

Submission on
Resource Consent Application

Form 13
Under Section 96 of the Resource Management Act 1991.

GISBORNE DISTRICT COUNCIL
RECEIVED
26 OCT 2022
Time:
CUSTOMER SERVICES



RCS221048123

! A copy of your submission must also be given to the resource consent applicant as soon as possible.
All information provided in your submission is available to the public (on request).

1. Person making submission

Name in full: MORETON Winston
Surname: MORETON First Name(s): Winston
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Town/City Postcode
Mobile: Other phone: 068688196
Email: winstonmoreton@gmail.com

2. Submission on

Application No: CP-2022-111365 and sequence
Name of applicant: Eastland Port Ltd a subsidiary of Eastland Group Ltd
Type of resource consent applied for: Coastal Permit, Dredging and Dumping Spoil in the local bay
Brief description of proposed activity: Please see attached
 I support the application I oppose the application I am neutral to the application (neither support or oppose)
Clearly state which parts of the application you support or oppose or wish to have amended:
Please see attached.

The reasons for making my submission are (briefly describe the reasons for your views, attach further pages if necessary):

Please see attached

Office use only

Received date: Support Oppose W.T.B.H N.B.H

I wish the Gisborne District Council to make the following decision (give details, including the nature of any conditions sought):

Please see attached

Please tick:

- I wish to speak at the hearing in support of my submission
- Would you consider presenting a joint case with others who have made a similar submission? Yes No
- I do not wish to speak at the hearing in support of my submission

3. Signature

Signature of person making submission or person authorised to sign on behalf of submitter



Date: 26/10/2022

Postal address of person making submission (if different from previous page):

Name and phone number (if different from previous page):

Contact person: _____

Mobile: _____ Other phone: _____

Email: _____

Submission – Winston MORETON
Eastland Port – Twin Berth -Stage II

- 1 The notification of the application is inadequate.
- 2 The notification limits or restricts sustainable objections to Tairaawhiti residents residing within 250 metres or so of the Port operation. By implication, my residence is considered out of scope.
- 3 I have reason to believe that some adjoining residents have signed agreements with the Port which preclude them submitting on this application. The iconic Tatapouri Fishing Club, of which I am member, has a short term lease granted by the Port and no guarantee of tenure. One can surmise the Club be will hesitant to make submissions, concerning for instance, the vexed question of parking. There are newspaper reports about the Port buying residential homes near the Log Yard in Crawford Road to register restrictive covenants in the Land Office which preclude owners and tenants submitting on Port application or raising vibration and noise complaints. As I understand it the resource management legislation now precludes the “buying off” of objectors.
- 4 Application [LU-2020-109518-00] for another dredging consent (was it publicly notified?) has not been set down for a hearing. It duplicates in many respects this application. A recent letter on the council file from the Port requests council to extend the time for completing. It occurs to me the Port is negotiating with objectors on the basis objectors’ consent can still be bought. It is my submission this 2020 application should be struck out immediately and before the hearing of submissions to this new application [CP-2022-111365-00] are heard.
- 5 Despite several requests by me for a paper copy of the 2022 application documents, including unanswered email to the Council’s Democracy Manager for the copy, I have not been so supplied. I note the regulations require a council to be supplied with two paper copies by applicants. Ergo the refusal to supply coupled with council staff failure to advise the cost of printing a copy for me is a denial of my statutory right to have access to the application documents.
- 6 It will be evident from this submission that I have not been given time to fully consider the application as is my wont as a lawyer. For that reason I will have to make a more detailed submission when hearings are arranged.
- 7 I take this opportunity to formally ask Council for a copy of the full suite of publicly notified planning documents as soon as possible after receipt of this submission.

- 8 Although the notification in the newspaper directs “any questions about the application” to council’s “Independent Processing Planner” whose contacts are given in the notice I have been informed by council staff that I must direct all queries to them and the planner no longer replies to my emails.
- 9 The question which triggered the negative response referred to in para 8 was ‘why did Council agree to circumscribe or limit objections as described above?’ The limit imposed by the Port and accepted by Council staff amounts to a pre-determination and potentially renders the public notification redundant.
- 10 The application should be renotified and paper documents made available to any person or organisation affected.
- 11 There have been numerous dispensations and consents (notified and unnotified) since the Crawford Road Log Yard was consented less than 10 years ago. Council staff will have the exact number of those on record. From my own observations and enquiries it is upwards of two a year. Every single notified application has been granted and presumably all dispensations. My submission, which I first raised with Council during an earlier consent application by the Port in 2018, is the various Port zones and overlays should be now notified as a Zone Change and the myriad of consents merged as one. I suggest again that a zone change would be a more robust and best planning practice (community and economic wise) process for everybody.
- 12 The applicant’s traffic report by East Cape Consulting Limited states, *“The section (of railway) between Wairoa and Napier was reopened in 2018 however the Wairoa to Gisborne section remains closed, with no known timeframe for reopening. At this point in time, the port cannot receive freight by rail as there is not enough space for a modern rail head at the port and no current proposal by KiwiRail to connect the port to the existing rail network.”* This comment is, with respect, an inadequate discharge of the applicant’s obligation to consider whether or not there is an alternative way to carry out the activity proposed. Traffic considerations are but a single component of that duty which I suggest has not been discharged by the applicant.
- 13 Moreover I can say today, without fear of contradiction, that there are still viable rail tracks between the Port and Matawhero (at least) which were being used by a tourist passenger train as recently as Labour weekend 2022 by a railway enthusiast group. I do not expect the group to submit on this application because it has been the recipient of grants from the Port’s sole shareholder owner, the Eastland Community electricity trust, lately called Trust Tairaawhiti. Co-incidentally the Trust has its offices on the wharf near the

- Tatapouri Fishing Club and indirectly it is also bank rolling the port's application.
- 14 The same traffic report by East Cape Consulting Limited finds the road running outside my home, namely Ormond Road *provides "a non-state highway connection north towards Opotiki and the Bay of Plenty, joining SH2 just south of Ormond."* It indicates Ormond Road is at 62% of vehicular capacity. My more recent personal observations are that the 60 tonne log trucks now come through much earlier in the morning with a peak between 5am and 7am before normal peak hour traffic numbers begin to prevail.
- 15 The trucks occasionally use air brakes as they near the Council Chamber's roundabout and in the early hours the noise is very audible. When passing my home they produce vibration which shakes the whole house like a small earthquake. This is a recent phenomenon and which has developed since the Truck Park was permitted via a planning hearing by Council on Aerodrome Road only 5 or 6 years ago. To my knowledge the vibration nuisance has never been addressed or measured despite my requests of the council's medical officer.
- 16 It is not stated when the applicant's traffic report was signed off by the consultant but I think it is quite dated as it refers to work done in September 2020 - around the time Covid 19 restrictions were in force. Log truck traffic has increased enormously by my own observation since 2020.
- 17 The Traffic Report also shows Ormond Road (that part east of Lytton Road) in a "road hierarchy" as follows: 8,500 vehicle movements at 62% capacity. I would submit it is higher now and I would guess that if measured today capacity would be around 70%. The opportunity to measure vibration between 5am and 8am should also be taken.
- 18 The nuisance, in acoustic science terms, will inevitably increase. The log truck fleets will also be encouraged to grow exponentially in number if the Traffic Report's speculation about government (Land Transport) improvements to the roads feeding into the port are correct.
- 19 One of the reasons I have not engaged with the port itself directly before filing this submission is because it produces misleading information. Witness the information in its (August? 2022) "Traffic Around Eastland Port Traffic Management Plan" produced by its Communications and Engagement Manager following the more objective East Cape Consulting Limited report.
- 20 Under the heading: "Eastland Port Traffic Management Plan" are the following words; *"Alongside the increased log export trade, there is the potential for other products to be exported from the port in the future by container. The project will give Tairāwhiti the opportunity*

to begin coastal container trade and future-proof the port for other opportunities that may come. As well as forecast growth in kiwifruit exports, Tairāwhiti has other products emerging such as apples and is seeing increases in wood processing volumes from the region. The average day needs to increase by around 35% to meet Tairāwhiti's (sic) log export demands - our busiest days do not need to get any busier to meet this demand. The Twin Berth project will allow us to achieve more consistent volumes throughout the year.” In short, despite the subject heading, there is nothing about a Traffic Management Plan nor the fact that 99% of port business is raw log export. In much detail it describes other freight which is about 1% of the load. While the plan accompanying this promotional article is very well produced it offends against the National Reserve known as Puhī Kai Iti the Landing Place situated off Rakaiatane Road about which I anticipate Heritage NZ and iwi will be making submissions.

- 21 In The Gisborne Herald (front page TGH Dec 16 2021) it is reported Council have rejected a heavy traffic vehicle proposal which would have taken log trucks off Ormond Road (urban) and confined them to State Highway 35. The report states Gisborne District Council has power to use a new “Resolution Register” procedure to make By-laws. This Register process enables a Council to avoid the public scrutiny which would otherwise accompany a proposed Bylaw. In short the effect of this Resolution is to deny me, and others, the right to make submissions on the Council’s decision to cancel the informed (traffic planners including Waka Kotahi) to take log trucks off Ormond Road (urban). I question the power of any Council to create or modify traffic bylaws long term using non-notified resolutions in traffic management.
- 22 This “Resolution” concerning Ormond Road, cannot be accessed by me on line because the final two pages of the relevant report are missing.
- 23 Moreover this “Resolution” reflects badly on Council’s lack of planning and foresight when it was evident, 20 years ago, that what is called the “wall of wood” was nigh.
- 24 In effect the council is using dubious authority to stop Ormond Road residents having any input into Council’s political decision to override its Traffic Committee recommendation (number 11) to stop Heavy Motor Vehicle traffic using Ormond Road. A recommendation made following professional advice of the committee members (presumably including highway engineers from Waka Kotahi and community input). I conclude this point by observing that, according to the newspaper report, council staff were “directed to carry out, with urgency before December 2022, a review of the Resolution.” Until

that resolution is so reviewed its status remains uncertain. Hopefully council staff will pursue this with Waka Kotahi before a Hearing is set down for this application.

25 A point of contrast, reflected in the port's formal Traffic Report, is the manner the port (and council?) are confident Waka Kotahi can be brought to the table to contribute to the enormous expense of re-engineering truck access to the Port. If council grants this application the increase in traffic generated by two log ships loading simultaneously will inevitably force the government agency Waka Kotahi to invest the millions of dollars required for the access work described, in inordinate detail including engineering plans, in the Traffic Report . It is a government and ratepayer expense that can be saved if the Rail link s reinstated.

26 The "Cone of Vision" is the name enshrined in Council's Regional Management Plan. It represents the protection of an official sight line to te Kuri o Paoa Young Nick's Head. It was imposed by decision of the Planning Tribunal in 1990 on the suggestion of Sir Frank Boffa who presented submissions for the Department of Conservation. I visited the Reserve in early October 2022 and found the Cone of Vision is non existent by reason of subsequent Port developments. Development presumably with Council building consents which have overlooked or ignored the status of the Cone of Vision protection rule. Today there is a large building on the Port domain which closes and narrows the southern side of the Cone. Port related vehicles are parked right up to and against the seaward boundary of the Reserve. Then, blocking the entire view forward from the monument are walls of logs over two meters high. It is at this date impossible to see te Kuri o Paoa as intended by the Tribunal. I note here the "Council Road Hierarchy Map" included in the East Coast consultant's Traffic Report includes a photo map of the extent to which the amenity of the Reserve has been degraded by the Port operation. That photo map is pejoratively years out of date.

27 All the above matters are legal in nature and need to be addressed by Council before any s99 Pre-Hearing meeting is called - let alone Hearing Commissioners appointed.

28 I now formally state my objection here to the capital dredging which is required to double the area available for loading two log ships simultaneously. The application is stated to be for 140 cubic metres capital dredging however, I think, that amount is an accidental slip in the consultant's report. It certainly requires clarification.

29 Recent storm surge destroyed the Small Boat Harbour launch facility constructed earlier this year. It is still not repaired. The advice relied on by the port concerning harbour currents and their impacts have

- been shown by newspaper reports to be inadequate and perhaps flawed. I will look for more advice concerning this before the hearing and I propose to submit on it.
- 30 As a beach user I claim status to speak on the absence of aquatic life which can be attributed (at least in part) to the existing dump site about a kilometre out from the beaches. Again I will look for more advice concerning this before the hearing.
- 31 As a beach user I note and object to the impact of the port as the sole destination hub for every pulp log felled in the rohe region. Ormond Road requires weekly sweeping by council to clear bark chips that fall from the trucks. This would be alleviated (reduced to monthly sweeping) if the trucks were re-routed to the Highway.
- 32 In resource management terms there is another way. The port has a very large area (15hectares?) designated as a log yard at Matawhero. It could tranship logs by train from Matawhero to Port of Napier or Tauranga. Indeed it could transfer logs into Gisborne port itself and eliminate the use of Ormond Road urban.
- 33 The necessary repair (not re-construction) of the railway line has already been calculated at much less than the \$50 million “ball park figure” budgeted by the port owners for their spend on the port development this 2022/23 financial year. The figure was given at a recent Port Liaison Committee meeting by the port’s general manager. Fixing the devastated railway tracks on the Kaikoura Line following the earthquake in 2016 took less than eighteen months and I would expect it cost less than \$50 million.
- 34 Work comprised in repair of the railway line plus the construction of a permanent log loading hub at Matawhero will create real jobs. It will also save the port double handling - unloading logs at its Matawhero depot and then reloading for delivery to the Port with secondary unloading and reloading on to the modified ship loading trucks.
- 35 A rail repair trumps the Port’s expansion proposal in every way; social, economic and environmental.

I seek the following from Council:

- (a) Decline or postpone the Application, and
- (b) Cancel Application [LU-2020-109518-00], and
- (c) Council urgently consider the need for rezoning the port, and
- (d) Follow up and remedy outstanding breach of existing vibration/ noise health requirements, and
- (e) Take steps to ensure the port complies with and remedies outstanding planning ordinance breaches, and

- (f) Enforces the Cone of Vision requirement, and
- (g) In concert with the Port urgently explore with government the immediate restoration of the rail link, and
- (h) Cancel the “Resolution” which overrides the Traffic Committee advice for Ormond Road urban.

Filed By:

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