



# Stella Passage Development

**Fast-track Approvals Act 2024  
Referral Application**

Attachment 1: Referral  
Application Report

**Port of Tauranga Limited**

**September 2025**

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## **1. APPLICANT**

### **1.1 APPLICANT DETAILS**

**Person or entity making the request:** Port of Tauranga Limited

Port of Tauranga Limited (“**POTL**”) was established under the Port Companies Act 1988 to replace the former Bay of Plenty Harbour Board. POTL operates the Port of Tauranga (“**Port**”) to provide customers with highly effective supply chains internationally and within New Zealand.

POTL is the entity requesting referral of the Stella Passage Development (“**the Project**”) for processing under the Fast-track Approvals Act 2024 (“**FTAA**”) as set out in this application.

POTL’s facilities in Tauranga are New Zealand’s largest container terminal (at Sulphur Point) with extensive bulk cargo wharves and storage facilities, and bunker berths (at Mount Maunganui). The Port is served by state highways and is connected by rail to Hamilton (including the Ruakura Inland Port), Auckland and the central North Island.

POTL’s presence in the Bay of Plenty provides an economic anchor for Tauranga, New Zealand’s fifth largest city (which continues to grow). POTL directly employs approximately 287 people. In addition, Port operations stimulate other businesses and supports several thousand jobs in associated industries and services, across Tauranga, the wider Bay of Plenty region and beyond.

Economic activity directly related to POTL’s business operations are only a small component to the Port’s wider significance. The key value in the Port’s operations is its important role in facilitating trade and thereby supporting other industries to create value across the regional and national economies. The Port handles 51% of the total value and 40% of gross weight of New Zealand’s exports each year.

In April 2025, POTL applied for this Project as a “listed” application via Schedule 2 of the FTAA. Processing of that listed application is on-hold after a High Court decision identifying a technical error with the Project scope described in Schedule 2 of the FTAA.

As the High Court decision noted, it is open to POTL to apply for the Project as a referral application. To avoid doubt, this application is for the same Project as POTL applied for in April 2025 via the listed application pathway under Schedule 2 of the FTAA.

## 1.2 AUTHORISED PERSON – SECTIONS 13(2)(B) AND 13(3)(A)

**Contact Person:** Dan Kneebone  
**Organisation:** Port of Tauranga Limited  
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**Phone:** s 9(2)(a)  
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Tauranga Mail Centre  
Tauranga 3143

### 1.2.1 Agent Acting on Behalf of the Applicant

**Contact Person:** Luke Faithfull  
**Organisation:** Mitchell Daysh Limited  
**Job Title:** Partner  
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**Email:** s 9(2)(a)  
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Takapuna  
Auckland 0740

Please direct all correspondence relating to this application to both the Authorised Person and the Agent for the Authorised Person.

## **2. REFERRAL APPLICATION SUMMARY**

### **2.1 PROJECT DESCRIPTION AND LOCATION**

#### **2.1.1 Project Description – sections 13(4)(a) and 13(4)(d)**

This referral application seeks resource consents and a wildlife approval for POTL's Stella Passage Development at the Port. The Project's key components and activities are:

- > Deepening, by dredging, of approximately 10.55 ha of Stella Passage to a finished depth of approximately 16 m below Chart Datum ("CD") (approximately mean low water spring tide). This would yield a volume of dredgings of approximately 1.5 million cubic metres ("Mm<sup>3</sup>"). This dredging will provide clearance for vessels to berth at the proposed wharf extensions;
- > Maintenance dredging, on an as needed basis, to maintain an operational depth of 16 m below CD within sitting basins and the shipping channel of Stella Passage;
- > Reclamation of approximately 3.58 ha of the CMA either side of Stella Passage, to facilitate the wharf extensions. Approximately 1.81 ha is to be reclaimed on the Sulphur Point (western) side, and approximately 1.77 ha is to be reclaimed on the Mount Maunganui (eastern) side;
- > Development of an approximately 385 m long extension to the south of the existing Sulphur Point wharves in two stages, a 285 m extension first, and the balance later;
- > Development of an approximately 315 m long extension to the south of the existing Mount Maunganui wharves in stages;
- > Reconfiguration of existing structures and development of new structures in the CMA, primarily wharf piles, berthing piles and jetties;
- > Construction and use of four additional cranes atop the proposed Sulphur Point wharf extensions for port operations (shipping container handling);
- > If necessary, the capture and relocation of kororā/blue penguins from the footprint of the Mount Maunganui extension; and
- > Activities involved in, or that support and are subsidiary to, the Project. These include for example:
  - development of new penguin nesting boxes and habitat, and a penguin access ramp, at the south end of Butters Landing;

- development of the equivalent of 200 m of existing gull habitat in the rock seawall;
- installation of 11 mooring/breasting dolphins beside the existing Tanker Berth;
- relocation of the existing ferry ramp and nearby jetties towards the north;
- development of a bunker barge jetty and associated mooring/breasting dolphins between Butters Landing and the ferry ramp.

For the purposes of section 13(4)(d), the Project layout, including an indicative crane arrangement at Sulphur Point, is shown in the figures below and the proposed plans provided as **Attachment 2**.

Port productivity is a national issue and is of great concern to customers seeking efficient access to international markets. At Tauranga, the Port's existing operations are constrained by limited throughput capacity at both wharves. The key driver for the Project is to address these constraints. Doing so will ensure that New Zealand does not incur significant, compounding economic opportunity costs resulting from unrealised growth in import and export activity as discussed in the Economic Assessment provided as **Attachment 3**.

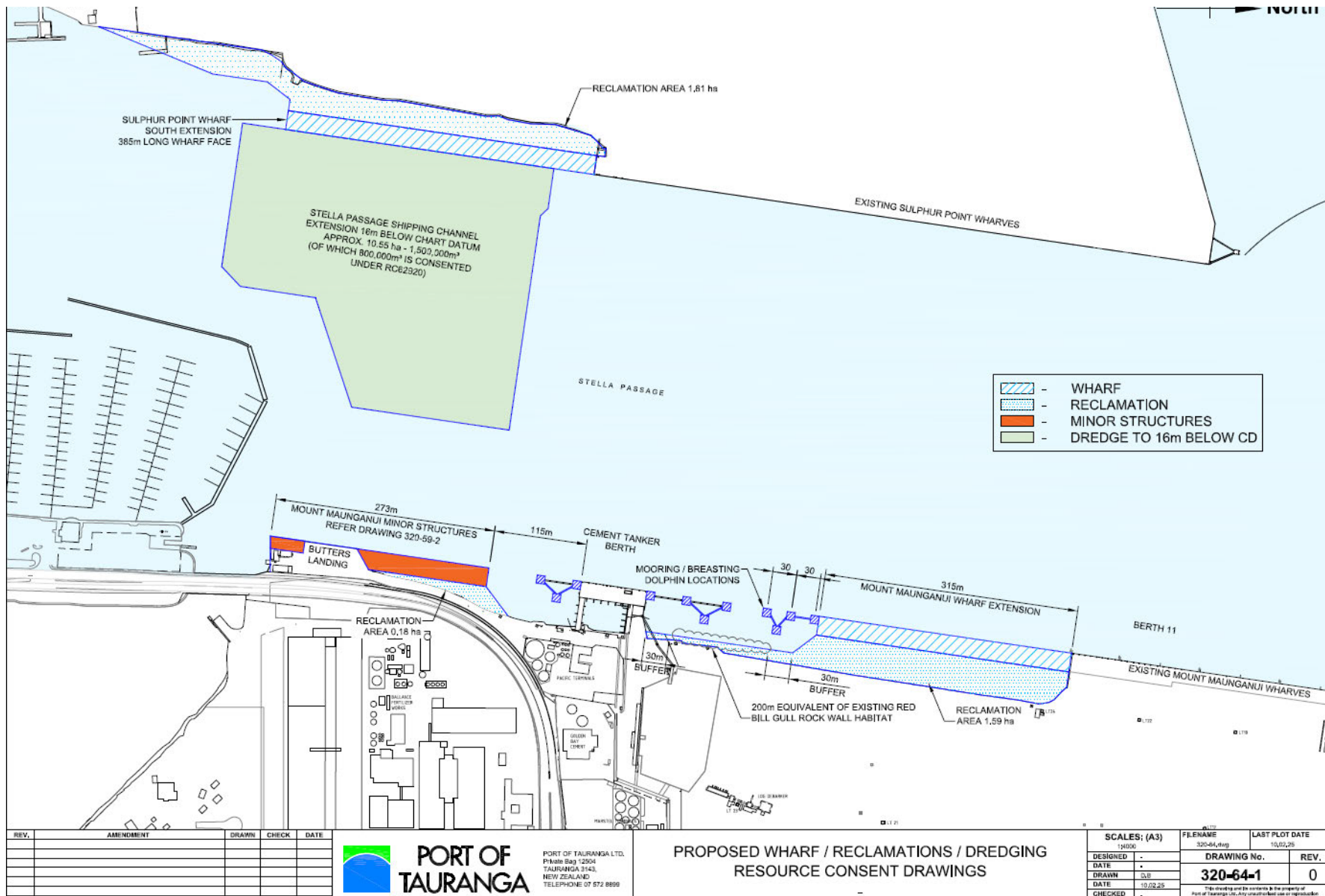


Figure 1: Project Location.



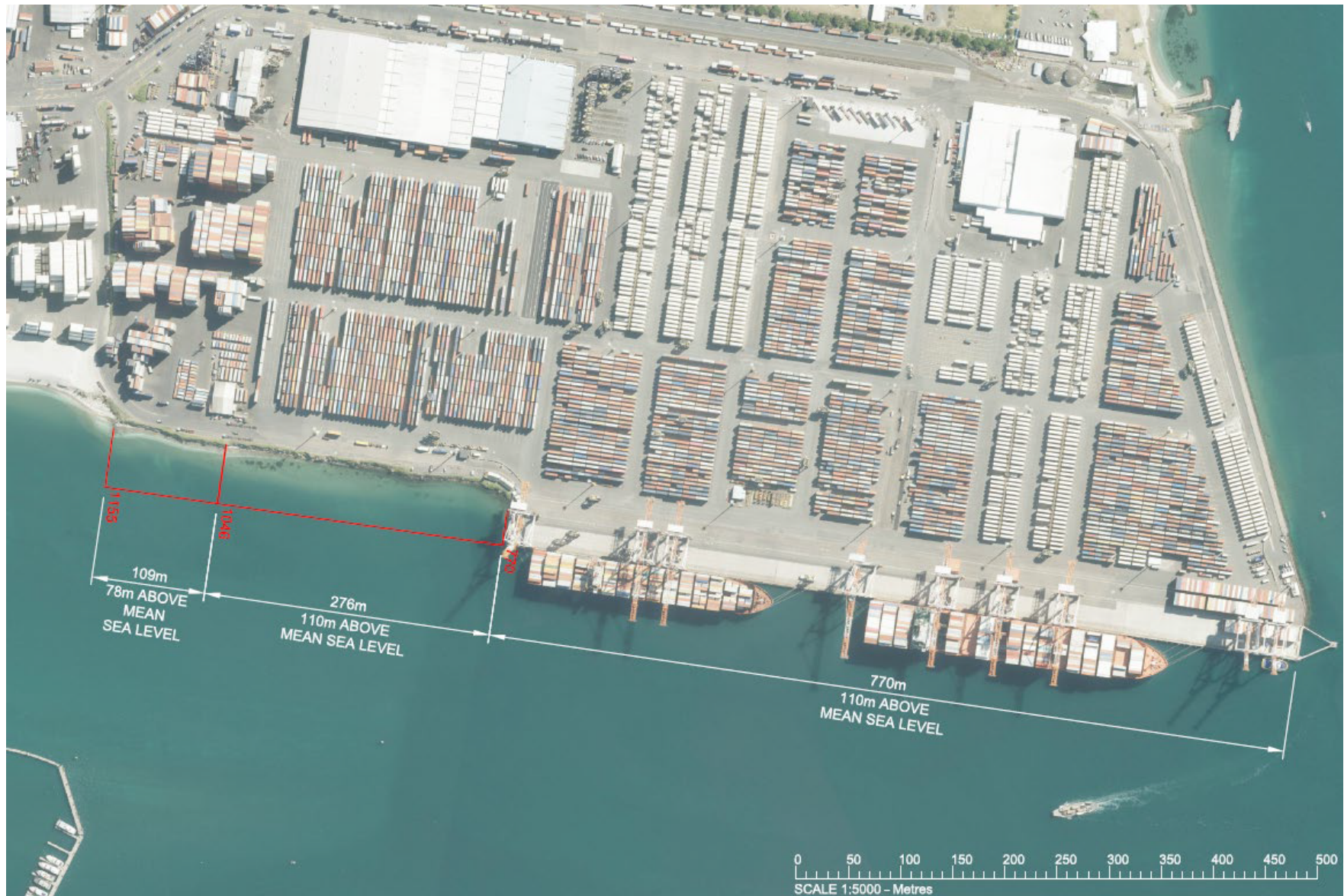


Figure 2: Indicative Sulphur Point Crane Heights.

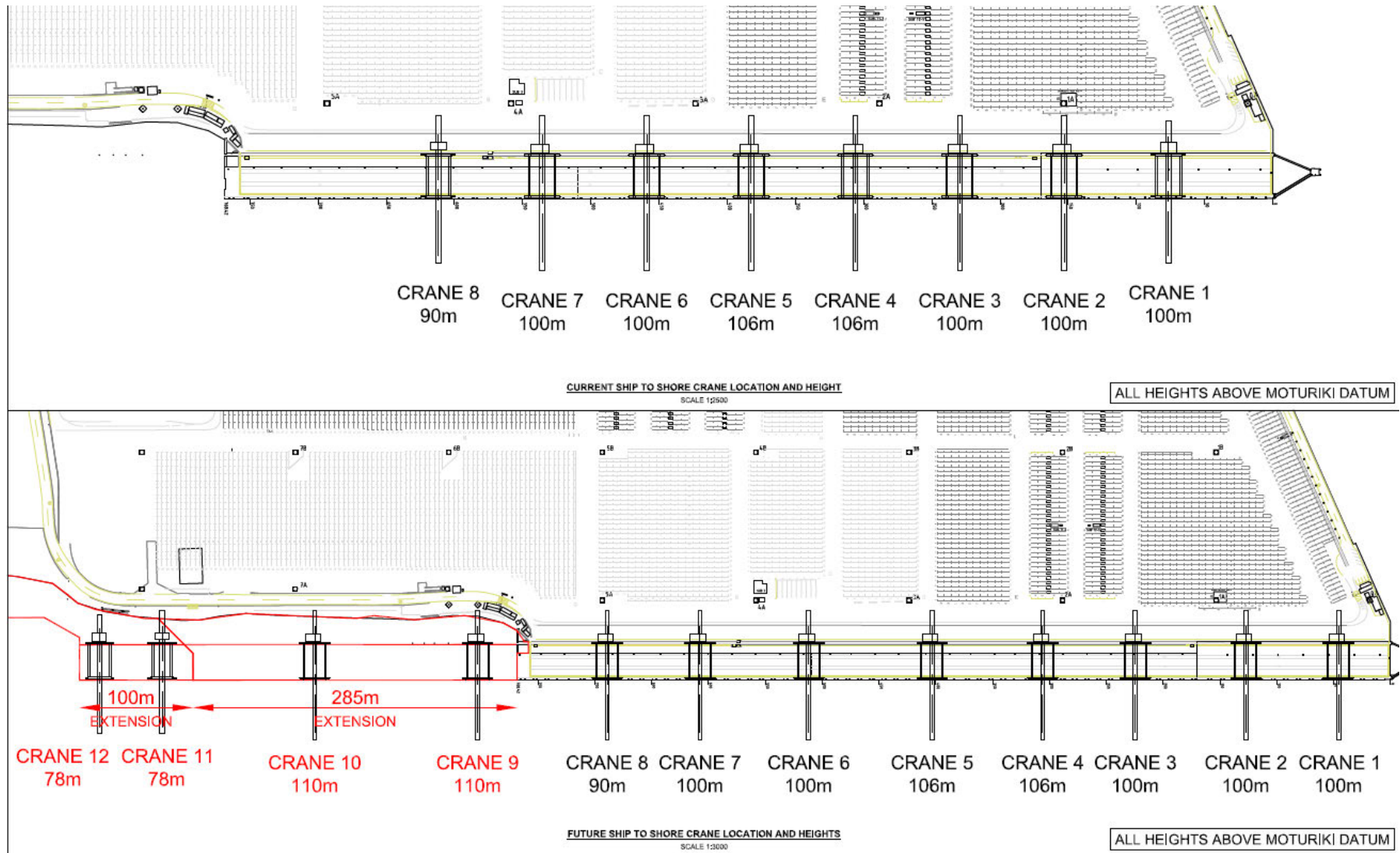


Figure 3: Indicative Sulphur Point Crane Layout.



2.1.2 Project Location

The Project is located in the CMA, with the reclamations creating some new land. The Project footprint is in both the Port Zone and the Port’s defined area of coastal occupation at Stella Passage. These areas are detailed in the RCEP, and the extract below from the RCEP GIS maps shows the Port Zone and Port coastal occupation area around Stella Passage.

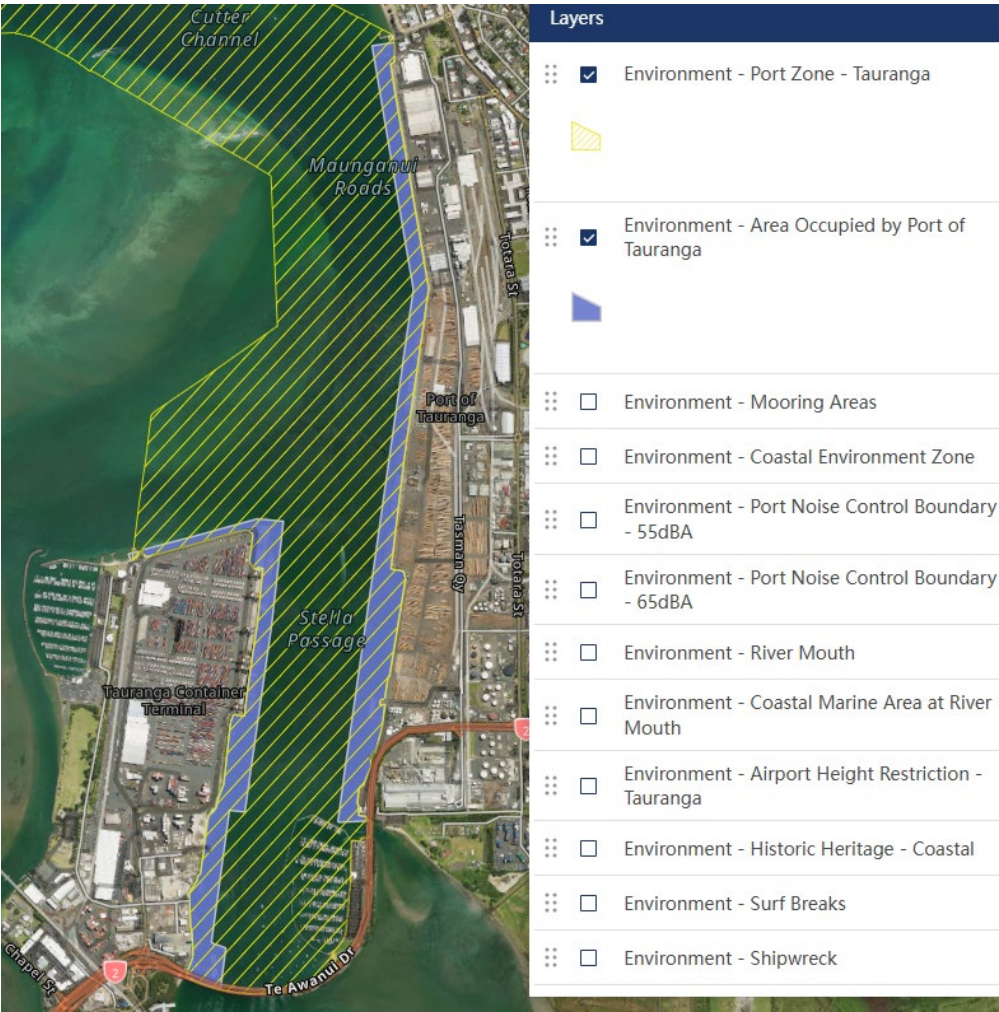


Figure 4: Port Zone and POTL Coastal Occupation Area.

The figure below is an aerial image looking from south to north over Stella Passage. The Sulphur Point wharves are visible on the left side of the figure, while the Mount Maunganui wharves are visible on the right side.



**Figure 5: View North over Stella Passage.**

Sulphur Point is a large reclamation formed from 1969 onwards on the historical intertidal flats of Te Awanui/Tauranga Harbour. POTL owns and occupies some 75 ha of the peninsula created by the historic reclamation.

Among other things, Sulphur Point features approximately 38 ha of paved container yard storage, 25,000 m<sup>2</sup> of covered storage, a 9,000 tonne cold store, 2,650 fixed reefer points for refrigerated containers (the largest reefer capacity in the Southern Hemisphere) and 770 m of wharves, which were last extended in 2013. The figure below presents a view north over Sulphur Point, with the wharves and cranes visible at the right side of the image.



**Figure 6: View North over Sulphur Point.**

On the east side of Stella Passage, opposite Sulphur Point, POTL owns and occupies some 90 ha associated with the Mount Maunganui wharves and port facilities.

The Mount Maunganui wharves provide approximately 2,060 m of wharf with five bunker points to allow ships to refuel while un/loading. These wharves mainly cater for log storage and handling, bulk cargo handling, breakbulk cargo handling and cruise ships. A Tanker Berth located south of the main wharves and opposite the Sulphur Point wharves caters for the export and import of bulk liquids and cement.

The relatively narrow marshalling land behind the wharves has led to a defined separation of activities along the wharves. The northern half of the wharves are largely dedicated to handling product requiring dry storage, because the land behind the wharves has a mix of cool store, flour mill and large general stores.

The southern half of the wharves are backed up by log storage. Approximately 55% of the logs exported through the Port are transported via rail to the log marshalling area. The rail siding is situated through the middle of the log yards and provides an efficient means of transporting logs from forest to port.





**Figure 7:** View South-west over Mount Maunganui Wharves.



**Figure 8:** View South over Mount Maunganui Tanker Berth.

## 2.2 INELIGIBLE ACTIVITIES – SECTION 13(4)(C)

The term “ineligible activity” is defined at section 5 of the FTAA. Based on that definition, the Project is not an ineligible activity because it:

- > Will not occur on identified Māori land;
- > Will not occur in a customary marine title (“**CMT**”) area;
- > Will not occur in a protected customary rights (“**PCR**”) area;
- > Will not occur on Māori customary land;
- > Will not occur on land set apart as a Māori reservation as defined in section 4 of Te Ture Whenua Māori Act 1993;
- > Is not an aquaculture activity;
- > Does not require an access arrangement under the Crown Minerals Act 1991;
- > Is not an activity that would be prevented under section 165J, 165M, 165Q, 165ZC or 165ZDB of the Resource Management Act 1991;
- > Will not occur on land that is listed in Schedule 4 of the FTAA;
- > Will not occur on a national reserve held under the Reserves Act 1977;
- > Will not occur on a reserve held under the Reserves Act that is managed by someone other than the Department of Conservation or a local authority;
- > Is not a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act;
- > Is not an activity that is described in section 15B of the Resource Management Act 1991 or an activity that is prohibited by section 15C of the Resource Management Act 1991;
- > Is not a decommissioning-related activity; and
- > Is not an activity undertaken for the purposes of an offshore renewable energy project.

## 2.3 APPROVALS REQUIRED- SECTION 13(2)(D)

A referral application must specify the proposed approvals but need only provide a general level of detail about each proposed approval, sufficient to inform the Minister’s decision on the referral application. The proposed approvals are set out below.

### 2.3.1 Resource Consents

POTL seeks all resource consents that are required under the Resource Management Act 1991 (“**RMA**”), the Bay of Plenty Regional Coastal Environment Plan (“**RCEP**”) and the Tauranga City Plan (“**TCP**”) to authorise the activities below:

- > Maintenance dredging as a **controlled** activity under RCEP rule PZ 5;
- > Development of structures in the CMA and the associated occupation of coastal space as a **restricted discretionary** activity under RCEP rule PZ 8;
- > Development of cranes as a **restricted discretionary** activity under RCEP rule PZ 9;
- > Dredging (including discharges and disturbance) of the seabed as a **restricted discretionary** activity under RCEP rule PZ 10;
- > Development of reclamations as a **restricted discretionary** activity under RCEP rule PZ 11; and
- > Development of cranes as a **restricted discretionary** activity under TCP rule 18A.15.b.

The above activities entail the matters specified at the following sections of the RMA:

- > Section 9(3)(a) - land use activities (district and regional) relating to crane development;
- > Section 12(1)(a) - reclamation of the seabed;
- > Section 12(1)(b) - erection and extension of structures fixed to the seabed;
- > Section 12(1)(c) – disturbance of the seabed in a manner likely to have an adverse effect on the seabed;
- > Section 12(1)(d) – deposition of any substance in, on, or under any foreshore or seabed in a manner likely to have an adverse effect;
- > Section 12(1)(e) - disturbance of the seabed in a manner likely to have an adverse effect on plants, animals or their habitat;
- > Section 12(2)(a) – occupation of the common marine and coastal area; and
- > Section 15(1) – discharges of contaminants to the coastal marine area associated with the construction of reclamations and structures in the CMA.

The dual district and regional resource consent requirements for the cranes arise from the crane operations ranging across both the CMA and land above Mean High Water Springs.



It is appropriate to bundle the activities for which consent is required, as they are inter-dependent. Therefore, the Project is a **restricted discretionary** activity overall.

### **2.3.2 Wildlife Approval**

Section 63(1)(b) of the Wildlife Act 1953 (“**Wildlife Act**”) makes it an offence to capture absolutely protected wildlife and/or have absolutely protected wildlife in one’s possession, without appropriate approval.

Tarāpunga/red-billed gulls and kororā/blue penguins are absolutely protected wildlife under the Wildlife Act. Both species utilise a constructed rock wall located in the footprint of the proposed Mount Maunganui wharf extension.

For the Mount Maunganui wharf extensions, a section of the rock wall must be removed. It cannot be avoided as it is squarely in the reclamation and wharf construction footprint.

POTL proposes to encourage the gulls and penguins to relocate from their current locations within the existing rock wall to replacement, higher quality habitat to be created nearby. The section of rock wall occupied by birds will only be dismantled outside of breeding seasons, to avoid disturbing nests. The replacement habitat for the birds to relocate to will be created in the year before works to dismantle the rock wall begin.

POTL does not propose to capture or possess any tarāpunga/red billed gulls. These birds are likely to relocate of their own accord. However, it may be necessary for POTL’s trained penguin handler to physically remove and relocate any penguins that remain in the rock wall before it is dismantled.

Therefore, POTL is applying pursuant to section 42(4)(h) and schedule 7 (Approvals relating to the Wildlife Act) of the FTAA for a wildlife approval to capture and possess kororā/ blue penguins. This approval is a precautionary measure, to enable the relocation of individual birds that do not relocate of their own accord.

## **2.4 CRITERIA FOR ACCEPTING A REFERRAL APPLICATION – SECTIONS 13(4)(B) & 22**

A recent High Court decision (discussed later in this report) has prevented the Project from being processed in a comprehensive and cohesive way under the FTAA as a “listed” project, POTL is now advancing the Project for processing via the “referral” application pathway.

This sub-section addresses section 13(4)(b) of the FTAA, which requires that an application must include “an explanation of how the project meets the criteria in section 22”.

#### 2.4.1 Significant Regional or National Benefits – section 22(1)(a)

The Project is a transport infrastructure project with significant regional and national benefits associated with facilitating economic growth in more than one region or district and directly or indirectly supporting much other economic activity in surrounding districts.

The New Zealand Institute of Economic Research (“NZIER”) has reported<sup>1</sup> that while POTL is a substantial economic presence in Tauranga (through its employment of hundreds of staff and contractors), POTL’s revenues are a small part of the Port’s value to New Zealand. The Port’s national significance is mainly in the value of the goods crossing the wharves at Tauranga and the value added that these goods generate with further transformation and use in New Zealand.

The existing Port facility is nationally and regionally significant. In canvassing the scale of existing activity at the Port, NZIER notes that:

- > Tauranga is New Zealand’s largest port by volume throughput. It handles about 50% more containers and bulk<sup>2</sup> freight tonnage than the next largest port (Auckland);
- > In the 2025 financial year, the Port’s container throughput was 1,208,252, equating to 40% of New Zealand’s total container trade. That year, the Port was also the largest port by bulk (non-containerised) trade, handling 12 million tonnes, or 25% of New Zealand’s total. The Port had the most ship visits to any port in the country for these two freight categories; and
- > The Port handles around 51% of the total value and 40% of gross weight of New Zealand exports each year.

In light of the current constraints on the Port’s cargo throughput capacity, NZIER’s assessment of the one-year opportunity cost estimates for 2033 that would occur if the Project was forgone and the existing constraints on container and bulk cargo handling were allowed to endure, revealed the following upper and lower opportunity cost estimates at the local (Tauranga) and national levels:

- > For the Tauranga economy, an estimated range from -\$54 million to -\$79 million, being reductions of approximately -0.36% to -0.54% of the city’s contribution to GDP; and
- > For the national economy, an estimated range from -\$792 million to -\$1.179 billion, being reductions of approximately -0.16% to -0.24% to New Zealand’s GDP.

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<sup>1</sup> NZIER. 2024. *Stella Passage Development – Economic Assessment. A report for Port of Tauranga Limited*. See the copy provided as Attachment 3.

<sup>2</sup> “Bulk” refers to non-containerised cargo such as logs, vehicles, fertiliser etc.

Relevantly to the assessment criteria at sections 22(1)(a), 22(2)(a)(ii) and 22(2)(a)(iv) of the FTAA, the above estimates confirm that this Project will enable the continued and improved functioning of existing infrastructure, to provide significant national and regional benefits, including significant economic benefits. These outcomes are directly aligned with the purpose of the FTAA.

NZIER's detailed assessment of the Project's national and regional economic significance forms **Attachment 3** to this application.

#### **2.4.2 Implications of Referring the Project – section 22(1)(b)**

Referring the Project to the fast-track approvals process will facilitate a more timely and cost-effective process compared to Resource Management Act 1991 ("**RMA**") processes.

This is shown by the prolonged Environment Court direct referral process the Project previously encountered. A direct referral application for the Project was lodged with the Environment Court under the RMA in May 2021. When POTL withdrew from that process in April 2025, only Stage 1 of the Sulphur Point wharf extension/reclamation had been granted, pending confirmation of conditions (in a second interim decision). Decisions on Stage 2, encompassing the balance of the Sulphur Point development and all of the Mount Maunganui development were still to be made. In late 2024, three High Court appeals were filed against the Environment Court's first and second interim decisions. The interim decisions are provided as **Attachment 5** and **Attachment 6** to this application.

Although the Environment Court's interim decisions were positive, the protracted timelines were extremely costly, and the Environment Court held that further information would be required, as provided for in its first interim decision, for it to determine the Stage 2 Sulphur Point and Mount Maunganui developments.

In contrast, when administering POTL's "listed" application for this Project in August 2025, the FTAA Panel Convenor set an Expert Panel processing duration of 80 working days following the receipt of invited comments under section 53 of the FTAA. This indicates improved timeliness under the FTAA process when compared to RMA processes.

For the purposes of section 22(1)(b)(ii), accepting the Project for referral will not affect the operation of the fast-track approval process. The High Court recently found that the scope of the "Stella Passage Development" listed in Schedule 2 of the FTAA, is limited to Sulphur Point only and does not include Mount Maunganui.<sup>3</sup>

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<sup>3</sup> *Ngāti Kuku Hapu Trust v Environmental Protection Agency* [2025] NZHC 2453, dated 27 August 2025

For the purposes of integrated decision making, processing the entire Project via the FTAA is appropriate. The potential alternative, of dividing decision-making on components of the Project between FTAA processes, or between RMA and FTAA processes, would introduce needless complexity to decision making and to post-approval administration and implementation of separate approvals, as well as the obvious drawbacks of a piecemeal approach towards environmental management at a contiguous Project site.

The Project is supported by robust technical information. A substantive application has already been progressed to the expert panel stage of the FTAA process. This demonstrates that sufficient information is available for the Project to pass through the Environmental Protection Authority's ("EPA") completeness checks under section 46 of the FTAA.

### **2.4.3 Relevant Ministerial Considerations for Acceptance**

Under section 22(2)(a), the Minister "may" consider various matters in relation to a referral application. These matters are assessed in the following sub-sections.

#### **2.4.3.1 Has the Project been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list?**

No, the Project is not identified as a "priority" in government or sector plans or strategies.

Nonetheless, the Project is expressly recognised and provided for in the RCEP, by the Port Outline Development Plans. Those Outline Development Plans (an example is provided in the figure below) contemplate a markedly larger Project extent than the design POTL is proposing. POTL has refined the design and compressed the Project footprint to minimise environmental effects, particularly on Māori cultural values and Whareroa Marae.

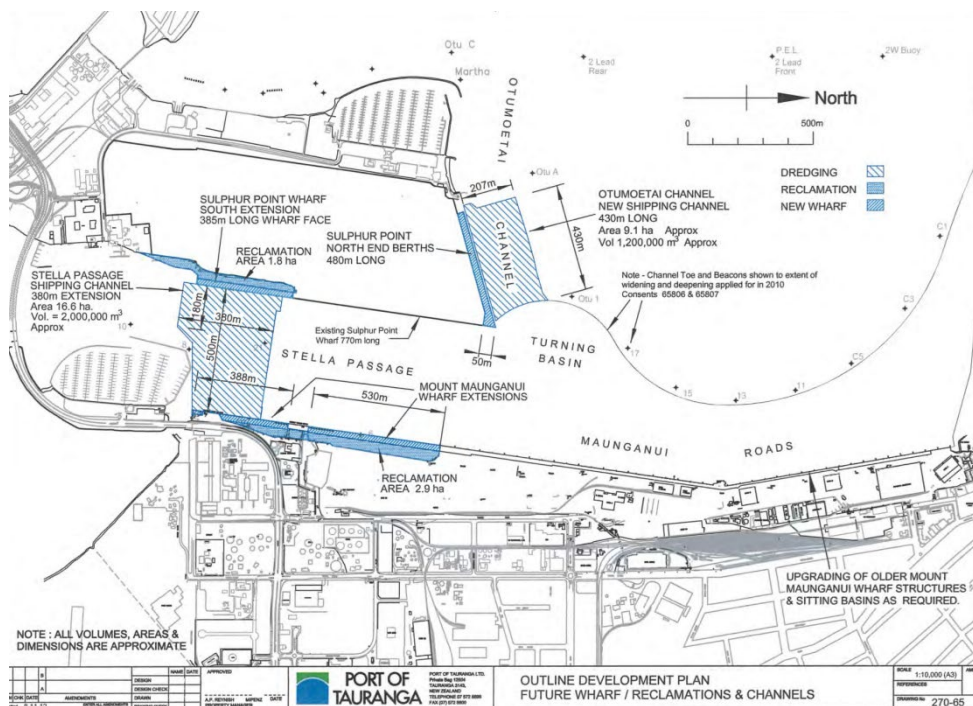


Figure 9: Port Outline Development Plan.

#### 2.4.3.2 Will the Project deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure?

Yes. The Project will enable and enhance the functions of existing significant infrastructure by removing existing constraints on the Port's freight throughput capacity, including:

- > Extending the wharves and installing the cranes, Tanker Berth upgrades and Butters Landing upgrades; and
- > Replacing Berths 4 – 6 at the Mount Maunganui wharves, which are at the end of their economic life and have compromised productivity.

Delivery of the Project will maintain the existing significant benefits of the Port. Furthermore, and critically, the Project will enable New Zealand to avoid the significant economic opportunity costs that would accumulate over successive years for as long as constraints on the Port's throughput capacity are allowed to persist. **Attachment 3** discusses these costs in detail.

#### 2.4.3.3 Will the Project increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of Policy 1 of the National Policy Statement on Urban Development 2020)?

Yes, indirectly. The Project does not directly contribute to the supply of housing. However, the Project will alleviate constraints on throughput capacity. These constraints affect all

manner of imports, including imports of supplies that underpin the construction industry. These imports include (for example) gypsum, which is a key component in the manufacture of plasterboard.

As such, by alleviating constraints on Port throughput capacity, the Project will contribute meaningfully to the continued supply of building materials. Clearly, maintaining an adequate supply of building materials is fundamental to efforts to meet housing needs and achieve well-functioning urban environments. The Project will therefore contribute indirectly to these objectives.

#### **2.4.3.4 Will the Project deliver significant economic benefits?**

Yes. NZIER's estimates of the opportunity costs to regional and national GDP that will arise if the Project is forgone are detailed in the report at **Attachment 3** to this application.

To recap, nationally, the opportunity costs calculated for the year 2033 range from -\$792 million to -\$1.179 billion. Importantly, the opportunity costs would accumulate over successive years, for as long as the constraints are allowed to persist.

NZIER's analysis demonstrates that consenting and developing the Project would avoid the regionally and nationally significant adverse economic effects of forgoing the Project.

#### **2.4.3.5 Will the Project support primary industries, including aquaculture?**

Yes. The Port is New Zealand's busiest import-export gateway. As such it is infrastructure that supports, and is significant to, the competitiveness and success of the nation's primary industry export sector.

The Port services primary industry sectors such as wood products, dairy and horticulture and exporters. The Port is also a key import gateway for incoming goods such as fertilisers and stock feeds, plant, machinery and equipment that are critical to the productivity and success of New Zealand's primary industry sector. As such, the Project will support New Zealand's primary industries.

#### **2.4.3.6 Will the Project support development of natural resources, including minerals and petroleum?**

Yes. The Tanker Berth at the Mount Maunganui wharves (see Figure 8) is a facility dedicated to transferring dangerous goods in bulk, including the discharging and/or loading of tankers carrying bulk fluids such as hydrocarbon oil products, chemicals and edible oils. The Project includes improvements that would enhance the capacity and resilience of the Tanker Berth in its role as part of the fuel supply network.

The Port's import/export facilities and services contribute to the ability of New Zealand businesses to compete globally. The existing constraints (inadequate wharf length and singular Tanker Berth) on the efficiency and cost-effectiveness of Port operations have consequential effects on the ability of New Zealand businesses, including the minerals and petroleum sectors, to interface competitively with global markets.

**2.4.3.7 Will the Project support climate change mitigation, including the reduction or removal of greenhouse gas emissions?**

Yes. The Project will provide mooring capacity to accommodate more of the larger ships that are being commissioned across the global shipping fleet. These larger ships use more modern and efficient propulsion systems. They are therefore more emissions-efficient per unit of cargo shipped than the older, smaller fleet.

There are constraints (wharf length, harbour depth etc.) on the capacity of New Zealand's wider port network to accommodate large modern vessels. The Project enhances New Zealand's potential as a destination for shipping companies' routing of their larger vessels. This would result in a lower greenhouse gas emissions intensity for cargo transported through the Port.

**2.4.3.8 Will the Project support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards?**

Yes. The Port is a lifeline utility under the Civil Defence and Emergency Management Act 2002. Its role as an import gateway could be significant in the event of a natural hazard event that affects other components of the national transport network. By removing constraints on the Port's freight handling capacity, the grant of the approvals sought would be an approach that improves the Port's ability to contribute to natural hazard recovery efforts.

**2.4.3.9 Will the Project address significant environmental issues?**

Yes. In its second interim decision on POTL's direct referral application for the Project (provided as **Attachment 6**) the Environment Court determined that (at least in respect of the Stage 1 Sulphur Point wharf extensions) from a Western science perspective, the Project's environmental effects present no impediment to the granting of consent. With respect to effects on Māori cultural values, POTL has prepared a substantial mitigation proposal (summarised in Table 2) for consideration by an expert decision-maker.

Further detail about the Project's potential adverse effects is provided at Section 3.4.

**2.4.3.10 Is the Project consistent with local or regional planning documents, including spatial strategies?**

Yes, the Project is highly consistent with relevant planning documents. It is particularly notable that:

- > The Port's area of coastal occupation is defined in the RCEP, and the proposed structures and reclamations are inside the defined occupation area;
- > Outline Development Plans 270-65, 270-27 and 270-68 in the RCEP specifically anticipate the entire Project and show substantially more dredging, reclamation and wharf extensions than those that POTL is seeking approval for;
- > The Project is not in and does not intersect, any areas of significant or outstanding cultural, historic heritage, landscape, ecological or other values that are mapped in the relevant planning instruments. It is wholly within the working Port environment, which is a small portion of the wider Te Awanui/Tauranga Harbour environs;
- > The RCEP and TCP provide for the Project as a restricted discretionary activity overall (maintenance dredging is enabled as a controlled activity for which consent must be granted).

These matters demonstrate that the Project responds well to the FTAA section 22(2)(a) considerations.

It is noted that the information sought by sections 22(3) to 22(8) of the FTAA is not relevant to this application.



### **3. PROJECT DETAILS**

#### **3.1 TIMING OF CONSTRUCTION – SECTION 13(4)(E)**

Construction timing depends on the timing of the approvals sought. Stage 1 activities (described in the next sub-section) would commence as soon as practical after approvals are procured, subject to meeting detailed design and certification requirements. Dredging, reclamation and wharf construction would be undertaken simultaneously where possible. The duration of Stage 1 is estimated at two years. Therefore, if Stage 1 of the Project began in April 2026, it should be completed approximately 24 months later.

Stage 2 works would follow directly after the more urgent requirements of Stage 1. Some sub-staging is envisaged to match construction with growth and to ensure that large swathes of the wharves and Port operations area are not out of action simultaneously.

It is estimated that the proposed bunker barge berth at Butters Landing will take less than 12 months to design and construct. Commencement of this relatively minor structure will be dictated by POTL resourcing and the design work expected to get underway during construction of the Stage 1 extension to the Sulphur Point Wharves.

The first extension of the Mount Maunganui wharves and associated reclamation is estimated to take six months to design and approximately 18 to 24 months to construct. Like with the Sulphur Point wharf extension, the Mount Maunganui wharf extension may be staged to accommodate current vessel trends. This part of the development will be done after completion of the Sulphur Point extension and the bunker barge berth at Butters Landing. Enabling works (associated with the relocation and safeguarding of gulls and blue penguins) will be required before wharf construction can start. However, that enabling work can be carried out in advance while earlier components of the Project are underway.

The proposed mooring and breasting dolphins on either side of the Tanker Berth are relatively minor structures. Their design and construction will likely be completed within 12 to 18 months. This will occur after Stage 1, the bunker barge works, and Mount Maunganui Wharf extension is completed.

The Stage 2 Sulphur Point reclamation and wharf extension will begin design and construction following completion of all works at the Mount Maunganui Wharf. Given the estimated timeframes to complete the works at the Mount Maunganui Wharf set out above and the historic container growth through Sulphur Point, it is estimated that the Stage 2 Sulphur Point Wharf extension will begin design, followed by construction, in eight to 10 years after the grant of the approvals sought.

### 3.2 STAGING OF THE PROJECT – SECTION 13(4)(F)

For the purposes of section 13(4)(f)(i), the Project components can be delineated into two main stages as shown in the table below.

Table 1: Indicative Project Staging.

	STAGE 1	STAGE 2
SULPHUR POINT	Reclaim some 0.88 ha of the CMA between the southerly extent of the existing wharf and the sand pile.	Reclaim approximately 0.93 ha of the CMA south of the Stage 1 reclamation.
	Develop a 285 m long extension to the wharf in front of the reclamation.	Develop a 100 m long extension to the wharf in front of the Stage 2 reclamation.
	Install 2 cranes 110 m tall and 2 cranes up to 78 m tall – timing not limited to either stage.	
STELLA PASSAGE	Dredge some 6.1 ha of Stella Passage to 16 m CD depth, requiring approximately 850,000 m <sup>3</sup> of dredging.  5.9 ha of the 6.1 ha to be dredged is already authorised by existing resource consent 62920, but only for dredging to a depth of 12.9 m CD.  For the avoidance of doubt, POTL confirms that this application <u>does</u> seek to re-authorise the dredging previously consented under 62920, because that consent expires in January 2026.	Dredge approximately 4.45 ha of Stella Passage (outside the authorised footprint of POTL's existing 62920 resource consent) to 16 m CD depth. This will require in the order of 650,000 m <sup>3</sup> of dredging.
	Nil.	Reclaim approximately 1.77 ha of the coastal marine area south of the existing Mount Maunganui wharves.  Develop a 315 m long extension to the Mount Maunganui wharves in front of the reclamation.  Provide the equivalent of 200 m of existing gull habitat south of the Mount Maunganui wharf extension.

	STAGE 1	STAGE 2
		<p>Install 11 mooring/breasting dolphins beside the existing cement tanker berth and south of the proposed 315 m Mount Maunganui wharf extension.</p>
		<p>Move the existing ferry ramp northwards.</p>
		<p>Move existing jetties north towards the ferry ramp.</p>
		<p>Develop a bunker barge jetty and associated mooring/breasting dolphins between Butters Landing and the ferry ramp.</p>
		<p>Develop penguin ramp and habitat at the south end of Butters Landing.</p>

The images below illustrate the indicative staging discussed above.

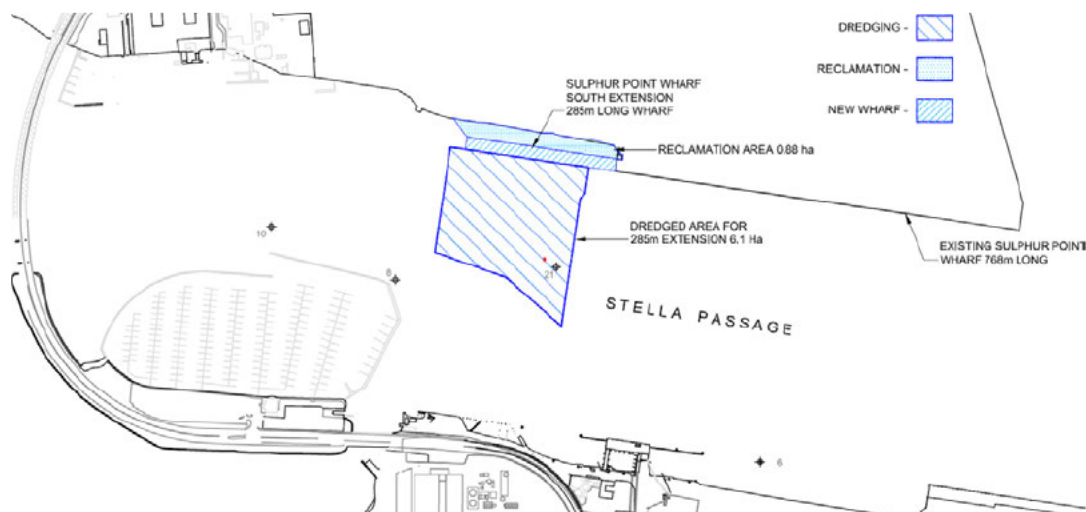
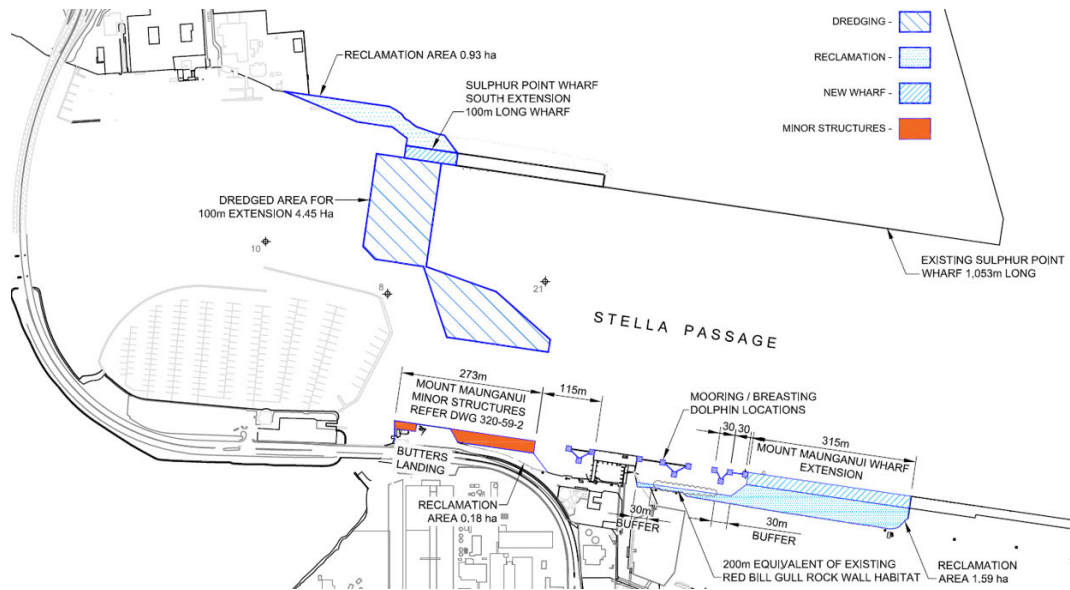


Figure 10: Indicative Extent of Stage 1.



**Figure 11: Indicative Extent of Stage 2.**

For the purposes of section 13(4)(f)(ii) of the FTAA, POTL confirms there is no proposal to lodge a separate substantive application for each stage. POTL is applying for all resource consents and wildlife approvals necessary to authorise the Project. It will then develop the Project in stages over time as required.

Compared to applying sequentially for a series of approvals, a consolidated application enables a comprehensive, integrated assessment of the entire Project. This is more appropriate than piecemeal consenting of stages. It also will provide desirable certainty from an investment and demand management perspective.

Under section 13(4)(f)(iii) of the FTAA, a referral application must explain how each stage meets the criteria in section 22. The Project meets those criteria because each stage:

- > Entails significant positive economic effects, by removing throughput constraints on the Sulphur Point container terminal and bulk freight at the Mount Maunganui wharves (sections 22(1)(a) and 22(2)(iv));
- > Will enable and enhance the continued functioning of the Sulphur Point and Mount Maunganui wharves and associated Port infrastructure (section 22(2)(a)(ii));
- > Will contribute, through the import gateway (i.e., shipping containers at Sulphur Point, bulk materials at Mount Maunganui) to the flow of materials and supplies that support New Zealand's construction industry, thereby supporting housing development and the quality of urban environments, which rely on imported materials (section 22(2)(a)(iii));

- > Will support primary industries and natural resource development by way of the improved import-export capacity afforded by the Project (sections 22(2)(a)(v) and (vi));
- > Will support recovery from events caused by natural hazards through the provision of fit-for-purpose Port facilities with capacity to accommodate demand (section 22(2)(a)(viii));
- > Will appropriately mitigate the Project's environmental effects (section 22(2)(a)(ix)); and
- > Is recognised in the RCEP Outline Development Plans (section 22(2)(a)(x)).

### **3.3 ALTERNATIVE PROJECT – SECTION 13(4)(G)**

No part of the Project is proposed as an alternative project in itself.

There is no feasible alternative location at the Port to efficiently provide the scale of supplementary wharf capacity that is needed. The functional and locational constraints associated with Port activities preclude any alternative locations or methods to achieve the Project objective.

The throughput capacity shortfall cannot be addressed by developments at another port. Other ports are smaller, face their own constraints and do not share Tauranga's strategic location near highly productive regions with comparable high demand for import-export infrastructure.

The Project's scale, including the extent of reclamation, is meaningfully reduced from that which is anticipated by the Port Outline Development Plan contained in the RCEP, to minimise potential effects while increasing vital throughput capacity at the most appropriate location. No alternatives will achieve the Project objectives in a comparably effective and efficient manner.

### **3.4 ADVERSE EFFECTS – SECTIONS 13(4)(H) AND 22(2)(A)(IX)**

The environmental effects identified as arising from the Project are tabulated below. POTL's proposed mitigation measures are described, and except for effects on Māori cultural values, the anticipated level of effect that would apply after mitigation measures are applied is rated. Therefore, the tables below:

- > Describe the anticipated and known adverse effects of the Project on the environment, as required by section 13(4)(h) of the FTAA; and
- > Explain how the Project will address potential environmental effects, in accordance with section 22(2)(a)(ix).

Table 2: Māori Cultural Effects Summary.

Actual and Potential Effect	Proposed Mitigation/Management Measures
Lack of acknowledgement of historic cultural grievances, raupatu and inadequate meaningful consultation.	<ul style="list-style-type: none"> <li>&gt; Fund the establishment of the iwi/hapū-led and directed Stella Passage Development Advisory Group (“SPDAG”);</li> <li>&gt; Facilitation of relationship agreements between iwi/hapū and POTL; and</li> <li>&gt; Implementation of the SPDAG.</li> </ul>
Encroachment on cultural identity and hononga by further severing links with the harbour and Mauao and obscuring / restricting access to traditional sites.	<ul style="list-style-type: none"> <li>&gt; Provision of a one-off financial contribution of \$100,000 towards the SPDAG’s costs of preparing a Mātauranga Māori State of the Environment report;</li> <li>&gt; POTL to fund (\$25,000 per year) the SPDAG’s preparation and implementation of a Mātauranga Monitoring Plan;</li> <li>&gt; Provision of a one-off financial contribution of \$500,000, to be administered by the SPDAG, to use for the design and implementation of Pou or other structures.</li> </ul>
Changes to the harbour’s character affect the cultural ambiance or sanctity of tikanga and kawa (protocols).	No mitigation. Visual effects are addressed in a Landscape Effects Assessment commissioned by POTL and are considered acceptable.
Potential obstruction of Mauao from key cultural landmarks.	No mitigation. Visual effects are addressed in a Landscape Effects Assessment commissioned by POTL and are considered acceptable.
Dredging activities potentially impacting Te Paritaha and access to mahinga kai.	<ul style="list-style-type: none"> <li>&gt; No alteration to Te Paritaha;</li> <li>&gt; Ongoing monitoring of Te Paritaha;</li> <li>&gt; Cultural monitor present during capital dredging operations; and</li> <li>&gt; POTL to fund (\$25,000 per year) the SPDAG’s preparation and implementation of the previously mentioned Mātauranga Monitoring Plan.</li> </ul>

Actual and Potential Effect	Proposed Mitigation/Management Measures
Potential wider impacts to kaimoana habitat and populations from modification of Te Awanui/Tauranga harbour and increased turbidity from dredging.	<ul style="list-style-type: none"> <li>&gt; Provision of a one-off payment of \$2,000,000 to be administered by the SPDAG for abundance projects and projects that benefit the restoration of the health of Te Awanui/Tauranga Harbour;</li> <li>&gt; Provision of the previously mentioned one-off financial contribution of \$100,000 towards the SPDAG's costs of preparing a Mātauranga Māori State of the Environment report;</li> <li>&gt; POTL to fund (\$25,000 per year) the SPDAG's preparation and implementation of the previously mentioned Mātauranga Monitoring Plan;</li> <li>&gt; POTL to establish a fund of \$250,000 to provide for research and education scholarships for iwi and hapū who have a relationship with Te Awanui/Tauranga Harbour; and</li> <li>&gt; Implement turbidity management measures consistent with past dredging campaigns. Including monitoring and response framework triggered by increasing turbidity as follows: <ul style="list-style-type: none"> <li>&gt; First tier of trigger levels – elevated turbidity is investigated, and the impacts of continued dredging are assessed;</li> <li>&gt; Second tier of trigger levels – the dredging methodology is modified. This may involve (for example) relocating the dredge, using different equipment, modifying the frequency of the dredging, or a combination of these and any other appropriate measures;</li> <li>&gt; Third tier of trigger levels – dredging ceases until turbidity reduces to an appropriate level; and</li> </ul> </li> </ul>
Potential increased risk of turbidity, pollution and contamination from dredging impacting water quality, marine life and mauri in Te Awanui/Tauranga Harbour.	<ul style="list-style-type: none"> <li>&gt; Provision of the previously mentioned one-off payment of \$2,000,000 to be administered by the SPDAG for abundance projects and projects that benefit the restoration of the health of Te Awanui/Tauranga Harbour;</li> <li>&gt; POTL provide a one-off payment of \$100,000 for the SPDAG to fund an independent audit and assessment of discharges against existing consent conditions and discharges into Te Awanui/Tauranga Harbour;</li> <li>&gt; Implement turbidity management measures consistent with past dredging campaign. Including monitoring and response framework triggered by increasing turbidity as follows: <ul style="list-style-type: none"> <li>&gt; First tier of trigger levels – elevated turbidity is investigated, and the impacts of continued dredging are assessed;</li> </ul> </li> </ul>

Actual and Potential Effect	Proposed Mitigation/Management Measures
	<ul style="list-style-type: none"> <li>&gt; Second tier of trigger levels – the dredging methodology is modified. This may involve (for example) relocating the dredge, using different equipment, modifying the frequency of the dredging, or a combination of these and any other appropriate measures;</li> <li>&gt; Third tier of trigger levels – dredging ceases until turbidity reduces to an appropriate level; and</li> <li>&gt; Cultural monitor present during capital dredging operations.</li> </ul>
Effects on avifauna taonga from displacement, reduction in habitat and effects from construction activities.	<ul style="list-style-type: none"> <li>&gt; Implementation of an Avifauna Management Plan, refer to Table 3 below.</li> <li>&gt; Establishment of a one-off fund of \$150,000, to be administered by SPDAG, to be used for the purpose of assessing and developing opportunities to enhance avifauna habitat in and around Te Awanui/Tauranga Harbour</li> </ul>
Effects on marine mammal taonga species from underwater construction noise and increased ship strike risk.	<ul style="list-style-type: none"> <li>&gt; Implementation of a Marine Mammal Management Plan, refer to Table 3 below.</li> <li>&gt; Provision of Dredge Master training and marine mammal recording and reporting requirements</li> </ul>
Cumulative effects of visual and spatial encroachment of port activities.	<ul style="list-style-type: none"> <li>&gt; Change of the Project scope from the Environment Court process;</li> <li>&gt; Provision of a one-off fund of \$250,000 for the completion of a longitudinal assessment of health and wellbeing against agreed marae outcomes for Whareroa Marae; and</li> <li>&gt; Provision of a one-off payment of \$1,000,000 and then provision of an annual payment of \$25,000 to the Whareroa Marae Reservation Trust for Whareroa Marae Infrastructure projects.</li> </ul>
Increased air emissions from more vessel movements and indirectly as a result of increased transport.	No mitigation proposed because adverse effects are rated as negligible when assessed against the National Environmental Standards for Air Quality 2004 (“NESAQ”).



Table 3: Environmental Effects Summary.

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
<b>Marine Ecology Effects</b>		
Effects from dredging, reclamation and wharf extensions on coastal processes	No mitigation proposed because effects are rated as “very low” without mitigation: <ul style="list-style-type: none"> <li>&gt; Sediment transport minimal and highly localised; and</li> <li>&gt; Channel stability not compromised.</li> </ul>	Very low (no mitigation).
Reclamation and permanent occupation causing loss of soft sediment and hard substrate communities.	Design wharves with similar light, shade and hard surfaces to existing wharves to enable natural re-colonisation of sessile communities.	Low (short-term) Very low (longer term 3+ years)
Mortality and disturbance of benthic invertebrates within the dredge areas.	Design wharves with similar light, shade and hard surfaces to existing wharves to enable natural re-colonisation of sessile communities.	Low (short-term) Very low (longer term 3+ years)
Extension of harbour edge (which is already modified) further into the harbour	Design wharves with similar light, shade and hard surfaces to existing wharves to enable natural re-colonisation of sessile communities.	Very low.
Effects of shading on biota beneath the new wharf extensions (24,853m <sup>2</sup> ).	Design wharves with similar light, shade and hard surfaces to existing wharves to enable natural re-colonisation of sessile communities.	Low.
Effects of Total Suspended Sediment (“TSS”) on benthic invertebrates (including pipi on Te Paritaha), fish, macroalgae and seagrass from dredge activity.	Implement turbidity management measures consistent with past dredging campaign. Including monitoring and response framework triggered by increasing turbidity as follows: <ul style="list-style-type: none"> <li>&gt; First tier of trigger levels – elevated turbidity is investigated, and the impacts of continued dredging are assessed;</li> <li>&gt; Second tier of trigger levels – the dredging methodology is modified. This may involve (for example) relocating the dredge, using different equipment,</li> </ul>	Very low.

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
	<p>modifying the frequency of the dredging, or a combination of these and any other appropriate measures; and</p> <p>&gt; Third tier of trigger levels – dredging ceases until turbidity reduces to an appropriate level.</p>	
Contaminant availability in sediment within the dredge locations.	<p>No mitigation because effects are rated as “very low” without mitigation:</p> <p>&gt; Sediment to be dredged is below the Default Guideline Value (“<b>DGV</b>”) concentrations of concern described in the Australian &amp; New Zealand Guidelines for Fresh &amp; Marine Water (and Sediment) Quality (“<b>ANZG</b>”).</p>	Very low (no mitigation).
Deposited sediment from dredging TSS.	Implement turbidity management controls consistent with past dredging campaigns (see above).	Very low.
Effects on water quality and sediment quality	<p>No mitigation proposed because effects are rated as “very low” without mitigation:</p> <p>&gt; Sediment to be dredged is below ANZG DGV concentrations of concern.</p>	Very low (no mitigation).
Effects of marine vessels that are involved in dredging (or other construction) on the risk of invasive species (at the Southern Te Awanui scale)	POTL to provide a one-off payment of \$27,000 to Regional Council as a contribution to the Regional Council-led biosecurity programme, to extend surveillance of invasive species at the new wharf structures.	Very low.
Effects of noise during piling driving for wharf extensions on marine organisms (excluding marine mammals).	<p>No mitigation proposed because effects are rated as “low” without mitigation.</p> <p>&gt; Fish (including sharks and turtles) are highly mobile and likely to avoid piling noise.</p>	Low (no mitigation).
Cumulative effects, including additional activities that impact on the cumulative ecological values – reclamation (3.58 ha), permanent occupation (0.08 ha), dredging (10.55 ha) shading of pelagic environment by	<p>No specific mitigation proposed in relation to cumulative effects, because effects will be “low” with:</p> <p>&gt; Appropriate wharf design;</p>	Low.

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
wharf extensions (20,760 m <sup>2</sup> ) and shoreline modification of an already modified shore.	<ul style="list-style-type: none"> <li>&gt; Implement turbidity management controls; and</li> <li>&gt; Use of certified “clean” vessels.</li> </ul>	
<b>Marine Mammal Effects</b>		
Underwater noise from dredging.	Regularly maintained dredge equipment and compliance with the Marine Mammal Protection Regulations 1992 (“ <b>MMPR</b> ”).	Negligible.
Underwater noise from pile driving.	<p>Compliance with marine mammal focused controls and a detailed Marine Mammal Management Plan, including:</p> <ul style="list-style-type: none"> <li>&gt; Marine mammal observer(s) on-watch before and during piling driving;</li> <li>&gt; Implementation of soft start procedures;</li> <li>&gt; Implementation of shut down zones;</li> <li>&gt; Carefully select pile driving equipment;</li> <li>&gt; Minimise daily piling duration/strike rate;</li> <li>&gt; Use cushion blocks and bubble curtains;</li> <li>&gt; Alert System for marine mammal sightings in Te Awanui/Tauranga Harbour;</li> <li>&gt; Conduct inner harbour observations;</li> <li>&gt; Keep records of sightings and mitigations; and</li> <li>&gt; Validate model predictions.</li> </ul>	Minor.
Presence of structures in the water column.	<p>No mitigation proposed as effects are “minor”:</p> <ul style="list-style-type: none"> <li>&gt; Area of new piles is minuscule relative to marine mammal’s home range; and</li> </ul>	Minor (no mitigation).

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
	<ul style="list-style-type: none"> <li>&gt; Marine mammals are highly mobile and entrapment by wharves is not predicted.</li> </ul>	
Habitat modification.	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <ul style="list-style-type: none"> <li>&gt; Marine mammals do not rely solely on the Project area;</li> <li>&gt; Area of modification is minuscule relative to marine mammal’s home range; and</li> <li>&gt; Marine mammals are highly mobile.</li> </ul>	Negligible (no mitigation).
<p>Ship strike</p> <p>– during active extraction</p> <p>- during transit to disposal site</p>	<p>Compliance with the MMPR, including:</p> <ul style="list-style-type: none"> <li>&gt; Speed and direction controls near marine mammals.</li> </ul>	Negligible.
Exposure to contaminants.	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <ul style="list-style-type: none"> <li>&gt; Sediment to be dredged is below ANZG DGV concentrations of concern; and</li> <li>&gt; Marine mammals are highly mobile and can avoid areas of poor water quality.</li> </ul>	Negligible (no mitigation).
Marine debris	<p>Implement waste management, including:</p> <ul style="list-style-type: none"> <li>&gt; All dredge vessels have covered waste bins and debris retrieval nets;</li> <li>&gt; Retrieve any waste or equipment that enters the water from the dredge vessel(s) if safe to do so; and</li> <li>&gt; Disposal of retrieved marine debris onshore.</li> </ul>	Negligible.
Artificial lighting	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <ul style="list-style-type: none"> <li>&gt; The Project area is not an important habitat for marine mammals; and</li> </ul>	Negligible (no mitigation).

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
	<ul style="list-style-type: none"> <li>&gt; Slow speed of dredge and agility of mammals reduce risk of ship strike in event of potential attraction effects.</li> </ul>	
Cumulative effects	<p>No specific mitigation proposed in relation to cumulative effects, as effects will be “minor” with:</p> <ul style="list-style-type: none"> <li>&gt; Compliance with Marine Mammal Management Plan;</li> <li>&gt; Compliance with MMPR; and</li> <li>&gt; Compliance with the Resource Management (Marine Pollution) Regulations 1998 and any other relevant legislative requirements.</li> </ul>	Minor.
<b>Avifauna Effects</b>		
Disturbance to birds using the sand pile for breeding and roosting.	<p>Implementation of an Avifauna Management Plan, including:</p> <ul style="list-style-type: none"> <li>&gt; Control of timing and volume of sand removal;</li> <li>&gt; Maintenance of the size, shape and volume of the sand pile;</li> <li>&gt; Daily pre-works survey prior to work commencing;</li> <li>&gt; No works commencing if any Threatened or At-risk species are present and minimum 25 m setback if a non-Threatened species is present;</li> <li>&gt; Continued use of shipping containers as a barrier to noise from the Port operations and from Project construction works;</li> <li>&gt; Traffic approach and pass controls;</li> <li>&gt; Minimum setbacks for high noise activities (container grinding and repair); Implementation of a pest animal (mustelid, rat, cat, hedgehog and rabbit) control programme;</li> </ul>	Less than minor.

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
	<ul style="list-style-type: none"> <li>&gt; Implementation of a pest plant control programme to maintain the value of the Sulphur Point sand pile as a bird habitat; and</li> <li>&gt; Maintain existing bird monitoring survey programme.</li> </ul>	
Removal of artificial rockwall habitat for red-billed gulls.	<p>Implementation of an Avifauna Management Plan, including:</p> <ul style="list-style-type: none"> <li>&gt; Development of approximately 200 m or equivalent surface area of existing rock wall south of the Mount Maunganui Wharf extension, as a new habitat for the tarāpunga/red-billed gull colony;</li> <li>&gt; Dismantle rock wall outside of red-billed gulls breeding season; and</li> <li>&gt; Encourage gull relocation through a combination of gull decoys and a stereo system playing recordings of gull calls at colonies.</li> </ul>	Less than minor.
Removal of artificial rock wall occupied by kororā/blue penguin.	<p>Implementation of an Avifauna Management Plan, including:</p> <ul style="list-style-type: none"> <li>&gt; Habitat surveys in peak breeding season (October and December);</li> <li>&gt; Development of 13 new nesting boxes near Butters Landing;</li> <li>&gt; Location of potentially affected burrows at the start of the <i>non</i>-breeding season (April to June). Relocate detected penguins to nesting box colony and wrap all burrows and potential roosting crevices;</li> <li>&gt; Dismantle rock wall during kororā/blue penguin <i>non</i>-breeding season;</li> <li>&gt; Kororā/penguin handler available during rock wall dismantling to relocate any penguins; and</li> <li>&gt; Two penguin population surveys in the first two breeding seasons after construction of the Mount Maunganui wharves ends (e.g., October and December).</li> </ul>	Less than minor.

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
Artificial lighting at night effects on birds.	<ul style="list-style-type: none"> <li>&gt; Floodlights shielded and mounted horizontally.</li> <li>&gt; Use warm LED lights (preferably 3,000 K) and avoid exceeding 6,000 K;</li> <li>&gt; Little or no short wavelength (380-500 nanometres) violet and blue light used;</li> <li>&gt; Control light intensity and the number of lights;</li> <li>&gt; Use motion sensor lights and high-quality lighting, low-glare lighting where practicable; and</li> </ul> <p>Use of non-reflective paint on structures (storage tanks, buildings etc).</p>	Minor
<b>Hydrodynamic and Sedimentation Effects</b>		
Discharge of fines causing turbid plumes during dredgings.	<p>Implement a Dredge Management Plan, including the control turbidity during dredging via the following measures:</p> <ul style="list-style-type: none"> <li>&gt; Overflow with constrictions to reduce plume buoyancy;</li> <li>&gt; Limited overflow duration to control the total volume of sediment introduced into the plume; and</li> <li>&gt; no overflow on flood tide.</li> </ul> <p>If necessary, restrict dredging to parts of the tidal cycle (e.g. ebb tide only).</p>	Negligible.
Contamination by dredged sediment.	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <ul style="list-style-type: none"> <li>&gt; Sediment to be dredged are below ANZG DGV concentrations of concern.</li> </ul>	Negligible (no mitigation).
Dredging activities affecting the harbour hydrodynamics.	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <ul style="list-style-type: none"> <li>&gt; Potential changes in peak tidal velocities, ebb and flood flows are small (less than natural weather-induced variations).</li> </ul>	Negligible (no mitigation).

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
<b>Navigation Effects</b>		
Effects of additional vessel visits in the harbour.	No mitigation proposed as effects are rated as “negligible” without mitigation:  > Additional vessel traffic generated by the Project will be below the peak of vessel traffic handled without incident in 2012 during the <i>Rena</i> incident.	Negligible (no mitigation).
Dredging activities cause navigational risks to other ships.	Continuation of existing operational dredging controls:  (a) Trailing Suction Hopper Dredge coordinating transits of the shipping channel through Port Control to work in with other vessel traffic;  (b) Back-Hoe Dredge coordinated around sailing and tidal flows; and  (c) Both forms of dredge will be fitted with precision navigations systems.	Negligible.
Dredging activities cause navigational risks to other users of the harbour.	Continuation of notice given to mariners prior to commencement, including:  (a) Advertisements in the local paper;  (b) Notification of the Harbour Master;  (c) Notification of the Coast Guard;  (d) Notification of marinas; and  (e) Installation of signs at local boat ramps.	Negligible.
Modification of the shipping channel.	POTL to submit a plan to the Harbourmaster for the relocation of the navigational aids (special purpose beacon).  Continuation of well-established shipping operational controls, following the existing regulations and rules.	Negligible.
<b>Landscape and Natural Character Effects</b>		



Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
Landscape effects.	No mitigation proposed because landscape effects are acceptable:	Moderate (at Whareroa Marae) (no mitigation).
At Whareroa Marae	> Existing highly modified environs with a port-industrial character;	
	> Clear division between Waipu Bay and Stella Passage formed by the presence of the Harbour Bridge and Whareroa Bridge; and	Low to very low (at all other viewpoints) (no mitigation).
At all other viewpoints	> Effects of ships and cranes visible from Whareroa Marae arise from a permitted activity (shipping) and restricted discretionary activity (cranes) for which discretion is reserved to airport-related matters only.	
Natural character effects	No mitigation proposed because effects are uniformly rated as “very low”.	Very low (no mitigation).
<b>Noise Effects</b>		
Steel driven piling noise.	Noise complies with permitted activity standards of RCEP rule PZ 1.	Negligible to low.
	All construction noise complies with daytime construction noise guidelines.	(low effect relates to night-time dredging noise at one dwelling only)
	Night-time dredging noise presence a minor exceedance of the construction noise guidelines but will comply with RCEP rule PZ 1.	
	To minimise potential noise at the nearest sensitive noise receivers:	
	(a) Vibratory pile driving methods are prioritised where practical;	
	(b) Timber (instead of steel) piles will be used for the piles associated with the penguin ramp;	
	(c) Pile driving is limited to the daytime period;	
	(d) Impact pile driving at Butters Landing will be suspended for three days where piling noise is above 50 dB L <sub>Aeq</sub> and the Port has been advised 24 hours in advance of a Tangihanga at the Whareroa Marae; and	
	(e) Dredging to be undertaken within the portion of the footprint identified, to be undertaken during daytime construction hours where practicable.	

Actual and Potential Effect	Proposed Management Measure	Level of Effect with Mitigation
<b>Air Quality Effects</b>		
Discharges to air, particularly of SO <sub>2</sub> , PM <sub>10</sub> , and PM <sub>2.5</sub> and NO <sub>2</sub> , from ships at the new berths.	<p>No mitigation proposed because even though the NESAQ does not apply to discharge from shipping traffic, effects have been assessed and are rated as “negligible” under the NESAQ without mitigation.</p> <p>In terms of the World Health Organisation 2021 guideline values, which do not apply in New Zealand, effects are negligible for particulates, small for NO<sub>2</sub> and very small for SO<sub>2</sub> (possibly a 1-in-30-year exceedance).</p>	Negligible (no mitigation).
<b>Climate Change Effects</b>		
Risks to wharves, harbour access and loading/unloading capability, due to sea level rise, storm surges and coastal inundation	<p>No mitigation proposed as effects are rated as “negligible” without mitigation:</p> <p>&gt; Proposed wharf designs will provide sufficient freeboard to maintain low risk in relation to sea level rise, storm surges and coastal inundation.</p>	Negligible (no mitigation).

### **3.5 PROHIBITED ACTIVITIES – SECTION 13(4)(I)**

N/a. No Project activities are prohibited. The approvals list presented earlier in this report confirms the activity status for the proposed activities ranges from controlled (for maintenance dredging) to restricted discretionary (for the balance of the Project).

### **3.6 CONSULTATION SUMMARY – SECTION 11**

POTL has expended considerable effort in consulting on this Project. Consultation began in 2019, at first in anticipation of a RMA consenting pathway, then in respect of POTL's application under the COVID-19 Recovery (Fast-track Consenting) Act 2020. When that application did not advance, consultation progressed through the subsequent Environment Court direct referral application process.

Consultation has continued into this FTAA application process during 2025. For the purposes of section 11(1) of the FTAA, the Applicant's consultation with the parties below occurred both before lodgement on 14 April 2025 of the substantive application for the listed Project and has continued in the period prior to the lodgement of this referral application.

#### **3.6.1 Local Authorities**

##### **3.6.1.1 Bay of Plenty Regional Council – Section 11(1)(a)**

POTL engaged at length with the Regional Council throughout the preparation of the 2021 Environment Court direct referral application for the Project. This engagement included the review of technical assessments by the Regional Council's independent experts, and a thorough further information request process.

As part of the consultation undertaken as part of this FTAA process, POTL provided the Regional Council with a copy of POTL's draft substantive application including the full suite of draft technical assessments and the proposed consent conditions for the Project (which were also part of the April 2025 substantive application for a listed Project under Schedule 2 of the FTA). The Regional Council summarised the pre-lodgement consultation process by letter dated 4 April 2025, which:

- > Acknowledged the Project is scaled down as a result of the outcomes of the Environment Court process;
- > Identified that Regional Council engaged independent experts to review the technical reports prepared in support of the Project and that these reviews were shared with POTL;

- > Acknowledged the activities which consent is sought for and the need to amend the rule requirements to capture the maintenance dredging activity;
- > Acknowledged that discussions regarding the potential structure and content of the proposed consent conditions are ongoing; and
- > Identified that ongoing consultation with tangata whenua is integral to the process and encourages POTL to continue to engage with tangata whenua parties.

### **Consultation Outcomes**

The Regional Council technical review comments were provided to POTL's technical advisors. To the extent necessary, the comments have been responded to in the respective technical assessments. POTL has prepared draft regional consent conditions which were updated to reflect the Regional Council technical review comments. This material would form part of any future substantive application that arises from this referral application.

POTL's consultation with the Regional Council is summarised in **Attachment 7** to this application.

#### **3.6.1.2 Tauranga City Council**

POTL has an established working relationship with City Council representatives and has endeavoured to keep communication channels open throughout the pre-lodgement consultation period.

Engagement occurred with the City Council when preparing the previous 2021 Environment Court direct referral application for the Project - noting that the direct referral application was limited to Regional Council consent matters, and no consents were sought from the City Council as part of that process.

A progress meeting with key City Council staff was held on 25 February 2025. This outlined the Project's district land use consent requirements (for the cranes), described technical reports and highlighted those that may be of interest, and discussed the scope for City Council comments, i.e., whether constrained by, or wider than, the matters of discretion reserved in relation to the cranes.

Subsequently, a Project update and the draft substantive application and draft technical reports were provided on 27 and 28 February 2025. POTL's draft consent conditions as they relate to the crane provisions of the TCP were provided on 12 March 2025.

## Consultation Outcomes

City Council representatives have acknowledged the Port's significant role in the economic and social wellbeing of the region but have been clear about the need for the balance of this against any potential adverse negative effects associated with the Project.

In response to this, where possible, POTL has given the City Council the opportunity to review and make comments on the relevant draft technical assessments prepared for the Project. The City Council responded, via email on 9 April 2025, that they had no comments on the proposed consent conditions, but may provide comment around potential additional conditions during the Panel processing phase.

Consultation between POTL and the City Council is summarised in **Attachment 7** to this application.

### 3.6.2 Iwi Authorities, Hapū, and Treaty Settlement Entities – Sections 11(1)(b) - (d)

POTL began consulting with iwi and hapū in advance of the original application process under the RMA in 2019, prior to making an application under the COVID-19 Recovery (Fast-track Consenting) Act 2020. While the application for processing via the COVID pathway was not accepted, POTL's consultation with tangata whenua progressed through the subsequent Environment Court direct referral application process and has continued into this FTAA application process.

Notwithstanding its historical engagement, POTL acknowledged the further consultation requirements specific to the FTAA. On that basis, POTL has sought to engage with the groups it identified as relevant parties under the FTAA and grouped as Tauranga Moana iwi and hapū. These groups are identified in Table 4 and in the Cultural Consultation Report provided as **Attachment 8**.

POTL acknowledges that Tauranga Moana iwi and hapū are groups who possess considerable mana in the Tauranga Moana area, including Te Awanui/Tauranga Harbour. These parties' interests in the outcomes of this referral application and any subsequent substantive application include maintaining their rights under the Treaty of Waitangi/Te Tiriti o Waitangi.

POTL and their Specialist Advisor – Māori Relationships identified relevant iwi and hapū groups in accordance with the FTAA requirements. The Regional Council, City Council, Western Bay of Plenty District Council and Te Tari Whakatau provided feedback on the relevant groups. POTL sought involvement and engagement with the groups identified below.

POTL’s approach to the FTAA consultation was to build on, rather than duplicate, the historical engagement undertaken. Its strategy for engagement was informed by its experience under the RMA and its interpretation of the requirements of the FTAA. The objectives of the engagement under the FTAA process included:

- > Fairness, equity, consistency and transparency in the approach with all iwi and hapū groups;
- > Meeting POTL’s requirements for consultation under the FTAA;
- > Aligning consultation requirements to go beyond minimum standards;
- > Meeting consultation obligations to fulfil relevant Treaty of Waitangi Settlement obligations;
- > Establishing and implementing a system for facilitating communication and feedback from tangata whenua; and
- > Supporting tangata whenua to actively participate in the consultation process.

Consultation specific to POTL’s Schedule 2 FTAA listed application began with hui with some iwi and hapū groups in late January and early February 2025. The purpose was to discuss POTL’s decision to apply for consent as a listed application under the FTAA and outline the proposed engagement process.

Following the identification of the relevant groups under the FTAA, on 23 January 2025 POTL sent letters outlining its proposed consultation process and identifying a proposed lodgement date for the FTAA listed application of 31 March 2025.

Consultation was then initiated through a series of kanohi ki te kanohi/face to face and online hui. The weekly hui began on 4 February 2025 and continued through to early April 2025, alternating between online and kanohi ki te kanohi/face to face sessions at the Tauranga Moana Māori Trust Board. POTL representatives attended with its technical advisors to present context around the FTAA process, the technical assessments completed in support of the application, and to respond to questions.

Drafts of the technical assessments prepared in support of the Project were provided, via an online portal in mid-February 2025. A draft substantive application (with placeholders for sections addressing Māori cultural values) was provided on 3 March 2025 and draft versions of the proposed consent conditions were provided on 12 March 2025.

Through this FTAA-specific engagement, POTL offered support and resourcing by way of Service Level Agreements to enable the iwi/hapū groups to prepare Cultural Values Reports (“CVRs”) for the Project. POTL notes that the overall resourcing amount available to each

group through these agreements was \$40,000, with over \$800,000 being made available to support iwi and hapū pre-lodgement engagement from February to April 2025. The intention of these agreements was to enable the groups to identify their respective cultural values and interests, and the potential impacts of the Project on these, in turn enabling those impacts to be addressed and thus informing the Project, its impacts, and the consent conditions proposed to address adverse effects.

**Table 4: Consultation with Tangata Whenua.**

Provision	Parties
Section 11(1) Before lodging a referral application, the applicant must consult—	<b>Iwi Authorities</b>
<b>(b) any relevant iwi authorities, hapū, and Treaty settlement entities</b>	<ul style="list-style-type: none"> <li>&gt; Ngāi Te Rangi Settlement Trust (Treaty settlement entity)</li> <li>&gt; Te Runanga o Ngāi Te Rangi Iwi Trust</li> <li>&gt; Ngā Hapū o Ngāti Ranginui Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Ranginui Iwi Society Inc</li> <li>&gt; Ngāti Ranginui Fisheries Trust</li> <li>&gt; Te Tāwharau o Ngāti Pūkenga PSGE (Treaty settlement entity)</li> <li>&gt; Ngāti Pūkenga Iwi ki Tauranga Trust</li> <li>&gt; Te Kapu o Waitaha Trust (Treaty settlement entity)</li> <li>&gt; Ngā Pōtiki ā Tamapahore Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Tamaterā Treaty Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Maru Rūnanga Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Makino Heritage Trust and Ngāti Pikiao Iwi Trust</li> </ul>
	<b>Hapū</b>
	<b><u>Ngāi Te Rangi:</u></b>
	<ul style="list-style-type: none"> <li>&gt; Ngāti Tapu Hapū Trust</li> <li>&gt; Ngāi Tukairangi Hapū Trust</li> <li>&gt; Ngāti Kuku Hapū Trust</li> <li>&gt; Ngāti Hē Hapū Trust</li> </ul>

Provision	Parties
	<ul style="list-style-type: none"> <li>&gt; Te Whanau a Tauwhao ki Otawhiwhi Trust</li> <li>&gt; Te Whanau a Tauwhao ki Rangiwaea Trust</li> <li>&gt; Te Ngare Hapū Trust</li> <li>&gt; Ngāti Tauaiti Hapū Trust</li> <li>&gt; Ngāi Tuwhiwhia Hapu Trust</li> <li>&gt; Ngāi Tamawhariua ki Katikati Trust</li> <li>&gt; Ngāi Tamawhariua ki Te Rangihouhiri Trust</li> </ul> <p><b>Ngāti Ranginui:</b></p> <ul style="list-style-type: none"> <li>&gt; Ngāi Te Ahi Settlement Trust</li> <li>&gt; Ngāti Ruahine Hapū Trust</li> <li>&gt; Ngāi Tamarāwaho Tribal Authority Trust</li> <li>&gt; Ngāti Hangarau Hapū Trust</li> <li>&gt; Te Rūnanga o Ngāti Kahu ki Tauranga</li> <li>&gt; Pirirakau Tribal Authority Incorporated</li> </ul> <p><b>Ngā Pōtiki:</b></p> <ul style="list-style-type: none"> <li>&gt; Ngāti Kaahu ki Mangatawa</li> </ul>
	<p><b>Other Relevant Groups Consulted</b></p> <ul style="list-style-type: none"> <li>&gt; Tauranga Moana Iwi Customary Fisheries Trust</li> <li>&gt; Tauranga Moana Advisory Group</li> <li>&gt; Mauao Trust</li> <li>&gt; Te Kōtahitanga o Te Arawa Waka</li> <li>&gt; Ngā Matarae Trust</li> <li>&gt; Ngā Tai ki Mauao</li> <li>&gt; Ngā Hapū o Ngā Moutere Trust</li> <li>&gt; Whareroa Marae Committee</li> <li>&gt; Whareroa Marae Reservation Trust</li> <li>&gt; Huria Marae Committee</li> </ul>



Provision	Parties
<p>Section 11(1) Before lodging a referral application, the applicant must consult—</p> <p><b>(b)(i) any relevant iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements</b></p>	<p>No Mana Whakahono a Rohe or joint management agreements have been signed which apply to the project area.</p>
<p>Section 11(1) Before lodging a referral application, the applicant must consult—</p> <p><b>(b)(ii) the tangata whenua of any area within the project area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996</b></p>	<p>No area within the Project area is a mātaimai reserve.</p> <p>Te Maunga o Mauao Mataimai Reserve is north of the Project area. POTL has sought to consult with tangata whenua parties associated with that reserve, as below.</p> <ul style="list-style-type: none"> <li>&gt; Ngāti Ranginui</li> <li>&gt; Ngāi Te Rangi</li> <li>&gt; Ngāti Pūkenga</li> <li>&gt; Waitaha</li> </ul> <p>No area within the Project area is a taiāpure-local fishery.</p> <p>No area within the Project area is subject to bylaws or regulations made under Part 9 of the Fisheries Act 1996.</p>
<p>Section 11(1) Before lodging a referral application, the applicant must consult—</p> <p><b>(c) any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011 (“MACAA”)</b></p>	<p><b><u>Applications for customary marine title within Project area</u></b></p> <ul style="list-style-type: none"> <li>&gt; Ngā Pāpaka o Rangataua: CMT collaboration for Rangataua Bay negotiating MACA, consisting of Ngā Pōtiki (lead), Ngāti Pūkenga, Ngāti Hē and Ngāi Tukairangi</li> <li>&gt; Te Tāwharau o Ngāti Pūkenga (MAC-01-05-015, CIV-2017-485-250)</li> <li>&gt; Ngāti Hē Hapū Trust (MAC-01-05-013, CIV-2017-485-219)</li> <li>&gt; Ngā Hapū o Ngāti Ranginui Settlement Trust (MAC-01-05-016, CIV-2017-485-294)</li> <li>&gt; Ngāti Maru Runanga Trust (MAC-01-03-006)</li> <li>&gt; Ngā Hapū o Ngāi Te Rangi Settlement Trust (MAC-01-05-006, CIV-2017-485-244)</li> </ul>

Provision	Parties
	<ul style="list-style-type: none"> <li>&gt; Waitaha Iwi (MAC-01-06-005)</li> <li>&gt; Waaka and Holloway Whānau (MAC-01-05-025)</li> <li>&gt; Pomare Paora Trust (MAC-01-05-020)</li> <li>&gt; Te Whānau a Mōkomoko (MAC-01-05-024, CIV-2017-485-355)</li> <li>&gt; Ngāti Tamaterā Treaty Settlement Trust (MAC-01-03-011)</li> </ul> <p><b><u>Applicants for customary marine title near Project area</u></b></p> <ul style="list-style-type: none"> <li>&gt; Ngā Pōtiki (MAC-01-05-007)</li> <li>&gt; Ngā hapū ō Matakana (MAC-01-05-005)</li> <li>&gt; Hauraki Māori Trust Board (MAC-01-03-001)</li> </ul>
Section 11(1) Before lodging a referral application, the applicant must consult—  (d) ngā hapū o Ngāti Porou, if the project area is within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou	N/A

### 3.6.2.1 Consultation Outcomes

POTL amended its planned 31 March 2025 lodgement date for the listed application to 14 April 2025, after receiving feedback from tangata whenua parties about the timeframes needed to prepare their feedback.

Prior to the lodgement of the listed application, POTL received one Cultural Impact Assessment (“**CIA**”) prepared by Ngā Pōtiki a Tamapahore Trust and CVRs prepared by:

- > Ngā Hapū o Ngāti Ranginui Settlement Trust;
- > Ngāti Ranginui Iwi Society;
- > Ngāti Ranginui Fisheries Trust
- > Ngāti Pūkenga (Te Tāwharau o Ngāti Pūkenga and Te Rūnanga o Ngāti Pūkenga ki Tauranga on behalf of the whānau of Ngāti Pūkenga);

- > Ngāi Tamarāwaho (on behalf of Ngai Tamarāwaho Hapū and Ngai Tamarāwaho Tribal Authority Trust);
- > Ngāti Tapu;
- > Ngāi Tukairangi Hapū Trust;
- > Te Kapu o Waitaha Trust;
- > Tauranga Moana Customary Fisheries Trust; and
- > Ngāi Te Rangi Settlement Trust.

After POTL lodged the application for the listed project on April 14, 2025, Ngāti Kuku provided a CIA directly to the Environmental Protection Authority and the hapū collective Nga Tai Ki Mauao also provided its statement of position directly to the Environmental Protection Authority.

The consultation process resulted in feedback via CVRs and CIAs from some groups, that provided valuable insights into the values and associations, issues, aspirations of the groups and their desired mitigations/actions. This feedback helped inform the final scope of the Project including the proposed mitigation and management measures, which are formalised through POTL's draft Regional Council consent conditions. Table 2 presents this detail at a high level. POTL's proposed consent conditions remain as lodged in April 2025 as part of its substantive application for a listed project under Schedule 2 of the FTAA, and would be included with any substantive application arising from this referral application.

A report on the consultation undertaken with iwi/hapū is provided as **Attachment 8** to this application. The CVRs and CIAs can be provided supplementary to this referral application if their organisational holders agreed to the distribution of those documents.

### **3.6.3 Administering Agencies – Section 11(1)(e)**

#### **3.6.3.1 Department of Conservation (DOC)**

POTL has engaged with DOC with respect to its intentions to apply for the necessary approvals under the Wildlife Act relating to the Project as part of this FTAA application.

POTL provided written notice to DOC on 12 February 2025 of its intention to apply for all approvals necessary to authorise the Project under the FTAA. POTL also completed DOC's 'Request for Fast-track Pre-lodgement Consultation' form and provided a Project overview, and provided drafts of the Avifauna Assessment, the Wildlife Act Authority application, Avifauna Management Plan and the Project development plan.

DOC provided draft comments on the Project prior to DOC and POTL advisors meeting on 27 March 2025, to discuss the Project with a focus on aspects related to the Wildlife Act approval. Marine mammal and Treaty matters were also broadly discussed.

#### **Consultation Outcomes**

Following the meeting, DOC provided the document titled ‘Fast-Track Pre-Lodgement Consultation Discussion Document’ which provides a summary from DOC following a pre-lodgement consultation request and the meeting. The summary document:

- > Identified the matters considered by DOC as part of their pre-lodgement consultation process and provides comments on these matters. Focused commentary was provided on matters related to the Wildlife Approval process and general commentary was provided on other matters;
- > Summarised the responses to the matters identified by DOC and discussed during the meeting with POTL representatives; and
- > Identified further information/ consideration matters for POTL to consider – these comments focused on the broader elements of the Project which were not subject to the pre-lodgement consultation.

To the extent relevant to the Project and where they had not been previously provided for in the technical assessments, POTL’s technical advisors have responded to the commentary provided by DOC in the respective technical reports, primarily within the Avifauna and Marine Mammals Assessments.

The consultation between POTL and DOC is summarised in **Attachment 7** to this application.

#### **3.6.3.2 Ministry for the Environment**

POTL provided written notice to the Ministry for the Environment on 12 February 2025 of its intention to apply for all approvals necessary to authorise the Project under the FTAA.

Following the High Court decision in *Ngāti Kuku* on POTL’s listed application, POTL had further discussions with senior Ministry staff, advising of POTL’s intent to lodge a referral application.

### **3.7 PERSONS AFFECTED – SECTION 13(4)(J)**

#### **3.7.1 Relevant Local Authorities – section 13(4)(j)(i)**

POTL has identified the following relevant local authorities:

- > Bay of Plenty Regional Council; and
- > Tauranga City Council.

### 3.7.2 Tangata Whenua Groups

POTL has identified the tangata whenua groups listed in the table below as potentially affected parties for the purposes of sections 13(4)(j)(ii) – (vii).

Table 5: Affected Tangata Whenua Groups.

Provision	Parties
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(ii) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements</b></p>	<p>No Mana Whakahono ā Rohe or joint management agreements have been signed which apply to the Project area.</p>
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(iii) other relevant iwi authorities</b></p>	<ul style="list-style-type: none"> <li>&gt; Ngāi Te Rangi Settlement Trust (Treaty settlement entity)</li> <li>&gt; Te Runanga o Ngāi Te Rangi Iwi Trust</li> <li>&gt; Ngā Hapū ō Ngāti Ranginui Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Ranginui Iwi Society Inc</li> <li>&gt; Ngāti Ranginui Fisheries Trust</li> <li>&gt; Te Tāwharau o Ngāti Pūkenga PSGE (Treaty settlement entity)</li> <li>&gt; Ngāti Pūkenga Iwi ki Tauranga Trust</li> <li>&gt; Te Kapu ō Waitaha Trust (Treaty settlement entity)</li> <li>&gt; Ngā Pōtiki ā Tamapahore Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Tamaterā Treaty Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Maru Rūnanga Trust (Treaty settlement entity)</li> </ul>

Provision	Parties
	<ul style="list-style-type: none"> <li>&gt; Ngāti Makino Heritage Trust and Ngāti Pikiao Iwi Trust</li> </ul>
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(iv) relevant Treaty settlement entities</b></p>	<ul style="list-style-type: none"> <li>&gt; Ngāi Te Rangi Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngā Hapū o Ngāti Ranginui Settlement Trust (Treaty settlement entity)</li> <li>&gt; Te Tāwharau o Ngāti Pūkenga PSGE (Treaty settlement entity)</li> <li>&gt; Te Kapu o Waitaha Trust (Treaty settlement entity)</li> <li>&gt; Ngā Pōtiki ā Tamapahore Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Tamaterā Treaty Settlement Trust (Treaty settlement entity)</li> <li>&gt; Ngāti Maru Rūnanga Trust (Treaty settlement entity)</li> </ul>
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(v) relevant protected customary rights groups and customary marine title groups</b></p>	No customary rights or customary title has been granted in the Project area.
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(vi) ngā hapū o Ngāti Porou, if the project area is within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou</b></p>	N/A
<p>Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project, including—</p> <p><b>(vii) relevant applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011</b></p>	<p><b><u>MACAA applicant groups within Project area:</u></b></p> <ul style="list-style-type: none"> <li>&gt; Ngā Pāpaka o Rangataua: CMT collaboration for Rangataua Bay negotiating MACA, consisting of Ngā Pōtiki (lead), Ngāti Pūkenga, Ngāti Hē and Ngāi Tukairangi</li> </ul>

Provision	Parties
	<ul style="list-style-type: none"> <li>&gt; Te Tāwharau o Ngāti Pūkenga (MAC-01-05-015, CIV-2017-485-250), CMT and PCR</li> <li>&gt; Ngāti Hē Hapū Trust (MAC-01-05-013, CIV-2017-485-219)</li> <li>&gt; Ngā Hapū o Ngāti Ranginui Settlement Trust (MAC-01-05-016, CIV-2017-485-294)</li> <li>&gt; Ngāti Maru Runanga Trust (MAC-01-03-006)</li> <li>&gt; Ngā Hapū o Ngāi Te Rangi Settlement Trust (MAC-01-05-006, CIV-2017-485-244), CMT and PCR</li> <li>&gt; Waitaha Iwi (MAC-01-06-005), CMT and PCR</li> <li>&gt; Waaka and Holloway Whānau (MAC-01-05-025)</li> <li>&gt; Pomare Paora Trust (MAC-01-05-020), CMT and PCR</li> <li>&gt; Te Whānau a Mokokoko (MAC-01-05-024, CIV-2017-485-355)</li> <li>&gt; Ngāti Tamaterā Treaty Settlement Trust (MAC-01-03-011)</li> <li>&gt; Ngāi Tamarawaho (MAC-01-05-009), PCR.</li> </ul>
	<b><u>MACAA applicant groups near Project area:</u></b>
	<ul style="list-style-type: none"> <li>&gt; Ngā Pōtiki (MAC-01-05-007)</li> <li>&gt; Ngā hapū o Matakana (MAC-01-05-005)</li> <li>&gt; Hauraki Māori Trust Board (MAC-01-03-001)</li> </ul>
Section 13(4)(j) a list of the persons and groups the applicant considers are likely to be affected by the project	<ul style="list-style-type: none"> <li>&gt; Tauranga Moana Iwi Customary Fisheries Trust</li> </ul>
<b>Other relevant groups</b>	<ul style="list-style-type: none"> <li>&gt; Tauranga Moana Advisory Group</li> <li>&gt; Mauao Trust</li> <li>&gt; Te Kōtahitanga o Te Arawa Waka</li> <li>&gt; Ngā Matarae Trust</li> <li>&gt; Ngā Tai ki Mauao</li> </ul>



Provision	Parties
	<ul style="list-style-type: none"> <li>&gt; Ngā Hapū o Ngā Moutere Trust</li> <li>&gt; Whareroa Marae Committee</li> <li>&gt; Whareroa Marae Reservation Trust</li> <li>&gt; Huria Marae Committee</li> </ul>

### 3.7.3 Persons with a Registered Interest in Land That May Need to be Acquired Under the Public Works Act 1981 - section 13(4)(j)(vi)

No land is proposed to be acquired. The reclamations do not constitute acquisition.

### 3.8 TREATY SETTLEMENTS – SECTION 13(4)(L)

The relevant Treaty Settlements or where relevant, the resulting legislation, applicable to the Project site are:

- > Ngāti Pūkenga Claims Settlement Act 2017;
- > Waitaha Claims Settlement Act 2013;
- > Ngā Hapū o Ngāti Ranginui Claims Settlement Bill 2015;
- > Ngāi Te Rangī and Ngā Pōtiki Claims Settlement Bill 2016;
- > Tauranga Moana Iwi Collective Redress Bill 2015; and
- > Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

A summary of the relevant principles and provisions in these settlements is provided as **Attachment 4** to this application.

### 3.9 PROCESSES UNDER THE PUBLIC WORKS ACT 1981

N/a. For the purposes of section 13(4)(m), no processes under the Public Works Act 1981 are relevant to the Project.

### 3.10 NGĀ ROHE MOANA O NGĀ HAPŪ O NGĀTI POROU ACT 2019

N/a. For the purposes of section 13(4)(n), no processes under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 are relevant to the Project.

### **3.11 MĀORI LAND, MARAE, AND IDENTIFIED WĀHI TAPU**

N/a. For the purposes of section 13(4)(o), there are no parcels of Māori land, marae or identified wāhi tapu within the Project area. POTL acknowledges the presence of these features in the wider surroundings.

### **3.12 DETERMINATIONS UNDER SECTIONS 23 OR 24**

N/a. For the purposes of sections 13(4)(p), 13(4)(q) and 13(4)(r), POTL is not seeking a determination under section 23 (which relates to linear infrastructure on certain identified Māori land), section 24(2) (which relates to existing electricity infrastructure) or section 24(4) (which relates to new electricity lines).

### **3.13 LEGAL INTERESTS AND APPROVALS**

#### **3.13.1 Applicant's Legal Interest - section 13(4)(s)**

The Project is located in the CMA, which is not owned by any person.<sup>4</sup> POTL owns the land adjoining the locations of the proposed wharf extensions and reclamations. A map, and copies of the Records of Title for the adjoining POTL-owned land are provided as **Attachment 11**.

#### **3.13.2 Approval Types Required - section 13(4)(t)**

The approvals required are detailed in Section 2.3 of this report.

### **3.14 OTHER MATTERS**

#### **3.14.1 Previous Application or Decision – section 13(4)(u)**

##### **3.14.1.1 COVID-19 (Fast-track Consenting) Act 2020**

POTL applied for referral of a larger version of the Project to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020 in October 2020. In March 2021 the then-Ministers for the Environment and for Conservation declined to refer that application.

The reasons for declining to refer that application were that the anticipated significant level of public interest in the Project meant that the ministers considered the standard RMA consenting process to be more appropriate, as there is an expectation of opportunity for submitters to be involved as some activities occurred in the public domain (i.e., the CMA).

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<sup>4</sup> Section 11(2) of the Marine and Coastal Area (Takutai Moana) Act 2011.

However, the ministers recommended that due to the Project's significance, POTL should also consider applying under sections 87D or 142 of the RMA for direct referral to the Environment Court or for processing of that application by a Board of Inquiry. In lined with those recommendations, POTL followed a direct application pathway, discussed below.

#### **3.14.1.2 Resource Management Act 1991 - Environment Court direct referral**

In May 2021 POTL applied to the Regional Council for a resource consent and then requested direct referral of the application to the Environment Court under section 87D of the RMA.

The direct referral application was heard via a three week Environment Court hearing in February-March 2023.

The direct referral application initially proposed the same activities as the COVID-19 Fast-Track application discussed above. However, it was amended during the Environment Court hearing to reduce the scale of the Project as follows:

- > the Mount Maunganui wharf extensions were reduced from 918 m to 315 m length;
- > in lieu of the wharf extensions, mooring and breasting dolphins were proposed to strengthen the existing Tanker Berth and 315 m long Mount Maunganui extension;
- > the Mount Maunganui reclamation was reduced from around 2.9 ha to approximately 1.77 ha;
- > the proposed dredging was reduced from approximately 14.4 ha to 10.55 ha and the associated dredging volume reduced from 1.8 Mm<sup>3</sup> to some 1.5 Mm<sup>3</sup> (i.e. no dredging in the eastern part of Stella Passage); and
- > That the equivalent of 200 m of existing gull habitat would be established between the Tanker Berth and the Mount Maunganui wharf extensions.

These amendments reduced the Project scale to that which is now proposed, with the Sulphur Point cranes being the only additional element.

The Environment Court interim decisions that were issued during the direct referral proceedings are provided as **Attachment 5** and **Attachment 6**.

POTL withdrew the application from the Environment Court direct referral process in May 2025, to facilitate processing of the Project as a “listed” project under Schedule 2 of the FTAA, discussed below.

### 3.14.1.3 Fast-Track Approvals Act 2024 listed application

On 14 April 2025, POTL lodged a substantive application for the Project, as a “listed” project under Schedule 2 to the FTAA. The application was then referenced as FTAA-2504-1042.

The Environmental Protection Authority (“EPA”) made its completeness and scope decision on 8 May 2025 confirming that POTL’s substantive application for the listed Project met the requirements of section 46 of the FTAA. The substantive application was then provided to the Panel Conveners and an expert panel was nominated but had not commenced when a judicial review ensued.

The High Court issued the decision in *Ngāti Kuku Hapu Trust v Environmental Protection Agency [2025] NZHC 2453* on 27 August 2025. The High Court held that the Mount Maunganui aspects of that substantive application were not within scope of the “Stella Passage Development” project listed in Schedule 2 of the FTAA, because (among other things) the listing description refers only to Sulphur Point and not to Mount Maunganui. As such, the High Court found that the EPA’s completeness and scope decision was incorrect to find that POTL’s substantive application complied with the requirement in FTAA section 46(2)(c). The High Court made orders that no further work proceed on the substantive application, pending determination of final relief.

While the High Court’s decision prevented the Project from being processed under the FTAA as a “listed” project, the High Court noted that POTL can apply for the Project via the “referral” application pathway, which this application does.

### 3.14.2 Climate Change and Natural Hazards – section 13(4)(v)

#### 3.14.2.1 Effects Identified

POTL’s Climate-related Disclosures Report 2024 identifies risk to wharves, harbour access, and un/loading capability, specifically that:

*Sea level rise and increased coastal inundation theoretically has the potential to compromise the ability of ships to:*

1. *Access the Sulphur Point and Mount Maunganui wharves; and*
2. *Navigate the harbour entry/channel (e.g. due to silt build up caused by changes in tidal effect, and floods).*

Sea level rise, storm surges and increased risks of coastal inundation theoretically have the potential to compromise vessel access to the Sulphur Point and Mount Maunganui wharves and navigate the harbour entry/channel. This could occur due to silt build-up caused by changes in tidal effects and surges.

Consequently, the risk to Port assets is the exposure of most Port buildings, infrastructure and other improvements to land assets at the Port to full or partial stranding – for example, if wharf and/or harbour access is compromised.

#### **3.14.2.2 Assessment of Climate-related Direct Physical Risks**

The current situation is tolerable. Te Awanui/Tauranga Harbour is a dynamic environment with depths subject to frequent change. Consequently, POTL does regular maintenance dredging to maintain safe navigation and under-keel clearance. To date, POTL has not encountered any notable changes to dredging requirements due to sea level rise.

Ship access to and use of the wharves is unaffected by climate change to date. The wharves all have more than sufficient freeboard to withstand fluctuations in sea levels even under the most conservative projections identified in POTL's Climate-related Disclosures Report.

Under the climate risk scenarios ("Orderly"; "Disorderly"; "Hothouse") considered in that report, the climate-related direct risks to POTL's wharves, harbour access and un/loading capability are assessed as low in the short to medium-terms, and moderate over the long-term under the Disorderly and Hothouse scenarios.

These ratings reflect that the wharves have sufficient freeboard to prevent inundation (even under the highest sea level rise and storm surge projections) and ensure ship un/loading is not sensitive to sea level rise or changes in tide (even if ship sizes increase).

As the proposed wharf extensions will be consistent with the design of the existing wharves, the Project will provide sufficient freeboard to maintain a low risk in relation to sea level rise, storm surges and coastal inundation.

#### **3.14.2.3 Mitigation Considerations**

Ports have inherent functional and operational requirements to locate in areas prone to coastal hazards. POTL's Climate-related Disclosures Report concludes that the likelihood of sea level rise impacting ship access to Port wharves is low.

As such, no specific mitigation measures have been identified as necessary to manage the potential effects of climate change on the reclamations or other Project elements.

#### **3.14.3 Consent Holder – section 13(4)(w)**

N/a. Any approvals granted will be held by POTL alone.

#### **3.14.4 Compliance and Enforcement – section 13(4)(x)**

Compliance and/or enforcement actions are summarised in the table below.

**Table 6: POTL Compliance and Enforcement Track Record.**

<b>Local Authority</b>	<b>Compliance/Enforcement Action &amp; Outcome</b>
Bay of Plenty Regional Council	Suspended particulate matter was discharged beyond the Port boundary in excess of rule 17(e) of the Regional Air Plan. POTL placed greater operational controls on the cleaning of hoppers occurring on the Port boundary during periods of high wind gusts. In addition, an 8 metre high dust fence has been installed along this boundary. (Abatement Notice RA19-00124, issued 19 December 2019).
Bay of Plenty Regional Council	This abatement notice was cancelled under section 325A of the Resource Management Act after an appeal by POTL, and was replaced with a formal warning. The warning was in relation to a stormwater discharge from the Mount Maunganui wharves log storage area. Better housekeeping and a resource consent has shown ongoing compliance. (Abatement Notice RA18-000-55, issued 24 August 2018).
Bay of Plenty Regional Council	A stormwater discharge from Sulphur Point container terminal had suspended solids measured higher than the consent limit resulting in an abatement notice. Since this abatement notice POTL has increased site sweeping, more frequently cleaned the settlement pond prior to discharge and installed a turbidity gauge in the pond to automate a valve to ensure discharge from the pond only occurs when consent conditions are met. (Abatement Notice RA17-00068, issued 28 August 2017).
Bay of Plenty Regional Council	Stormwater mixed with hydraulic oil leaked from a leased site within the Sulphur Point container terminal discharged to the harbour resulting in an abatement notice. Since this abatement notice POTL has worked with third party operators for better spill response measures and installed valves on stormwater discharge pipes. (Abatement Notice RA18-00037, issued 18 June 2018).
Bay of Plenty Regional Council	This abatement notice was cancelled on the 22 March 2018 when the matters that led to the notice being issued relating to the discharge of bulk cargo by a third party operator on POTL land were addressed. Namely the practice of discharging cargo direct to the wharf deck ceasing. (Abatement Notice RA17-00063, issued 14 August 2017).

### **3.15 SPECIFIC PROPOSED APPROVALS – SECTION 13(4)(Y)**

Section 13(4)(y)(i) requires a referral application to include the information specified in clause 2 of Schedule 5 to the FTAA. That information is:

- (a) an assessment of the project against—*
- (i) any relevant national policy statement; and*
  - (ii) any relevant national environmental standards; and*
  - (iii) if relevant, the New Zealand Coastal Policy Statement; and*
- (b) in relation to any proposed approval that is a resource consent, whether, to the best of the applicant’s knowledge, there are any existing resource consents of the kind referred to in section 30(3)(a).*

### **3.15.1 National Policy Statements**

There are seven published National Policy Statements. They provide direction regarding freshwater management, greenhouse gas emissions from industrial process heat, highly productive land, indigenous biodiversity, renewable energy generation, electricity transmission and urban development. Only the National Policy Statement for Indigenous Biodiversity 2023 (“**NPSIB**”) is relevant to this Project.

The NPSIB applies in the terrestrial coastal environment and applies to specified highly mobile fauna. Several of the avifauna species identified in the Assessment of Effects on Birds commissioned by POTL (and included as part of POTL’s April 2025 substantive application) as visitors to the Port come under the definition of “specified highly mobile fauna”, including tarāpunga/red-billed gull and kuaka/eastern bar-tailed godwit. Therefore, the NPSIB is relevant.

The potential adverse effects of the Project in the coastal terrestrial environment relate to the relocation of the gull colony and penguins at the Mount Maunganui wharves. Those effects are assessed as temporary and less than minor, and comprehensive mitigation measures (detailed in the Avifauna Management Plan that would accompany any future substantive application arising from this referral application) are expected to enhance outcomes for all birds.

As such the Project is consistent with the NPSIB, noting particularly that:

- > To reduce uncertainty about where the relocated birds will choose to move to, a precautionary approach will see the new rock wall habitat and nesting boxes established before the existing rock wall is dismantled (Policy 3);
- > The specified highly mobile fauna species of interest are indigenous biodiversity located outside a Significant Natural Area. The presence of this biodiversity will be maintained and enhanced by the proposed mitigation measures for gulls and penguins (Policy 8) while the benefits of the Port activities to New Zealand’s social and economic wellbeing will be supported at the same time (Policy 10); and



- > The populations of specified highly mobile fauna species in question (gulls and penguins) will be managed to maintain the population (Policy 15).

Given consistency with the above policies, the Project's supports the NPSIB's objective "*to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity*".

### **3.15.2 National Environmental Standards**

There are 10 published National Environmental Standards. Only the NESAQ is relevant, albeit indirectly, for the reasons below.

Schedule 1 of the NESAQ specifies ambient air quality standards for contaminants and sets out a framework for threshold concentrations of carbon monoxide, nitrogen dioxide, ozone, PM<sub>10</sub> and sulphur dioxide in discharges to air, and the acceptable number of exceedances of those thresholds per 12-month period. The Project is assessed against those thresholds in the Air Quality Assessment that was appended to POTL's April 2025 substantive application for this Project.

NESAQ regulations 17, 20 and 21 specify that resource consent applications to discharge contaminants to air must be declined.

Notwithstanding the above, the NESAQ does not apply. Under the Marine Pollution Regulations 1998, air discharges from normal shipping operations do not require resource consent.

As such, the applicable RCEP and TCP rules do not reserve the consent authorities' discretion over matters related to air discharges. Consequently, the application cannot be declined based on the NESAQ.

Nonetheless, POTL commissioned an Air Quality Assessment (which was appended to its April 2025 substantive application) to ensure that the potential air quality effects on Whareroa Marae that would be enabled by the Project are appropriately considered. This conservative approach (given the NESAQ does not apply) responds to the assessment matter for "site specific historical or cultural values under ss 6(e) or 7(a) of the RMA" that applies under rules PZ 5(g) (Maintenance dredging activities), PZ8(o) (Other buildings and structures in the Port Zone), PZ 10(g) (Specified dredging activities) and PZ 11(f) (Specified reclamations) of the RCEP.

The Air Quality Assessment confirms that existing air quality at Whareroa Marae meets all of the relevant New Zealand standards and guidelines. The assessment demonstrates that the

air quality effects of activities enabled by the Project are negligible in comparison to the levels contemplated in the applicable standards and guidelines.

For completeness and to provide certainty, the Air Quality Assessment assesses the potential air quality effects of the activities enabled by the Project against the World Health Organisation's 2021 air quality guidelines. Those guidelines are more stringent than the current New Zealand standards and guidelines and have not been adopted in New Zealand.

Even when assessed against those more stringent guidelines, the Project has negligible adverse effects on air quality for most contaminants, or (for annual average NO<sub>2</sub> concentrations, and 24-hour SO<sub>2</sub> concentrations) a small (5%) increase. The incremental additional effect of these small increases is not predicted to have a measurable effect on worst-case concentrations of these contaminants.

No other National Environmental Standards are relevant to this Project.

### **3.15.3 New Zealand Coastal Policy Statement 2010**

The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. To this end, the NZCPS includes seven objectives and 29 policies.

The NZCPS provisions relevant to this Project are summarised and assessed below.

#### **3.15.3.1 The Treaty of Waitangi, tangata whenua and Māori heritage**

Objective 3 of the NZCPS is:

*To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:*

- > recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- > promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- > incorporating mātauranga Māori into sustainable management practices; and
- > recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

Policy 2 of the NZCPS implements this objective by specifying matters to be addressed when accounting for the principles of the Treaty of Waitangi, as follows:

*Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage*

*In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:*

- (a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;*
- (b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;*
- (c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;*
- (d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;*
- (e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū*

POTL has consulted widely with tangata whenua in accordance with the requirements of section 13(4) of the FTAA. However, the ongoing relationship of tangata whenua with Te Awanui/Tauranga Harbour is clear to POTL, from the range and detail of issues, opinions and values canvassed in discussions with tangata whenua in recent years and reiterated in the consultation associated with this FTAA application. As part of any future substantive application arising from this referral application, POTL would proffer the consent conditions included with its April 2025 substantive “listed” application to ensure that:

- > The relationship of iwi/hapū with Te Awanui/Tauranga Harbour is recognised;
- > Specific opportunities are provided for:
- > Mātauranga Māori to be implemented;
- > Kaitiakitanga to be exercised; and
- > Tangata whenua are involved in the implementation of the consents.

This approach is expressed in, and is central to POTL’s proposed Regional Council consent conditions. They require POTL to:

- > Seek to establish the SPDAG composed of iwi/hapū with a relationship to Te Awanui/Tauranga Harbour;

- > Support the SPDAG in preparing a Mātauranga Monitoring Plan, which would be implemented over the Port Zone;
- > Make several substantial payments to the SPDAG and Whareroa Marae. The payments are to facilitate projects that restore the health of Te Awanui and abundance projects, benefit iwi and hapū that have a relationship with Te Awanui/Tauranga Harbour, or, to support any other project the SPDAG deems appropriate;
- > Ensure the results of kaimoana monitoring at Te Paritaha are provided to the SPDAG, to inform the Mātauranga Monitoring Plan;
- > Report to and liaise with the SPDAG in the event of any exceedance of the turbidity limits specified in the water quality monitoring conditions; and
- > Notify iwi/hapū parties of the pending commencement of dredging and implement cultural monitoring of capital dredging operations.

POTL's proposed consent conditions intentionally empower the SPDAG to chart its own direction when fulfilling its role, which covers:

- > A liaison role between POTL and iwi/hapū with a kaitiaki relationship with Te Awanui/Tauranga Harbour, and a forum for the parties to collaborate in review of the Dredge Management Plan and Reclamation and Construction Management Plan and the implementation of the consents generally;
- > Facilitating cultural ceremonies deemed appropriate by iwi/hapū;
- > An annual strategic planning meeting with POTL's Chief Executive Officer and Chair of POTL's Board of Directors;
- > Preparation of the Mātauranga Monitoring Plan, evaluation of data yielded from this plan's implementation and working with the consent holder in relation to any effects identified by the exercise of mātauranga as being of concern; and
- > Administering the funds that the proffered conditions require POTL to pay. The funding obligations in the proposed conditions directly respond to particular matters identified through consultation with tangata whenua.

Based on the foregoing, POTL considers the Project to respond appropriately to objective 3 and policy 2 of the NZCPS.

### 3.15.3.2 Appropriate use and development in the coastal environment (objective 6 and policies 6, 7, 9 and 10)

The Project's rationale is to remove throughput capacity constraints at the Port, and avoid the associated, very large economic opportunity costs that would arise and endure if the constraints are not addressed.

The Port's future development has been forecast for many years, particularly through the RCEP Port Zone and Outline Development Plan provisions, and the high-level regional policy statement policy CE 14B, but also the complementary Port Industry Zone provisions of the TCP, which provide for the landside facilities complementing the wharves and shipping channel.

The RCEP underwent the usual public consultation, submission and hearing processes before being made fully operative. The Port Zone and Outline Development Plan provisions have therefore been thoroughly tested and are beyond question.

There is no feasible alternative location at the Port to efficiently provide supplementary wharf capacity. Nor can the capacity shortfall be addressed by developments at another port. Other ports are smaller, face their own growth constraints and do not share Tauranga's strategic location near highly productive regions with comparable high demand for import/export infrastructure. The Project's scale, including the extent of reclamation, has been meaningfully reduced from that anticipated by the RCEP Outline Development Plan.

The Port is the busiest in New Zealand. In the Port Zone environs, the coastal environment has been completely altered from its original state, through historic reclamations, dredging and the development of wharves and ancillary structures. The surrounding terrestrial environment is characterised by robust maritime industry activities. The applicable planning instruments discourage activities that would conflict with the Port.

While some ecological features in the Project footprint have value, none are unique, significant or outstanding when considered from a Western science perspective, and in any case, the marine ecology, marine mammal and avifauna assessments that formed part of POTL's April 2025 substantive application conclude that no ecological values would be affected in a more than minor way by the Project.

The Landscape Effects Assessment for the Project describes two key outcomes of the historic modification of the area. Firstly, the Port and its environs now *"...lies towards the bottom of the naturalness spectrum – both in relation to landscape values and natural character values"*. Secondly, *"...the proposed developments would reinforce and consolidate public perceptions of an area that already has a clearly defined identity. The proposed wharf extensions and reclamation would not appreciably alter the identity and*

*sense of place of part of Te Awanui/Tauranga Harbour that is already closely associated with the existing Port, and related maritime, operations". It is clear from this that the Port environs have a distinct identity, largely defined by the developments completed since the 1960's.*

Without the Project, a significant opportunity to support the community in providing for its wellbeing, currently and for the long-term would be forgone. Expansion of the Port has been signalled in the relevant statutory plans for many years. The highly modified Port environs are an appropriate, if not the only appropriate, receiving environment for the Project. This is evidenced by the fact that none of the technical assessments identify any adverse effects that cannot be successfully addressed by standard mitigation measures.

Consequently, the Project responds well to the directions of NZCPS objective 6 and policies 6, 7, 9 and 10. The Project represents an entirely appropriate development in the coastal environment. Where necessary, effects will be confined by consent conditions to appropriate limits.

#### **3.15.3.3 Safeguarding the biophysical values and processes coastal environment (objective 1, policies 11, 12, 21, 22 and 23)**

The Project's principal effects on the biophysical values in the development footprint are the displacement of biota through reclamations and dredging, temporary and spatially confined effects arising from turbidity, and the relocation of gull and penguins from the current rock wall location to new habitat to be provided nearby.

The technical assessments that POTL lodged as part of its April 2025 substantive application (and would lodge as part of any future substantive application arising from this referral application) conclude that the Project's adverse effects on biophysical values are of no significance, subject to POTL implementing certain mitigation measures.

Benthic biota are resilient, habituated to regular disturbance and have demonstrated (after historic dredging campaigns) their ability to tolerate disruption and recolonise habitat.

Marine mammals only occur rarely in the Project environs. Some species appear somewhat more occasionally in the wider Te Awanui/Tauranga Harbour. Ultimately, the recommended mitigation measures will avoid or mitigate effects on marine mammals. These measures (i.e. turbidity management) are proven, as they have been used in previous dredging campaigns.

Dismantling the rock wall at the Mount Maunganui wharves, an area used as important habitat by gulls and penguins during vulnerable life stages, is predicted to have no effects of concern. Significant adverse effects will be avoided and the proposed mitigation measures

(that will see the existing habitat recreated to a higher standard in a nearby location) will remedy other adverse effects to a minimal level.

Discharges from the dredging are considered unlikely to entrain contaminants of concern, given the underlying sediments and existing background concentrations. In any case, discharges of turbid water from the dredging will be temporary and confined by management of the dredging plume, meaning effects will be acceptable.

The proposed deepening of 10.55 ha of the shipping channel by dredging to 16 m CD depth has been considered in terms of potential changes to hydrodynamic processes. The technical assessment addressing this subject matter concludes that changes will be of a low to negligible scale, and pose no risks in terms of matters like increased flow velocities or coastal erosion processes. No adverse effects on areas of significant value identified in the RCEP (i.e., outstanding natural feature no. ONFL3 or area of cultural significance no. ASCV-4A) are predicted. The Project does not intersect those areas.

The likelihood of harmful aquatic organisms establishing because of the Project is limited by the obligations that biosecurity legislation places on POTL and on shipping companies to manage biosecurity risks. These regulatory arrangements are described in the draft Dredge Management Plan that POTL lodged as part of its April 2025 substantive application.

As such, the Project will safeguard coastal processes and maintain (or, in the case of avifauna, enhance) biological values and coastal water quality. This is consistent with objective 1 and policies 11, 12, 21, 22 and 23 of the NZCPS.

#### **3.15.3.4 Natural character values and natural features and landscapes (objective 2, policies 6, 7, 13, 14 and 15)**

The Landscape Effects Assessment that POTL lodged as part of its April 2025 substantive application concludes that the environs have ample capacity to absorb the Project's potential landscape and natural character effects without need for mitigation.

A moderate adverse landscape effect on views from Whareroa Marae toward the west/north-west was identified. This effect would result from the southern-most portion of the Sulphur Point wharf extensions, which would enable vessels to berth further south, and consequently which would bring container cranes further south to un/load vessels. These elements would present additional visual enclosure to this viewpoint from the marae.

As discussed earlier, that the Project is appropriate for, and is anticipated in, the proposed location, is signalled by relevant statutory plans and policies. The natural character values of the site are very low and would not be diminished by the Project, and the Project will not



interface with any significant or outstanding natural features or landscapes. ONFL3 located to the north of Sulphur Point, is a significant distance from the development footprint.

As indicated by the findings of the Landscape Effects Report, the Project will consolidate development into an already-modified portion of the CMA (consistent with existing statutory plans). This approach will preserve natural character values and avoid effects on important landscape and features. It follows that the Project is consistent with objective 2 and policies 6, 7, 13, 14 and 15 of the NZCPS.

**3.15.3.5 Public access to and recreational opportunities in the coastal environment (objective 4, policies 18, 19 and 20)**

The Port exclusively occupies space in the CMA and in the wider coastal environment. These exclusive occupation arrangements are consented and are necessary for safety and security (including biosecurity) purposes. It is not feasible for public access to the CMA to be provided through the secure Port premises.

Notwithstanding this, the Project is entirely inside the existing area of consented coastal occupation and therefore, it will not increase the extent of existing restraints on access to the CMA, nor introduce new restrictions on access. Nor will the Project enable public access, particularly vehicular access, to the significant areas identified in NZCPS Policy 20.

Recreational use of the CMA within Stella Passage is controlled by maritime bylaws, and the Project will not prevent recreational users from transiting Stella Passage as they do now.

It is assessed that the Project presents no issues in respect of the outcomes sought by NZCPS objective 4 and related policies 18, 19 and 20.

**3.15.3.6 Managing natural hazard risks in the coastal environment (objective 5, policies 25 and 27)**

The functional and operational needs of the Port necessitate the Project's siting in an area exposed to coastal hazards and climate change effects. There is no alternative location less exposed to coastal hazards that the Project could occupy.

Nonetheless, the design of the proposed wharves is consistent with the existing wharves, which are resilient to sea level rise, even at the high end of projections.

The Project has not been identified as likely to generate, exacerbate or displace, coastal hazard risks. In particular, the Assessment of Effects on Hydrodynamics and Sedimentation that POTL lodged as part of its April 2025 substantive application specifically considers the Project's potential to cause or exacerbate shoreline erosion at certain points around Te Awanui/Tauranga Harbour, and concludes that this is highly unlikely.

Therefore, the Project fits comfortably with the outcomes envisaged by Objective 5 and policies 25 and 27 of the NZCPS, which in turn acknowledge that avoiding exposure to coastal hazards is not necessarily practicable in all cases.

#### **3.15.4 Resource Consents under Section 30(3)(a)**

POTL is in receipt of letters from the Regional Council and City Council, dated 12 and 28 March 2025 respectively, confirming that there are no existing resource consents of the kind referred to in section 30(3)(a) of the FTAA (being any existing resource consent to which section 124C(1)(c) or 165ZI of the Resource Management Act 1991 would apply if the approval were to be applied for as a resource consent under that Act). Those letters are provided as **Attachment 10**.