to be established at this stage to provide assurance of appropriate management.
13. Although Wildlife Act Authorities may be required for certain activities the TBKMMP intends to manage, the information contained within Appendix Y of the application does not provide enough certainty or transparency as to what will be delivered.
14. Section 7(d) of the Act requires that all persons exercising functions and powers under it shall have particular regard to the intrinsic value of ecosystems. The failure of the Application to assess potential effects on Kororā means that the applicant is not giving effect to Section 7.

Decision sought

15. I seek the following decision from the Council:

- a) That the consent authority **considers the application**, in light of the shortcomings identified above;
- b) If the consent authority is minded to grant the application, that it imposes the following requirements:
 - i. That the objectives and minimum survey, monitoring and exclusion measures of the TBKMMP be defined within conditions of consent.
 - ii. That the TBKMMP be prepared by appropriately qualified persons, and
 - iii. Suitable conditions and compensation to address my concerns.

16. I also seek such alternative and/or additional relief as may be necessary and appropriate to address my concerns.

I do not wish to be heard in support of my submission.



David Agnew

Manager Operations (Acting)

East Coast

12 October 2022

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

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