

1 September 2025

Expert Consenting Panel
C/- Environmental Protection Authority

By email: stephanie.bougen@epa.govt.nz

RE: Response to Request for Information No1 – Rangitoo-puni, Fast-track Approvals Act 2024

We refer to the Request for Information No. 1 (RFI) from the Expert Consenting Panel in relation to the Rangitoo-puni fast-track application (May 2025). Our response to point 2 of the RFI is set out below.

2. *Included with the Application materials is a document entitled “Outline of changes made to the application” which includes the statement: “All of the application documentation ... has been updated to remove reference to the three retail units (retail hub) and microbrewery”. The amendments to the AEE can be seen in the AEE – Re-lodgement (tracked changes) document. The Panel have assumed that the changes shown were made to the Application after it was lodged but prior to the EPA concluding its section 46 completeness and scope determination. The Panel wish to understand the reason for the change to the Application and accordingly, seek the following information:*
- a) Copies of all plans, reports and documents depicting and describing the proposed retail hub and hospitality proposal.*
 - b) Copies of all communications between the EPA and the applicant in relation to this aspect of the proposal, including in relation to scope, that occurred prior to the EPA issuing its section 46 decision.*
 - c) Confirmation that, if the Panel considers there is scope to approve this activity, that the Applicant wishes to amend the Application to reinstate it.*

Response:

The applicant wishes to thank the Panel for taking the proactive initiative to seek clarification on this matter.

Substantive application – 4 April 2005

The original substantive application for Rangitooopuni, lodged on 4 April 2005 (FTAA-2504-1040), described the Activity for which consent was sought as follows:

208 residential lots in the countryside living subdivision and 260 villas and 36 aged care facilities in the retirement village (a total of 296 units). Community facilities, including sport amenities, a community building and parking areas, are proposed for the future residents of the proposed subdivision, in addition to providing a public carpark and public access to the walkway network across the site. In addition, a retail hub comprised of a microbrewery and three retail units is proposed.

Schedule 2

Schedule 2 of the FTAA describes the project as follows:

Subdivide land and develop approximately 210 residential allotments and an approximately 350-unit retirement village.

In undertaking its completeness check for the original application, the EPA advised that it had concerns that the microbrewery and retail units were out of scope. The concerns arose from the EPA's view that only those matters expressly described in the description of the project in Schedule 2 FTAA can be applied for.

On that basis, and after a pre-application meeting with the EPA, the substantive application (re)lodged on 5 May 2005 removed any reference to retail units and the microbrewery. As such, the amendments to the application were made *before* rather than after it was lodged.

Interpretation of Scope

Schedule 2 descriptions are not consistently comprehensive, and many residential proposals listed are described generically. Interpretation in a workable manner is expressly enabled by paragraph (b) of the definition of "project". The wording of (b) is "*includes any activity that is involved in, or that supports and is subsidiary to, a project referred to in paragraph (a)*". This wording would be superfluous if the description in Schedule 2 was required to comprehensively list every single activity being part of the project, with anything not specifically set out in the description being out of scope.

Judicial Review Context

On Wednesday 27 August 2025 the High Court¹ released its decision on a judicial review application challenging the EPA's decision that the Port's substantive application was complete and within scope. The judicial review was successful.

The sole ground for review was whether the description of the project in Schedule 2 to "extend the Sulphur Point wharf" should be read to include "extend the Sulphur Point *and Mount Maunganui wharves*". The Court stated that "only if those additional words can be read into the description will the EPA's decision to accept the application comply with s46(2)(b)."

In light of this recent judicial review decision relating to the Port of Tauranga's Stella Passage Development fast-track application, RDLP has carefully reconsidered whether to reinstate the retail hub and microbrewery. While RDLP would prefer to include these activities within the substantive application, it acknowledges that they were not part of the application lodged on 5 May 2025. The applicant has carefully assessed the risk of reinstating these components, weighing the potential benefits of having them consented against the heightened risk of judicial review and the possibility of subsequent delays. Given the uncertainty around whether such an appeal might be lodged and the consequences if it were successful, RDLP has determined that this risk is not acceptable. For this reason, the applicant does not seek to add these activities into the current proposal and will instead address them separately through future consenting processes.

The applicant wishes to thank the Panel for raising this matter and providing it with an opportunity to consider its options in this regard.

Yours sincerely,



Michelle Kemp
Partner/Principal Planner

¹ *Ngati Kuku Hapu Trust v Environmental Protection Agency* [2025] NZHC 2453.