

Submission on  
**Resource Consent Application**

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

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**i** 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: **Waihape, Rebecca on behalf of Rongowhakaata Iwi Trust**  
Surname: First Name(s)

Address:  
No. **78** Street/Road **Whakato Rd** Suburb **Manutuke**  
Town/City Postcode **4053**

Mobile: Other phone: **06 862 8086**

Email: **beck.wahape@rongowhakaata.iwi.nz**

**2. Submission on**

Application No: **LN-2020-109518-00**

Name of applicant: **RONGOWHAKAATA IWI TRUST**

Type of resource consent applied for:

Brief description of proposed activity:

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:

**Refer to attachment**

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

**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 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: 3 SEPT 2020

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

78 Whakato Rd, Manutuke - Gisborne

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

Contact person: Murray Palmer

Mobile: 021 177 1926 Other phone:

Email: murray@nmtt.co.nz



# RONGOWHAKAATA IWI TRUST

3 September 2020

## SUBMISSION | EPL MAINTENANCE DREDGING AND DISPOSAL CONSENT APPLICATIONS

Rongowhakaata Iwi Trust (RIT) is the mandated iwi authority representing Rongowhakaata iwi and hapū. RIT oppose the resource consent applications in total, due to the following reasons:

1. Rongowhakaata iwi and hapū have not had the opportunity to assess and input into the proposed maintenance dredging and disposal program currently the subject of resource consent applications LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00. This is despite dredging and disposal within our rohe moana being a matter of major concern to the people of Rongowhakaata, and that these concerns have been articulated to Eastland Port Limited (EPL) and previous port managers over many years.
2. The current consent applications (at AEE Appendices 'Record of Consultation: Minutes of Te Tai Uru meeting' and 'Record of consultation', 4sight Consulting Ltd) do not accurately represent the engagement that has occurred between RIT and Eastland Port Limited (EPL) in relation to the current resource consent applications. The only discussions around the proposed dredging and disposal were those that were undertaken briefly between iwi members and the Port during the inaugural meeting of the Te Tai Uru (TTU) Group (referred to in the Assessment of Environmental Effects as the Kaitiaki Group). Most of the discussions undertaken in this hui related to the establishment of the group itself. The only information provided by EPL relating to the proposals was by way of a brief overview.
3. Thus, without the opportunity to have our values and relationships, needs and aspirations, and indeed our rights and responsibilities in terms of our rohe moana given due consideration, the current consent applications cannot be said to:
  - a. Recognise and provide for our relationship with our culture and traditions with our ancestral lands, water, sites, waahi tapu, and other taonga: (RMA1991 s6e); nor
  - b. Have particular regard for our exercise of kaitiakitanga (RMA1991 s7a); nor
  - c. Take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
4. During the discussions at the January 29<sup>th</sup> hui relating to the TTU group establishment, Andrew Gaddum, General Manager of EPL did however refer to the need for cultural impact assessments (CIA) of the dredging and disposal applications and the proposed upper logyard stormwater system.

'AG acknowledged that the group might need to test the cultural impact assessment process to find the most efficient way of doing it. Suggested that they begin testing the cultural impact process with current consents e.g. dredging, ULY water treatment.' (TTU hui, Jan 29 2020, Minutes, p4)

This was reiterated during discussions undertaken in May 2020 between Marty Bayley (Infrastructure Manager for EPL) and Samuel Lewis and Murray Palmer (representatives of RIT) via Zoom.

5. The establishment of Te Tai Uru Group and the development of its working protocols embodies negotiations that have been undertaken in good faith between RIT and EPL. The Purpose of the Group is, amongst other things, to:

s5.1.1 Recognise and provide for the kaitiakitanga responsibilities of the Hapū Members as being an integral part of the redevelopment of the Eastland Port under the Consents and the Anticipated Twin Berths Applications

And:

s5.1.6 Facilitate processes to avoid, remedy or mitigate actual or potential impacts on the interests, values, rights and responsibilities of the Hapū Members that may arise from implementation of the Consents and the Anticipated Twin Berths Applications;

Similarly, a Memorandum of Understanding has been established between RIT and EPL that outlines, among other things, a commitment to act in good faith and co-operation, i.e:

## 2. General commitments

2.1 The parties are committed to an on-going positive relationship in relation to the assessment and management of actual and potential cultural effects of the Project. The parties anticipate that, following the settlement of the Appeals and the commencement of the Consents, this ongoing relationship will be conducted through the [Te Tai Uru] Group.

2.2 Given the commitment in clause 2.1, the parties will act in good faith and in a spirit of cooperation in implementing this Memorandum and any subsequent negotiations and agreements in respect of the Project and in the resolution of any disputes that arise in respect of the same. (MoU, 2019)

6. In response to correspondence querying the context for EPL not engaging RIT to produce a CIA, Marty Bayley provided an explanation as to why this had occurred (emails of the 19<sup>th</sup> and 24<sup>th</sup> August, attached as Appendix 1) and identifying EPL's continuing willingness to engage RIT in the production of a CIA. Mr Bayley also reiterated EPL's commitment to the establishment of TTU Group and continue working in a good faith environment with Rongowhakaata and the other iwi and hapū groups affected by the Port's overall activities. These commitments were again made evident in a meeting undertaken on Thursday August 27<sup>th</sup> between Mr Bayley and another employee of EPL, and Murray Palmer, Samuel Lewis and Roland Pomana of RIT.
7. In this context, by way of summary, we submit in opposition in full to the current consent applications. The applications are deficient in that they fail to recognise and provide for the relationship of Rongowhakaata iwi and hapu with our ancestral lands, water, sites, waahi tapu and other taonga. They are contrary to Part 2 of the RMA and fail to take into account Treaty principles and the kaitiaki responsibilities of Rongowhakaata. The applications are also deficient in that they fail to have regard

to the relevant provisions of the Tairāwhiti Plan (including the regional policy statement provisions) relating to cultural matters as they relate to these applications. Due to the lack of consultation, they also fail to have regard to the actual and potential effects of the application (including, but not limited to, cultural effects). Given the subsequent engagement between Rongowhakaata and EPL in relation to EPL's previous consent applications through the appeals process, the lack of engagement and consultation by EPL in relation to these consent applications was both surprising and disappointing.

The deficiencies within these applications, including the failure to relevantly identify and avoid, remedy or mitigate any actual or potential effects of the applications on Rongowhakaata and our relationship with the matters identified in Part 2 RMA, can only be remedied by enabling Rongowhakaata to have the opportunity to identify and make evident, by way of a CIA undertaken by us and resourced by EPL, the actual and potential impacts on Rongowhakaata iwi and hapū of the proposed maintenance dredging and disposal activities. Given the discussions evident between the parties however, we anticipate that this may be able to be achieved through pre-hearing mediation, and time provided for RIT to complete such an assessment prior to any assessment of the applications by the consenting authority.

Rongowhakaata Iwi Trust wish to be heard in regards to these matters.

Naku noa na



Amohaere Houkamau  
**General Manager**

## Appendix 1

Monday, August 24

Thanks for this Marty

All sounds good. Yes, keen to meet re TTU protocols.

I have some time tomorrow morning, or possibly some time Thursday. How about you Samuel?

Hei konā

Murray

**From:** Marty Bayley <[Marty.Bayley@eastland.nz](mailto:Marty.Bayley@eastland.nz)>

**Sent:** Monday, 24 August 2020 11:23 am

**To:** Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)>; 'Amohaere Houkamau' <[amohaere.houkamau@rongowhakaata.iwi.nz](mailto:amohaere.houkamau@rongowhakaata.iwi.nz)>

**Cc:** 'Todd Whittaker' <[todd@planningworks.co.nz](mailto:todd@planningworks.co.nz)>; 'Samuel Lewis' <[samuel.lewis@rongowhakaata.iwi.nz](mailto:samuel.lewis@rongowhakaata.iwi.nz)>; 'Roland Pomana' <[roland.pomana@rongowhakaata.iwi.nz](mailto:roland.pomana@rongowhakaata.iwi.nz)>

**Subject:** RE: FW: PUBLICLY NOTIFIED - NOTIFICATION LETTER CORRECTED - Eastland Port - Maintenance Dredging Notification - LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

Morning Murray,

Apologies for the confusion here but as I have hopefully clearly highlighted we do not intend to depart from the process under consideration with Te Tai Uru, this is more an issue of timing, where we were at the time, and the requirement to get the concerned application in.

I will talk with Max, Sarah and Todd about the best steps to take with the application and what needs to happen here to facilitate your input.

While this is going on do you think, you Samuel and I could have a hui here at our new offices to finalise the draft Te Tai Uru protocol? Attached is the last version from you.

Regards,

**From:** Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)>

**Sent:** Thursday, 20 August 2020 3:43 PM

**To:** Marty Bayley <[Marty.Bayley@eastland.nz](mailto:Marty.Bayley@eastland.nz)>; 'Amohaere Houkamau' <[amohaere.houkamau@rongowhakaata.iwi.nz](mailto:amohaere.houkamau@rongowhakaata.iwi.nz)>

**Cc:** 'Todd Whittaker' <[todd@planningworks.co.nz](mailto:todd@planningworks.co.nz)>; 'Samuel Lewis' <[samuel.lewis@rongowhakaata.iwi.nz](mailto:samuel.lewis@rongowhakaata.iwi.nz)>; 'Roland Pomana' <[roland.pomana@rongowhakaata.iwi.nz](mailto:roland.pomana@rongowhakaata.iwi.nz)>

**Subject:** RE: FW: PUBLICLY NOTIFIED - NOTIFICATION LETTER CORRECTED - Eastland Port - Maintenance Dredging Notification - LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

Ata marie Marty

Thanks for your response to our previous emails.

I am glad that the application for the maintenance dredging and disposal consent by EPL is not an indication of an intention by the Port to default from the Te Tai Uru group process so far, given that we resolved our original appeals in favour of that process. Similarly, it would be disheartening if the length of time taken for EPL and Ngati Oneone to reach agreement on their appeal precluded our rightful ability to input into a matter of significant concern to Rongowhakaata iwi and hapū, namely the proposed 20 year maintenance dredging and spoil disposal application.

In this context, the willingness of EPL to engage with Rongowhakaata Iwi Trust in facilitating the development of a cultural impact assessment by the Trust is acknowledged. How we might implement such at this stage of the consenting process is, however, a matter that we will need to

clarify reasonably quickly. Prior to your email, our intention was to submit against the consent applications per se, with the hope of integrating the provision of a cultural impact assessment into the consent, either through agreement during pre-hearing mediation, or by way of a condition imposed by the hearing commission.

If RIT are to work collaboratively with EPL in the production of a CIA for Rongowhakaata hapū directly affected by the proposals, this will need to be complete prior to any application decision by GDC or (if there are other submitters in opposition) a hearing by the commission, if such a CIA is indeed to be of any value. I'm hoping this all makes sense. I believe it would be our preference to have the decision delayed to allow for the addition of a CIA from us to your overall AEE.

I'm hoping that we can also now finalise the TTU protocols, given the combined amount of time and energy invested in the process. As soon as this is done, the protocols can be provided to the other parties as a final draft from us. This needs to be well prior to the next proposed TTU hui.

Look forward to hearing from you re these matters

Noho ora mai

Murray

**From:** Marty Bayley <[Marty.Bayley@eastland.nz](mailto:Marty.Bayley@eastland.nz)>

**Sent:** Wednesday, 19 August 2020 3:52 pm

**To:** Amohaere Houkamau <[amohaere.houkamau@rongowhakaata.iwi.nz](mailto:amohaere.houkamau@rongowhakaata.iwi.nz)>; Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)>

**Cc:** Todd Whittaker <[todd@planningworks.co.nz](mailto:todd@planningworks.co.nz)>; Samuel Lewis <[samuel.lewis@rongowhakaata.iwi.nz](mailto:samuel.lewis@rongowhakaata.iwi.nz)>; Roland Pomana <[roland.pomana@rongowhakaata.iwi.nz](mailto:roland.pomana@rongowhakaata.iwi.nz)>

**Subject:** RE: FW: PUBLICLY NOTIFIED - NOTIFICATION LETTER CORRECTED - Eastland Port - Maintenance Dredging Notification - LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

Good afternoon everyone,

Thanks for your emails. I can understand your frustration and possible surprise to some of you receiving this consent application notification.

I would like to give some context to the events that have led to this application being lodged and process undertaken, but firstly would like to highlight we are not opposed to a Cultural Impact Assessment being undertaken for this consent application. Unfortunately though the shadow of the Wharf 6 & 7, slipway appeal to Environment Court and the need to progress this dredging & disposal application hindered getting a Cultural Impact Assessment in the order it, as you point out, ideally should have.

This resource consent is a bit different to most of the other development consents we apply for, firstly it is a renewal of an existing activity, and secondly it is business critical.

Being able to maintain the depths of our harbour and channel through dredging is critical to our ability to operate the port. Every year approximately 15 million cubic metres of sediment enter Turanganui-a-Kiwa from the Waipaoa (12 million m<sup>3</sup>) and the Turanganui (3 million m<sup>3</sup>) rivers depending on the type of season we are having. Without the ability to pick up the roughly 100,000 cubic metres that is deposited annually in our harbour and channel naturally and move it to the disposal ground we can't provide a safe, navigable port.

We already have a maintenance dredging & disposal consent for this operation granted on 10<sup>th</sup> September 2015, this application is for the renewal of this. This maintenance dredging & disposal consent will expire next month on the 10<sup>th</sup> September. The RMA recognises though that renewing consents can sometimes take long periods of time, and/or be delayed for numerous reasons and operations and businesses require more certainty than this to continue. To this Section 124 (1) of the RMA allows for the Exercise of resource consent while applying for new consent. As long the application meets certain criteria specifically,

- a. the consent is due to expire,
- b. the consent applied for is for the same activity,
- c. the application is made at least 6 months before the expiry of the existing consent

the consent holder can operate the consent under the existing conditions until a new consent is granted, declined, or otherwise. Given the critical importance of this consent to our business we applied to renew it on 27<sup>th</sup> February 2020 before the six-month window closed on the 10<sup>th</sup> March 2020.

At this time and prior to this we were still working hard to sort out the Wharf 6 & 7, slipway appeals and didn't want to complicate matters with other consent issues when such a major item was being worked through that would establish the forum and platform for dealing with these matters. We had hoped these appealed consents would have been dealt with much earlier so consents like these dredging ones could be run through an appropriate, established process with hapu and iwi.

In March we had just started looking at the Te Tai Uru protocols with Rongowahakaata, and while Rongowhakaata and its hapu may have been resourced to produce a bespoke CIA in time to include in the application, in reality, to go into the application we would have required a CIA for inclusion in the later part of 2019. We had reached agreement with Rongowhakaata in September 2019 but were still progressing towards an agreement with the other parties concerned. An agreement to this has only just been made with these parties, and our documents are now progressing towards the Environment Court for their decision.

I apologise that it may appear that this application was not made in good faith and according to the Te Tai Uru protocols that have now been drafted but with the appeal to Environment Court taking everyone's time I found the port in a position where we couldn't address this application through the favoured process. This instance is somewhat messy but I am confident with the evolution of Te Tai Uru and the port's relationship's with all hapu and iwi this will not be repeated.

Currently the Te Tai Uru protocols are very near to completion but still sit in draft form. I appreciate Rongowhakaata have (which I am very grateful for) put a lot of work into these with best intentions. These need to go to the other members of Te Tai Uru for their acceptance which will be the key agenda item at the next Te Tai Uru meeting. Which we are anticipating this will be towards the end of next month.



Like yourselves we are learning and are more than willing to have this item seen to appropriately. This consent application is actually outside the scope of Te Tai Uru but I agree this is the best forum for this to be addressed. I don't see any reason why we can't use the processes outlined in this draft to begin processing a CIA from Rongowhakaata's hapu and/or iwi for these applications.

I hope this clarifies why this application has been lodged when it was and provides a solution that addresses your concerns.

Kind regards,



**Marty Bayley**  
Ports Infrastructure Manager

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2 Crawford Road, P.O. Box 1048, Gisborne 4040 | [eastland.nz](http://eastland.nz)

**Email confidentiality notice:**

This email and any files transmitted with it are confidential and intended only for the use of the Recipient. If you have received this email in error please notify its sender.

**From:** Amohaere Houkamau <[amohaere.houkamau@rongowhakaata.iwi.nz](mailto:amohaere.houkamau@rongowhakaata.iwi.nz)>  
**Sent:** Friday, 14 August 2020 9:55 AM  
**To:** Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)>  
**Cc:** Todd Whittaker <[todd@planningworks.co.nz](mailto:todd@planningworks.co.nz)>; Marty Bayley <[Marty.Bayley@eastland.nz](mailto:Marty.Bayley@eastland.nz)>; Samuel Lewis <[samuel.lewis@rongowhakaata.iwi.nz](mailto:samuel.lewis@rongowhakaata.iwi.nz)>; Roland Pomana <[roland.pomana@rongowhakaata.iwi.nz](mailto:roland.pomana@rongowhakaata.iwi.nz)>  
**Subject:** Re: FW: PUBLICLY NOTIFIED - NOTIFICATION LETTER CORRECTED - Eastland Port - Maintenance Dredging Notification - LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

Tena koe Murray, koutou hoki,

I agree with your assessment Murray a CIA should be a requisite and included in the environmental effects assessment. Furthermore, I would have thought that a smarter approach to the lodging of the application, in line with the intent and purposes of the Te Tai Uru protocols would have been to have had a prior discussion about the intention of lodging the application and a discussion on what work needed to be done prior to filing the application, so that we would have given ourselves the chance to have a joined up, possibly even coordinated approach.

Noho ora mai,  
Amohaere

On Fri, 14 Aug 2020 at 08:09, Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)> wrote:

Ngā mihi e kōrua Todd rāua ko Marty

I'm a little confused by the current lodging of this application as my understanding was that a cultural impact assessment of the proposed activities would be required. This would have been lodged as part of an assessment of environmental effects.

I feel that the Te Tai Uru protocols, and the commitment we have made to these are relevant in this context also.

Keen to hear your thoughts.

Ngāku noa, nā

Murray

**From:** Notified Resource Consents <[NotifiedRC@gdc.govt.nz](mailto:NotifiedRC@gdc.govt.nz)>

**Sent:** Thursday, 13 August 2020 1:55 pm

**To:** Murray Palmer <[murray@nmtt.co.nz](mailto:murray@nmtt.co.nz)>

**Subject:** PUBLICLY NOTIFIED - NOTIFICATION LETTER CORRECTED - Eastland Port - Maintenance Dredging Notification - LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

Kia ora tātou,

NOTE: Correction to attached Notification Letter for Resource Application lodged by Eastland Port Limited – Header amended to Maintenance Dredging and Disposal.

Consent Number/s: LU-2020-109518-00 / CR-2020-109519-00 / CD-2020-109520-00

You can access the full application via this link: <https://www.gdc.govt.nz/notified-resource-consent-applications/detail/32/EASTLAND%20PORT%20LIMITED>

Submission forms (printable/writable) can be accessed via this link: <http://gdc.govt.nz/how-to-make-a-submission/>

Please note that submissions close **5pm, Wednesday 09 September 2020**

Please send completed submission forms to [notifiedRC@gdc.govt.nz](mailto:notifiedRC@gdc.govt.nz) or post / drop off at the Customer Service Desks located at Awarua - 15 Fitzherbert Street Gisborne, Te Puia Service Centre - 4746 Waiapu Road Te Puia Springs and Gisborne Library - 34 Bright Street.

Ngā mihi

**Notified Resource Consent Coordination** | Gisborne District Council  
**email** [notifiedRC@gdc.govt.nz](mailto:notifiedRC@gdc.govt.nz) | **ph** +64 6 867 2049 | **ddi** 06 869 2363  
**address** 15 Fitzherbert Street, PO Box 747, Gisborne 4010 | **url** [www.gdc.govt.nz](http://www.gdc.govt.nz)

