

My name is Kris Nicolau and I am a resident of Careys Bay. I was born and raised and educated in Dunedin.

I am a businesswoman and Casting Director /an owner and operator of my own business in Los Angeles and have owned two businesses in the USA since 1985. I have owned my house at 12 Slant St Careys Bay since 1998 and I live in a Zone 1 Residential Area. It is a 135+ yr old villa belonging most of its early years to various fishermen that have fished the waters of Otago. I have spent the last 12 years restoring it.

When I bought my house there was no disclosure from the real estate company /DCC/Port Otago or ORC that Boiler Point would be opening up to container ship activity and as the activity in Port Chalmers has increased so have my rates.

Port Otago state that they want to provide an enduring and sustainable port - recognizing that "sustainable" means conserving an ecological balance by avoiding depletion of natural resources and enduring, something that will last forever.

DREDGING

Port Otago are seeking consent to dredge 7 million tonnes of silt and sand and contaminants out of the harbour for a period of 20 years with their proposed activity lasting for 3 years - combining both capital and incremental dredging.

They want the flexibility to run this activity 24 hours 7 days a week, using in some cases a dredge with a power sound of 118 (Ballagh report) and they suggest in their application (AEE sect. 2.2.4 page 11)

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“they will hand out mufflers and use other best practices” to accommodate their responsibility of noise.

Industry buzz words “best practices” this phrase is frequently used where no specific formal methodology is in place or the existing methodology does not sufficiently address the issue.

This is Port Otago’s version of mitigation.

Night time activity = elective construction is unreasonable and to use the argument that the dredging is intermittent and will not disturb our sleep is unreasonable.

BLASTING OF ROCK

I urge you gentlemen to look at the history that has gone before us and I say two words – Observation Point – back in the mid 90’s Port Otago had to blast Observation Point – take half the hill off - they left this process to a contractor – I believe they did two big blasts and cracked portions of the hill which became unstable and then in 1999 portions of the hill slipped and rendered the area null and void for operations.

Port Otago wants permission to disturb and deposit up to 30,000 sq meters of rock for ten years.

One other point regarding blasting – (page 13 AEE) does not seem clear to me

“To reduce the risk of this rotational failure, the sloping rock revetment is to be extended down to the newly dredged level and any silt or clay material beneath the wharf that is not currently protected by rock will be covered with a protective layer of rock. It is intended that this rock will be sourced from rock excavation at Rocky Point and/or Acheron Head, but rock may also be used from an approved land based quarry (such as Palmers Quarry). This would occur if the rock removed from the channel is unsuitable.”

Does it make sense to blast rock if it's unsuitable?

So when Port Otago (Coe submission) was asked how this rock blasting would occur all the witness could say was a contractor would do the job.

I strongly suggest before this occurs at Rocky Point/Acheron Head and the new wharf blasting that you ask Port Otago to go back and research this blasting process and again appropriate independent experts are on hand to monitor this process before the contractor goes to the DCC and obtains their construction permit. Furthermore, a contractor must be picked because they are skilled in such work and not because they are the cheapest. Port Otago should show evidence of this skill.

DISPOSAL OF DREDGING SPOILS

Port Otago is also seeking consent to dump their spoils 6 kms from the Tairoa Heads for the next 35 years - they have explained they have no other alternatives but to dump at sea.

Is there not a way that the dredged silt and sand can be bagged ? Supply sandbags to the eroded coasts and flood risk places of New Zealand? And better still truck them out on the empty logging trucks to parts unknown?

Port Otago is also wanting consent to discharge their decant water and all other contaminants in the water for 20 yrs but want to increase their controls for 35 yrs.

Surely in this day and age we can come up with greener ideas?

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Over the last few days I have listened to compelling testimony from fisherman and iwi talk about the changing sea and the loss of coastlines of Otago harbour partly from Port Otago maintenance dredging techniques and partly nature - their livelihoods based on that sea - it is heartbreaking - I have left these days in a sort of despair at the thought that a \$6 million dollar crayfish industry could go down the tubes because ORC and Port Otago are greedy for ten million dollars more a year in the year 2028.

MODELING AND MONITORING

The idea that one can predict what nature will and wont do seems preposterous to me - my understanding of how modeling works is that the industry takes data puts it in a computer and sort of manipulates a prediction based on scientific data collected- there have been no actual tests done - it sort of relies on the data one feeds the computers - predicting wave action using only a north/south model action its sort of like predicting hormones - they change from minute to minute. What exactly happens when a wave goes east/west? What happens when the model doesn't mirror the actualities of what is happening? What is Port Otago going to do once the crayfish beds are drowned or habitats are suffocated?

Monitoring this means a device used for observing or a person observes a process or activity to check that it is carried out fairly or correctly.

I feel independence of monitoring is required. It's done in any other business - an owner/operator cannot be trusted to monitor their own pollution.

PUBLIC FISHING WHARF

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Who in their right mind would want to stand by a container ship and fish with a ship's generator in their face.

Port Otago want the right to open and close the fishing jetty when they determine it is unsafe but couldn't give any examples when asked what would be an example of unsafety.

I maintain that the extra footage is a structure that will be used sometime in the future to facilitate more expansion ...sort of the Trojan horse theory - Port Otago are very good at starting off with a container storage facility and then suddenly it becomes a "multi purpose" berth.

I noticed that you asked Port Otago witness Lincoln Coe if there was any other activity going to happen on the public fishing wharf other than public fishing and he replied no - that I want in writing and assurance in perpetuity.

NOISE

This is Port Otago's mission (AEE page 31)

"To constantly review the needs of customers, increase (our) capacity, develop new services, improve efficiency and employ research into leading edge technology to become an indispensable link in their supply chain.

Otago Harbour is important culturally, recreationally and economically and supports commercial and recreational activities including tourism and education. Port Otago recognises the importance of the communities located directly adjacent to the Harbour, as well as the diverse range of ecological and biological species that inhabit the harbour and its surrounds.

Port Otago is committed to managing wisely and sustainably the harbour and harbour resources on which it depends for its operation in combination with the community and other commercial and recreational interests the harbour supports. Port Otago is also committed to sustainable business practices and environmentally responsible operation."

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Port Otago say they want to build a sustainable port yet if you look at the minutes from their present Port Noise Liason Environment Committee plan you will see that only once in 7 years have they addressed mitigating their own noise within their own boundaries (I wanted to enter into evidence the minutes of the Port Noise Liason Environment committee but Port Otago refused access)

Port Otago's/DCC own Port Noise Management Plan /Port Chalmers states under Port Otago's obligations: (October 2004 Sec 6.4)

"Investigation of options and implementation of procedures for noise reduction through port operational procedures and staff and contractor training"

"Port Otago shall actively consider at all times options for reducing noise including, but not limited to, recommendations from the Port Noise Liason Committee."

"Port Otago shall advise the Port Noise Liason Committee forthwith if any recommendation is not to be implemented together with an explanation of the reason for reasons for non- implementation"

Those obligations still exist in the September 2010 plan and now we have a new Environmental Management Plan that Port Otago have now put through as of April 2011.

More monitoring/ more modeling/ more contours/ more noise/ more predictions and more bureaucracy by Port Otago, and no actual plan of action.

Sorry yes if the noise gets to be too much they will buy your house or mitigate your house with some hush glass but they don't pay

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all your costs only a percentage - they hire their own real estate valuer to tell them how much your house is worth - Port Otago negotiate with you and if you don't agree then you don't get anything, and if you oppose their "best practices" I would say that your wait for any mitigation will probably be a ten year wait. This is corporate bullying at its worst.

In the last 7 years Port Otago have spent roughly a \$150,000 per year mitigating their noise pollution - that is not even a 1/2 % of their profit per year.

The Port Noise Liason Environment Committee has become a beautifying committee - a nice group of philanthropic people. It does not monitor/police or enforce any mitigation because the rules are left with Port Otago.

Boom crash I am awake its 2pm in the morning I have to get up At 5 a.m. to work - I call the gatehouse - I am grumpy, rude and I am angry and I say "you're making too much noise" and the guy at the Gatehouse says "well what do you want me to do about it?" and I say "stop it, it is excessive" and they say "well there is nothing we can do about it" so they log your complaint and maybe someone from Port Otago will call or email to try to find out what noise I heard - sometimes it's a hum /sometimes its banging and clanging of containers/sometimes the whirring and screeching of the straddlers .

Another experience comes to mind is calling the gatehouse early morning hours and the guy answers and says I cant do anything about it I'm in town so I called DCC but no they were not going to come and check out the noise. Two days later I get a call from the DCC Environmental Officer who informs me that he has been told to ignore all complaints about Port noise.

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And then to add insult to injury I had a summer party early this year and at midnight in walk the noise control people from the DCC threatening to take our speakers and computers if we didn't shut it down. Imagine the same scenario when the Port is told they will forfeit their straddlers if they don't hush them up?

Port Otago have never been out in the early morning hours to measure the noise at my house - I moved my bedroom into another part of the house - at my own expense I insulated my walls with 13mm gib board and double glazed my windows and I still hear their noise - and I am living in Careys Bay village not Port Chalmers Port and Boiler Point hasn't even opened for business.

This is what Port Otago call mitigation.

This week the DCC talked about the dba, which is the measurement terminology for sound/noise. 55 dba, the maximum allowable noise ceiling.

I have included an attachment from the ex CEO of the DCC Jim Harland for your perusal. It states that there was a level of 61 dba measured at Careys Bay -a full 6 dba more than the required noise level that is set out as reasonable ...that is 16 times louder more than the allowable noise. It is unreasonable at night.

The way the industry measures noise is they take an average over a 5 day period - so maybe one day the dba will be 75 /the next day 25 the next day 60 the next day 25 which according to the DCC quote on 2 July 2010 the agreed allowable average is 67.5 dba - that is excessive for night-time noise. So what is it 55 dba or 67 dba - in Port Otago's new environment plan they say if anyone's house is over 45dba they will mitigate?

Now because Port Otago and ORC are applying for a Coastal consent they and their lawyers and witnesses would have you believe that no noise rules apply to their latest innovation of Project Next Generation except Standard Construction noise rules.

The Resource Management Act Section 16 clearly states:

“That there is a general duty to avoid making unreasonable noise. This applies to every occupier of land, every person carrying out an activity on land or in the coastal marine area”

Just because ORC has neglected to add a noise amendment to their Coastal plan does not mean they are exempt - they have a duty and they have not been doing due diligence - oh they will show you all their lists and words and that’s all it is, words. No action

Again I remind you they have spent around \$150,000 per year for the last 7 years on noise mitigation - I pay the manager of my business that amount a year - yet we have a community in Port Chalmers that are still waiting for their places to be mitigated. That doesn’t bode well for us in Careys Bay and other coastal communities who will be adversely affected.

That’s not effective mitigation.

NIGHT SKY

Port Otago want to take the two big cranes out to the edge of their proposed extension at Boiler Point - that will have adverse effects on the character of Careys Bay and in the Dunedin District Plan it specifically recognizes the special qualities of Careys Bay

Policy 11.3.6

Protect the existing character of Careys Bay from the adverse effects of change of use or development of the port activities at Port Chalmers.

[Amended by C66/2002] Objectives: 11.2.3, 11.2.4

Explanation

It is recognised that Careys Bay together with its adjoining residential areas has a special amenity arising from the area's relationship to the bay, small scale maritime uses, its aspect and its topography. Careys Bay is generally less affected by port activities than other residential areas closer to the operational port area. This amenity should be protected. For this reason controls apply to the use of reclaimed land at Careys Bay which will be more stringent than other areas adjacent to port operations at Port Chalmers.

Method:

11.4.1

It has taken Port Otago two years to do anything about their light spill on Boiler Point - this is after I have complained ad infinitum. I shouldn't have to complain - it should be really easy to establish "best practices" shade your lights /turn them off at Boiler Point when there is no activity - and if they are worried about security then put motion sensor lighting in. Occasionally they remember but I still have a major light glaring in my windows.

However, I have noticed the closer it has come to the hearings and especially now that you are all here the lights on Boiler Point have been going out at midnight, so thank you for being here my night sky is back.

COLD IRONING AND HUSH TECHNOLOGY

Since Port Otago are wanting to build a new container berth I think it prudent to really make it a sustainable enduring port,

and I want to share with you some environmental technologies that could help Port Otago become the cleanest Port in the nation and still be able to operate a profitable business.

Traditionally ships are not subject to emissions control and diesel engines are the principle source of power for ships – one ship pollutes as much as 50 million cars annually and studies indicate 60,000 of cardio pulmonary mortalities are due to ships emissions. Ports across the world are exploring ship to shore power capabilities.

Ships from around the world average 100 days in port in a year per ship. The average cost of fuel consumed per day in a port are 5 MT (metric ton), so high fuel costs are a factor in running of ships. Some regions in the world already require ships to switch to clean fuel in local waters. Ship owners require cheaper compliant sources of electric power to meet global laws and reduce insurance costs. An average size container ship consumes ten tons of fuel per day in port for power needs.

Shore power or cold ironing enables ships at dock or in dry dock to use shore-side electricity source to power which eliminates air emissions associated with the use of auxiliary engines and shifts the burden of power to the local grid.

Now I submit that using this form of power (which is already in use with the refrigerated units) for electronic systems including fuel systems/loading and unloading activities and to discontinue the use of auxiliary engines will lessen both noise and generator Pollution. The costs are passed on to the shipping company, which equal the costs they already have to pay using their generators.

e.g. A container ship would use roughly 1 – 4 MWe while berthed (megawatts/ 1 megawatt is worth a million watts) its like heating 250 houses.

Cruise ships use much more but because cruise ships have no

loading activity they are considerably quieter

Voltage requirements around the world are 220-240/50 hz except for the Americas/northern Africa and Japan which are 120v etc.

Other hush technologies include:

Reducing the speed of putting down a container and low noise Driving (eco driving)

Put the source of the noise into insulated buildings or barriers around the noise source.

Silent exhaust pipes

Electricity instead of diesel or diesel electric moving equipment

Use water cooling instead of air cooling

Use softer ground - quiet asphalt

Yes its expensive but both Port Otago and Butcher claim that they will be making between 213 million (if we don't expand) to 1,255, million if we do? To have a sustainable enduring business with those numbers they can afford to throw ten million on the environment and mitigation.

Now obviously I am not a shipping expert but I find everything about Port Otago's application to be old fashioned and not sustainable or enduring.

ECONOMICS

Port Otago have talked about how much their business means to the region and would have us believe if we don't grant them these consents that the Port will die - there will be no business - that's scare tactics, but lets look at that:

In the last 20 years Port Otago has bought in nearly 70 million dollars to the ORC and in the last 7 years it has spent around a million dollars in "mitigating" their pollution.

Port Otago's property portfolio is worth nearly 10 million dollars.

And they make a profit of around 15 - 30 million a year (depending which Port Otago document or paper you read) and they make about another million dollars from their Lyttleton Port investment. And they have spent at least \$2million on their current application with research/lawyers and witnesses.

Business will not stop because we can't accommodate bigger ships and please mind how you read Butchers evidence - he's taking an awfully big assumption predicating his numbers on freight charges going down. We all know fuel costs are not going down, in fact, anything within the oil business is pretty volatile and doesn't look much like stabilizing in the next ten years.

Lets look at our national economy - 4 or 5 different ports in New Zealand are getting ready to carve up their harbours all vying for the same contracts - to be the next hub and not the feeder port. How is this economic?

What about the economics of the fishermen - a \$6 million dollar cray fish operation to be decimated for ten years while Port Otago get to do their business - a cockle business out of business, while Port Otago get to do their business - the loss of business for all the fishermen currently fishing in these waters and loss of

business for our eco tourism industries and the loss of kai moana for our iwi?

How does one put a value on the amenities of Otago Harbour Its magic and does this mean that for an increase of ten million more dollars a year in 2028 and beyond that we residents and other businesses must suffer a loss - a loss of amenities and a loss of livelihood - this is the human impact.

And finally, me, I am submitting to you some maps I believe are from Marshall Day Acoustic Engineering firm - where it clearly shows their predictions for bow out 6000 TEU ships.

55 dba right into my living space, which is a false prediction in my mind given that I sometimes hear up to 61 dba from the Port and in the new Environment Plan they talk about mitigating properties a 45dba?

How do they plan to mitigate my place and again I have no intention of moving or begging Port Otago to do the right thing.

In my business when things change we make an effort to discuss with the client or the persons affected and come from a helpful position - hiya Kris this is what we got going here /its going to be noisy for you - we want to make it bearable and are happy to get you some hush glass in that room? Where was that conversation?

That's mitigation

Instead we have here, what is known in my business, as "pussies", guys too cowardly to really sit down and be transparent and really discuss with the homeowner options of mitigation.

They have shown clearly in the past they do what's expedient for them with no regard for their neighbours amenities or health or wellbeing.

Therefore I am pleading with you gentlemen to have the courage to help Port Otago and the ORC recognize that its not the 1950's anymore but the 21st century and put in place a real Environmental Management Plan with policing and enforcement action to accompany their mitigating/monitoring and measuring techniques.

Before any consent is given please consider these issues:

Deny Port Otago the flexibility of 24/7, 10 year dredging between the hours of 10.pm to 7 a.m. RMA sect 16 - duty to avoid unreasonable noise.

**Deny Port Otago consent to dump their dredge spoils into the sea because they have not shown how they will manage, adequately, the wildlife concerns of the general public.
RMA section 316 - if a condition cannot be enforced it becomes meaningless. Conditions must be clear & relevant.**

Deny Port Otago consent to dump their maintenance dredge spoils into the sea because again they have not been able to manage the environmental effects within our coasts.

**Deny Port Otago consent to use the Boiler Point extension as the Preferential Container Port because they have shown no interest in mitigating their own noise within their own boundaries.
RMA Sect 16. Duty to avoid unreasonable noise.**

**Add /DCC/Port Otago
Environment Plan - rules setting out Port Otago's obligations.**

Change activity use name of the new extended wharf as a "conditioned activity" rather than "multipurpose" and that it specifically states that this new berth is not be used at any future date for log processing, as they have in the Port.

Deny consent on building a public fishing wharf on the basis that it will not be safe for the public.

Conditions I wish you to consider when giving consent to this application .

**That a new Environmental Mitigation plan be sought for Boiler Point taking into account DCC's District Plan Policy 11.3.6
An independent cross boundary Environmental Committee to be set up .**

That mitigation must begin in Careys Bay at the time they start to dredge and to be completed within 3 years.

**Rules need to be set to determine how and when the Boiler Point Extension be used e.g. that it is not the preferred berth and that it is not to be used for night time container loading and unloading.
Extension to be used, only, when a cruise ship is in Port.**

I am heartsick at the intensity of this project and it must be asked how residents and port industry live together.

I, as a resident, have compromised, I accept that Port Otago are governed by global shipping movements, so I deal with the day time and night time shipping activity of the Port in Port Chalmers but to have elective construction activity so they can have an extension ready sometime between 5 and 10 yrs is unreasonable.

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To further ask us to compromise in Careys Bay and open up container services on the proposed extension is against the DCC DISTRICT PLAN, policy 11.3.6 whether or not you recognize that, it is a condition set down and to disregard it seems to be against the spirit of the RMA.

My main concern is that Port Otago have shown that they cannot be the ones to rubber stamp the Environment Plan, they cannot be trusted to do due diligence.

Please do not let your legacy be the further destruction of our Harbour and give great thought to the other economics of this area. I know that you care for this land as environmentalists, do the right thing and err on the side of the fisherman /the surfers /the iwi /our marine & wildlife /our eco tourism and our residents.

Thank you for your time.