

UNDER

the Fast Track Approvals Act 2024 (the
FTAA)

IN THE MATTER

from the Port of Tauranga Ltd for the Stella
Passage Development Project listed in
Schedule 2 of the FTAA

**JOINT MEMORANDUM OF COUNSEL ON BEHALF OF NGĀTI RANGINUI IWI SOCIETY, NGA
HAPU O NGĀTI RANGINUI SETTLEMENT TRUST AND NGĀTI RANGINUI FISHERIES TRUST**

IN RESPOSNE TO EXPERT PANEL'S MINUTE 14

DATED 24 AUGUST 2026

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MAY IT PLEASE THE PANEL:

INTRODUCTION

1. This memorandum is filed on behalf of Ngāti Ranginui Iwi Society Incorporated (**NRIS**), Ngā Hapū o Ngāti Ranginui Settlement Trust (**Settlement Trust**) and Ngāti Ranginui Fisheries Trust (**NRFT**) (together, **Ngāti Ranginui**), in response to the Panel's invitation to comment on the draft conditions.
2. Ngāti Ranginui's comments on the individual conditions are set out in **Attachment A**. This memorandum addresses the basis on which those comments are provided, the matters Ngāti Ranginui supports, and a number of matters which arise across the conditions as a whole and are not capable of being answered or addressed by amendment of any single condition.

THE BASIS ON WHICH THESE COMMENTS ARE PROVIDED

3. Ngāti Ranginui maintains its opposition to the Stella Passage Project. In particular, it does not agree with the Panel's draft conclusion that granting the approvals would be consistent with the obligations arising under the existing Treaty settlements to which Ngāti Ranginui is a party. Ngāti Ranginui considers that conclusion to be wrong as a matter of law.
4. Ngāti Ranginui's position on ss 7 and 85(1)(b) was set out in detail in the joint memorandum of counsel dated 14 July 2026 and in the submissions and evidence presented at the hearing at Whareroa Marae on 27–29 July 2026. That position is maintained.
5. However, the Panel has invited comments on the draft conditions before issuing its final decision. Ngāti Ranginui has made the decision to comment as a good faith step and an indication of Ngāti Ranginui's preparedness to engage. Nothing in these comments qualifies Ngāti Ranginui's position that the grant of the approval is not consistent with the Treaty settlements to which Ngāti Ranginui is a party. It is also Ngāti Ranginui's view that, taken as a whole, the draft conditions are not sufficient to address the inconsistency and do not adequately address the cumulative adverse effects identified by the Panel. There is, amongst other things, an obligation to restore the health and wellbeing of Te Awanui. Even with the proposed amendment to the conditions, this will not be achieved.

6. The time available for comment has necessarily limited the extent to which Ngāti Ranginui has been able to develop alternatives that might deal with Ngāti Ranginui's concerns. A conditions framework capable of responding comprehensively to the cultural effects identified by the Panel would require more than the proposed amendments to the draft conditions that Ngāti Ranginui has developed within the present short comment period. A better and comprehensive response would require meaningful engagement with the iwi and hapū whose relationships, tikanga, mātauranga and exercise of kaitiakitanga the conditions are intended to recognise and protect. It would also require a willingness on the part of POTL to engage further. It is clear that POTL does not have any interest in meaningful further engagement.
7. It follows that the comments provided should not (and cannot) be treated as an exhaustive statement of the changes required to address Ngāti Ranginui's concerns or the issue of Treaty settlement consistency.

THE PANEL'S POWER TO AMEND CONDITIONS

8. Ngāti Ranginui agrees with the Panel's conclusions at [99] and [371]–[372] as to the scope of its conditioning power. POTL cannot limit that power by describing a proposed condition, or an amount payable under it, as an Augier offer.
9. Where a condition is otherwise lawfully available to address an effect of the Project, the Panel must determine for itself what the condition requires, subject to the statutory constraints including s 83. That extends to the amount of any financial provision. Ngāti Ranginui accordingly opposes any suggestion that the figures proposed by POTL mark the upper limit of what the Panel may impose.

AMENDMENTS MADE BY THE PANEL WHICH POTL SEEK TO REVERSE

10. POTL's memorandum of 19 August 2026 seeks removal or modification of a number of the Panel's amendments. Ngāti Ranginui opposes those requests and considers the POTL approach to be aimed at minimising the scope of the conditions.
11. **Tikanga-based approach:** The obligation is to engage consistently with tikanga; it does not require the consent holder to determine the tikanga of different groups. POTL itself accepts that the relevant groups determine and articulate their own

tikanga-based standard, and records that it has engaged consistently with tikanga under the guidance of its cultural advisers. There is no sufficient reason to remove or object to this requirement. This condition is not onerous. It is the minimum that the affected iwi and hapu should accept.

12. **Terms of Reference:** The Terms of Reference are one of the few mechanisms through which affected iwi and hapū may influence the arrangements governing their participation for the life of the consent. Any condition permitting the consent holder to proceed where Terms of Reference cannot be agreed effectively renders the condition meaningless. It removes any incentive on the part of POTL to reach agreement. The consequence of a failure to agree would fall exclusively on the iwi and hapu parties, whose interests are being affected by the Project and who are least able to compel compliance.
13. **Mātauranga Māori State of the Environment Report:** Ngāti Ranginui supports removal of the \$100,000 cap. A capped contribution to a report whose scope has not been settled is a limit on exposure rather than a sum calibrated to the task. Ngāti Ranginui also agrees that “facilitate” is not the appropriate description of POTL’s role, but for a different reason: the report should be tangata whenua-led in its scope, method and content, and POTL’s role should be to meet the actual and reasonable costs of its preparation. POTL should also be required to address any issues identified by the report. Otherwise the report would have no utility beyond identifying issues and there would be no assurance that POTL will act to address any issues.

MATTERS ARISING ACROSS CONDITIONS AS A WHOLE

14. The following matters are not confined to any single condition. Where they bear on a particular condition they are addressed in the relevant entry in **Attachment A**, but they cannot be answered by amendment of individual conditions alone, and adoption of the amendments sought in Attachment A should not be treated as having answered them.

The conditions create process, but attach no consequence to its outcome

15. The cultural mechanisms in the conditions produce information and advice. None of them produces a consequence.

16. The Mātauranga Monitoring Plan requires indicators to be identified, surveyed, monitored, reported and integrated, but specifies no mauri objective, no threshold, no trigger and no required response. The management plan conditions require input but attach nothing to what that input reveals. SPDAG advice must be taken into account, with reasons if it is not adopted, but no criteria constrain the discretion to reject it and there is no escalation or dispute resolution pathway. The State of the Environment Report establishes a baseline, but nothing follows from movement away from it.
17. That was the substance of the request made by NRFT and NRIS on 8 June 2026 at [34]–[35] and [37]; of Te Rangimārie Williams’ evidence at the hearing, that a monitoring framework requires identified outcomes, indicators demonstrating whether they are achieved, and resourcing to respond to what is found; of the position of Ngāi Tamarāwaho, that monitoring without response does not protect mauri but merely records harm; and of the Environment Court in its Second Interim Decision at [10].
18. The contrast with the Panel’s treatment of other effects is instructive. For turbidity, underwater noise and marine mammals the conditions set numerical limits, mandatory methods and defined shutdown responses. For the effect the Panel has identified as the only matter weighing against grant, no responses are required.
19. The distinction is not that the cultural effects are incapable of measurement. As counsel submitted at the hearing, a cultural effect is one which affects the ability to exercise and maintain culture, and it manifests in specific and tangible outcomes: the places from which kai was once gathered, and from which it can no longer be gathered. The depletion of the pipi beds at Te Matau, the condition of Te Paritaha, the loss of access and the state of the places to which that access ran are all observable, and the framework the conditions themselves adopt is designed to record them and to show change over time.
20. The distinction is instead that where an effect was assessed by the applicant’s technical experts the Panel required a standard and a consequence, and where an effect was assessed through mātauranga it required a report. That cannot be reconciled with the Panel’s acceptance at [226] that tangata whenua are best placed to qualify and quantify mauri, or at [236] that whether cultural effects are appropriately addressed is best evidenced by the impacted Māori party.

21. It also cannot be consistent with an approach that aims to restore the health and wellbeing of Te Awanui. Any restoration of the health and wellbeing of Te Awanui must include measures to address harm identified through a mātauranga lens.

The financial conditions operate as caps

22. With one exception, every financial condition is a fixed sum. If the sum proves insufficient to achieve the purpose for which it was set, the condition is nonetheless complied with and the purpose is simply not achieved.
23. The exception is instructive: in amending the State of the Environment Report condition the Panel removed the fixed contribution and framed the obligation by reference to the outcome, which POTL describes as creating an uncapped funding obligation. Ngāti Ranginui consider that this outcome based approach should be taken in all cases, so that POTL must meet the actual and reasonable costs of achieving the outcome, not have a limited (and capped) contribution which might ultimately undermine the ability of the condition to meet its intended purpose.
24. If the Panel prefers to retain specified amounts, the deficiency can be met without altering any figure, by extending the review conditions so that the purposes for which review may be initiated expressly include the adequacy of a specified amount to achieve the purpose for which it was set. That requires no figure to be set and no evidence as to quantum now; it is an orthodox exercise of the review power the conditions already invoke; and it is not more onerous than necessary under s 83, because where an amount proves adequate it has no operation at all. Recurring amounts should also be CPI-adjusted where that is not already provided for.

The cultural mechanisms are contingent on the SPDAG being formed

25. SPDAG has been proposed by POTL in an effort to address criticism about the lack of iwi and hapu engagement. SPDAG is not a decision making group. It has an advisory function and cannot compel POTL to act. SPDAG was proposed by POTL without any, or any significant, iwi and hapu engagement.
26. Participation, monitoring, restoration funding, ceremonies, management plan input and the appointment of the marine mammal auditor all depend on the SPDAG being constituted. If it is not formed within ten months the consent holder

may proceed regardless; if the required participation is not achieved within five years, funding is redirected away from the affected iwi and hapū.

27. It is not appropriate for the effectiveness of cultural protections to depend on affected iwi and hapū constituting a body under arrangements they did not design, within a timeframe they did not choose. As drafted, non-participation operates to the advantage of POTL.
28. The conditions should also identify what minimum protections continue whether or not the SPDAG is formed.
29. These comments do not address the primary issue with SPDAG which is that, even if SPDAG is able to be constituted, it is only an advisory body. While SPDAG might benefit POTL by providing a specific forum for iwi and hapū engagement, it does not guarantee any actions will be taken by POTL to address issues identified through that engagement. POTL therefore maintains control. SPDAG accordingly cannot be treated as either recognising or giving effect to the rangatiratanga of the iwi and hapū of Tauranga Moana. Recognition of rangatiratanga and related rights requires more than the ability to give non-binding advice that POTL has the discretion to ignore.

Identification of Ngāti Ranginui entities and hapū

30. The Panel identified three Ngāti Ranginui representative entities and eight hapū at [139]–[140]. None of the three entities is separately named in the conditions, and four of the eight hapū are omitted. No basis for the selection is given, and it is not participation in the process: the Wairoa Hapū Settlement Trust provided material the Panel records at [141] and does not appear, while two hapū that are named are not recorded as having provided material.
31. That is not a question of nomenclature. The quorum, the fallback nomination arrangement, the redirection of funds and the cost schedule are all calculated by reference to the parties named. So too is the monitoring framework the Panel has adopted, under which indicators are hapū-specific. A condition set which recognises only the collective cannot deliver hapū-specific indicators, and cannot respond to effects that are place-specific. The conditions should also record expressly that the SPDAG does not displace direct engagement or alter any mandate.

The baseline follows the works it is intended to measure

32. The State of the Environment Report is the baseline against which cultural change is to be assessed, but its preparation does not begin until the SPDAG is established. Capital dredging, reclamation and pile driving may well have commenced before it exists. A baseline prepared after works have begun will record an environment that already incorporates their effects. Any conditions such as this must be sequenced so that the baseline is completed before capital dredging or reclamation commences — which is also the consequence of POTL’s own submission that it is premature to prepare a monitoring plan before baseline information exists.

Ngāi Tamarāwaho and Te Matau / Sulphur Point

33. Ngāi Tamarāwaho is a hapū of Ngāti Ranginui that holds mana whenua and mana moana at Te Matau / Sulphur Point. This relationship with Te Matau is acknowledged within Ngāti Ranginui and through the Ngāti Ranginui settlement. The Ngāi Tamarāwaho Cultural Values Assessment, provided with the application and recorded by the Panel at [141], identifies Ngāi Tamarāwaho as the hapū most directly affected by the Sulphur Point works. Charlie Rahiri similarly identified Ngāi Tamarāwaho at the hearing as the principal mana whenua of Sulphur Point.
34. The Cultural Values Assessment describes the effects of successive port development on that relationship, including the loss of Te Matau and associated mahinga kai, depletion of kaimoana, loss of customary access, and effects on culturally significant places and connections. It identifies meaningful relationship-building with Ngāi Tamarāwaho as the necessary starting point for any further development at Sulphur Point.
35. The draft conditions provide for Ngāi Tamarāwaho to be invited to engage before works commence at Sulphur Point and quarterly during the works. That is appropriate, but does not by itself recognise or provide for the particular relationship of Ngāi Tamarāwaho with Te Matau. That relationship should also be reflected in the cultural monitoring, management and review mechanisms applying to the Sulphur Point works, including through hapū-specific indicators and direct involvement where those mechanisms concern effects on Te Matau and places of significance to Ngāi Tamarāwaho.

CONCLUSION

36. Ngāti Ranginui's primary position is unchanged. Granting the approval would not be consistent with the relevant Treaty settlement obligations, and the approval should be declined. The reasons for this have been set out in earlier submissions made by Ngāti Ranginui and were reiterated at the hearing at Whareroa Marae. The reasons included the requirement that there be a focus on restoring the health and wellbeing of Te Awanui. Even with the amended conditions this will not be achieved.
37. Ngāti Ranginui's comments are made as a good faith step and an indication of Ngāti Ranginui's preparedness to engage. The amendments sought are advanced on this basis. They are not a complete alternative conditions package. The development of such a package would require more time and further engagement with affected iwi and hapu. It would also require a willingness on the part of POTL to participate in further meaningful engagement.

DATED at Tauranga this 24th day of August 2026



Matanuku Mahuika

Counsel for Nga Hapu o Ngāti Ranginui
Settlement Trust



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ATTACHMENT A

COMMENTS OF NGĀTI RANGINUI ON THE DRAFT CONDITIONS — 24 AUGUST 2026

Ngāti Ranginui Iwi Society Incorporated, Ngā Hapū o Ngāti Ranginui Settlement Trust and Ngāti Ranginui Fisheries Trust

(SC) = structures and reclamation consent; (DC) = dredging consent. Condition numbering follows the Panel’s draft conditions released 17 August 2026. These comments are provided without prejudice to Ngāti Ranginui’s position that the approvals should be declined. They identify deficiencies in the draft conditions and the amendments sought if the Panel proceeds to grant; they do not constitute a complete alternative conditions package.

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
1.1–1.3 Cultural ceremonies (SC)(DC)	The cultural impact assessments identify the inability of Ngāti Ranginui to undertake intergenerational practices within Te Awanui, affecting hononga and Mātauranga Ranginui. Te Rangimārie Williams’ material recommended that opportunities to participate as kaitiaki be provided, and observed that ceremonies alone are a very limited form of participation.	The present opportunity is confined to commencement ceremonies and depends on the SPDAG being formed. Invitations should also issue directly to affected iwi and hapū. Ngāti Ranginui also asks that the conditions provide for ongoing kaitiaki participation at appropriate stages during the works, including opportunities for cultural monitoring and tikanga-led practices identified by the relevant iwi or hapū, whether or not the SPDAG is constituted.
1.1(d)(iii) Sulphur Point engagement — Ngāi Tamarāwaho (SC)	Ngāi Tamarāwaho holds mana whenua and mana moana over the area affected by the Sulphur Point works, and states in its cultural impact assessment that it is the most affected of any hapū or iwi on the Tauranga side of the harbour. Sulphur Point was Te Matau, a sandbar and landing place with tidal flats on either side which were mahinga kai; the assessment records kaumātua kōrero of four distinct types of pipi gathered there. Charlie Rahiri’s kōrero at the hearing on 27 July 2026 identified Ngāi Tamarāwaho as principal mana whenua of Sulphur Point. The NRFT cultural impact assessment also records that Te Awanui falls within the Ngāti Ranginui Area of Interest and identifies the wider relationship of Ngāti Ranginui with Te Awanui as an ancestral water and tupuna.	The direct engagement provided for is appropriate, but it does not by itself recognise or provide for the particular relationship of Ngāi Tamarāwaho with Te Matau. That relationship requires substantive recognition in its own right, alongside recognition of the wider relationship of Ngāti Ranginui with Te Awanui within the Ngāti Ranginui Area of Interest. Ngāti Ranginui asks that the conditions provide substantive and effective recognition of those relationships. In relation to the Sulphur Point works, this should include appropriate resourcing and direct involvement of Ngāi Tamarāwaho in the cultural monitoring, management, restoration and review mechanisms applying to Te Matau.
2.1–2.3 Relationship agreements (SC)(DC)	Te Rangimārie Williams’ material questioned a condition that requires only preparation of an agreement without specifying its content or consequence. Charlie Rahiri described the earlier memorandum of	The condition requires only that preparation be facilitated. No agreement need be concluded and no consequence attaches to failure. The Panel itself recorded at [233] that it remained unsure whether the agreements can

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
	understanding as having produced no enduring relationship. Ngāi Tamarāwaho's Cultural Values Assessment identifies meaningful relationship-building as a necessary starting point for further development at Sulphur Point.	appropriately and effectively address the adverse effect; it did not explain how a mechanism it doubted could form part of a package it found sufficient. Ngāti Ranginui asks that the conditions specify what the agreements must provide for, and what occurs if agreement is not reached.
3.1 Invitation list (SC)(DC)	The Panel identified three Ngāti Ranginui representative entities at [139]–[140] and eight hapū at [139]. NRFT and NRIS addressed the constitution of the SPDAG and the importance of clarity as to whose mandate is engaged at [29]–[31] of the 8 June memorandum.	The condition names “Ngāti Ranginui” only, and only four of the eight hapū. No basis for the selection is disclosed: the Panel records at [141] that it received reports and evidence from Ngāi Tamarāwaho, Pirirākau Tribal Authority Incorporated and the Wairoa Hapū Settlement Trust, and it is the Wairoa Hapū Settlement Trust that does not appear; while Ngāi Te Ahi and Ngāti Ruahine do appear and are not recorded at [141] as having provided material. Ngāti Ranginui asks that NRIS, the Settlement Trust and NRFT be named separately, each with its own nomination right, and that all eight hapū be identified.
3.2, 3.3(b)(i) Establishment, quorum and fallback nomination (SC)(DC)	NRFT and NRIS sought clarity at [29]–[31] as to the minimum participation required, the process and timeframe for establishment, and the management of non-participation.	The eight-party quorum is calculated by reference to a list that is itself incorrect. The fallback permits Ngā Mātarāe Charitable Trust — which is not a post-settlement governance entity, mandated iwi authority or mandated iwi organisation — to nominate members to make up the quorum. Those members would then participate in decisions and recommendations concerning management plans, mātauranga monitoring and restoration funding, which are matters engaging mandate. Ngāti Ranginui opposes that arrangement and asks that non-participation be addressed in a way that respects the status and mandate of the entities invited.
3.3 Purpose and functions of SPDAG (SC)(DC)	Te Rangimārie Williams' evidence was that the SPDAG was not designed with iwi and hapū, is advisory rather than decision-making, and should not displace direct engagement. NRFT and NRIS made the same mandate point at [30]–[31] of the 8 June memorandum.	Ngāti Ranginui does not support the SPDAG in its present form and asks that POTL work with affected tangata whenua to co-design an appropriate mechanism for ongoing participation in decisions affecting their cultural interests. If the Panel nevertheless retains the SPDAG, Ngāti Ranginui asks that the conditions identify which functions carry determinative weight, and record expressly that the SPDAG is an additional mechanism which does not displace direct engagement and does not transfer, aggregate, limit or replace any mandate, settlement relationship or statutory acknowledgement, and is not presumed to speak for an entity that has not authorised it.

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
3.4 Terms of Reference (SC)(DC)	The Terms of Reference are one of the few mechanisms through which affected iwi and hapū may influence the arrangements governing their participation for the life of the consent.	Supported. Ngāti Ranginui opposes POTL's request for deletion, and opposes any provision permitting the consent holder to proceed where Terms of Reference cannot be agreed: that would remove any incentive to reach agreement and render the process illusory. Ngāti Ranginui asks that a fair process for settling outstanding matters be provided, including escalation or facilitation where agreement is not reached within a specified period.
3.5 Response to SPDAG advice (SC)(DC)	NRFT and NRIS sought both a formal response obligation and a clearer escalation pathway at [34]–[35] of the 8 June memorandum, including a linkage between recommendations, reporting and review.	The response obligation has been adopted; the escalation pathway has not. There are no criteria constraining the discretion to reject advice, and no route to facilitation, dispute resolution or review. An obligation to consider advice and give reasons for rejecting it is a transparency mechanism; it is not a mechanism for addressing an effect. Ngāti Ranginui asks that the conditions provide criteria constraining that discretion, and an identified route to facilitation or dispute resolution where a material recommendation is not accepted, connected expressly to the reporting and review conditions.
3.6 Consequence of non-formation (SC)(DC)	Ngāti Ranginui's concern is that the principal cultural mechanisms should not disappear because a collective body is not formed.	If no SPDAG is formed within ten months the consent holder may proceed to implement the consents, including obtaining certification of management plans. Because participation, monitoring, restoration funding, ceremonies, management plan input and the appointment of the marine mammal auditor all depend on the SPDAG being constituted, the entire cultural response is contingent, and non-participation operates to the advantage of the consent holder. Ngāti Ranginui asks that the conditions identify what minimum protections continue whether or not the SPDAG is formed.
3.3(h) Marine mammal observation auditor (SC)	The appointment function is assigned to SPDAG.	The appointment power sits with a body that may not exist. Ngāti Ranginui asks that the conditions provide an alternative mechanism which preserves tangata whenua involvement in the appointment where the SPDAG is not constituted, rather than the cultural role falling away.
Advice note to 3.4 and Appendix 1 — SPDAG administration (SC)(DC)	NRFT and NRIS sought at [36] of the 8 June memorandum provision for independent expert, technical, legal and mātauranga Māori advice where reasonably required, at the consent holder's cost on prior notice. The Appendix 1 allowance provides meeting and limited review	Appendix 1 assumes member fees of \$300 per entity per meeting, eight hours per entity per annum for monitoring review, and two meetings a year from year three — across both consents, fifteen to sixteen entities, and a thirty-five year term. There is no allowance for independent advice, preparation, or

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
	time but no express allowance for such advice, preparation or reporting back.	reporting back to the iwi or hapū represented. The allowance is also the only recurring payment not adjusted for inflation, although the annual mātauranga monitoring payment, the annual Whareroa payment and the existing Ngā Mātarae contribution all are. Ngāti Ranginui asks that provision for independent advice be made; that the consent holder meet the actual and reasonable costs of the SPDAG operating as the conditions require; or, if a specified sum is retained, that it be CPI-adjusted and its adequacy be reviewable.
8.3 Dredge Management Plan; 10.5, 11.4–11.5, 12.4, 13.3 Management plan input (SC)(DC)	Te Rangimārie Williams sought tangata whenua involvement in relevant management plans before certification and favoured a more substantive role than commenting after the consent holder had prepared the plan. Ngāi Tamarāwaho's Cultural Values Assessment similarly seeks a formal role in monitoring frameworks, threshold setting and adaptive management relevant to its rohe.	Tangata whenua involvement should occur before certification and extend to development of the relevant cultural content of the plans. Where advice is not adopted, Ngāti Ranginui asks that the response and escalation mechanisms sought in relation to condition 3.5 should apply.
12.1 (DC) Mātauranga Māori State of the Environment Report	NRFT and NRIS submitted at [38]–[41] on 8 June that, if monitoring is to provide a meaningful basis for assessing future change in cultural health, the baseline itself must be robust.	Support removal of \$100,000 cap; further amendment sought. The report should be tangata whenua-led in scope, method and content, with POTL meeting its actual and reasonable cost. It should be completed before capital dredging or reclamation commences, so that the baseline does not incorporate effects of the works it is intended to measure.
14.1 (SC) / 15.1 (DC) Initial Mātauranga Monitoring Plan and Te Pā Pātiki	Ngāti Ranginui does not criticise the framework and acknowledges the work of Ngā Tai ki Mauao in developing it. It was not available to Ngāti Ranginui until released during this process.	Te Pā Pātiki is capable of identifying cultural condition, change over time, a desired future state and restorative priorities. The conditions require consistency with it but require none of those things. Ngāti Ranginui asks that, if the reference is retained, the conditions connect monitoring to identified outcomes and responses; preserve the ability of each hapū to determine the indicators relevant to its own places; not treat use of the framework as determining mandate; and not preclude a hapū from adopting a different approach to the determination of its own indicators. Ngāti Ranginui reserves its position as to the application of the framework to Ngāti Ranginui hapū pending consideration by those hapū.

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
14.2–14.4 (SC) / 15.2–15.4 (DC) Monitoring content and reporting	The 8 June memorandum at [37] sought monitoring that informs and recommends responses to cultural effects. Te Rangimārie Williams' evidence described a monitoring plan as identifying values, desired outcomes and indicators showing whether those outcomes are achieved, with systems and resourcing to respond. Ngāi Tamarāwaho likewise seeks monitoring that leads to substantive response.	The conditions provide for indicators, surveys, monitoring and reporting, but prescribe no mauri objective or cultural outcome, threshold, trigger or required response. Cultural outcomes and triggers should be identified, together with the steps required where monitoring shows deterioration or other adverse change. By contrast the conditions set specific numerical limits, mandatory methods and defined shutdown responses for turbidity, underwater noise and marine mammals. Ngāti Ranginui asks that the conditions identify cultural outcomes, triggers linked to the monitored indicators, and the steps required where those triggers are reached.
14.5 (SC) Mātauranga monitoring funding	At [38]–[41] of the 8 June memorandum NRFT and NRIS questioned whether the proposed funding was commensurate with the role monitoring is intended to perform. Te Rangimārie Williams gave the example of a kaitiaki monitoring plan for a single iwi costing about \$250,000 to develop, and considered \$25,000 per annum plainly inadequate for ongoing monitoring, analysis and response.	Although POTL now proposes \$250,000 for development, the plan here spans multiple iwi and hapū and may require significant research. Nor does the Environment Court's earlier acceptance of \$25,000 per annum establish adequacy here: that figure related to the confined Stage 1 Sulphur Point works before the Court, not the wider Sulphur Point and Mount Maunganui works now proposed. Ngāti Ranginui asks that POTL meet the actual and reasonable cost of achieving the required monitoring outcome, or the adequacy of any specified amount should be reviewable.
15.1–15.3 (SC) Restoration funding	Te Rangimārie Williams cautioned against fixing restoration funding in advance of the monitoring process, when the restoration required has not been fully scoped and further needs may emerge over time.	The fund is fixed and available in advance of the monitoring that would identify what restoration is required. Ngāti Ranginui asks that the conditions provide for restoration needs identified through monitoring over the life of the consents, rather than exhausting the provision at the outset. The general funding and review principles in the memorandum should apply.
15.9 (SC) Redirection of funds on non-participation	The restoration funding is intended to respond to cultural effects on affected iwi and hapū.	If fewer than eight of the parties identified in condition 3.1 have a representative on the SPDAG within five years, the funds under conditions 15.1 to 15.3 are redirected to the Tauranga Moana Governance Group or to a Council advisory group. The trigger is calculated by reference to a list that is incorrect, and the effect is to move resource away from the affected iwi and hapū in the very circumstance where the cultural mechanisms have failed to establish. Ngāti Ranginui asks that the the five-year redirection mechanism be reconsidered. A failure to achieve the required level of participation in the SPDAG should not, of itself, result in funding intended to address cultural

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
		effects being redirected away from affected iwi and hapū. Any alternative mechanism should be developed through engagement with affected iwi and hapū and include an appropriate process for resolving any failure to agree.
21 (SC) / 24 (DC) Review of conditions	NRFT and NRIS submitted at [32]–[33] and [42] of the 8 June memorandum that a single annual review window was too narrow and that tests requiring an effect to be new or attributable solely to this consent are ill-suited to cumulative cultural effects. Ngāi Tamarāwaho's assessment for the related application seeks a cultural review condition available where monitoring identifies cultural harm, uncertainty, inadequate reporting, non-compliance or failure of mitigation.	The amendment permitting review at any time is supported. The cultural limb nevertheless retains two cumulative gateway requirements — that the effect only became evident after issue, and that it results from implementation of this consent. An effect identified before grant is excluded because it is not new; an effect arising from the cumulative contribution of past and present activity is excluded because it cannot be attributed to this consent alone. Ngāti Ranginui asks that both filters be removed from the cultural limb; that a material monitoring result, SPDAG recommendation or request from an affected iwi or hapū require the Regional Council at least to consider whether a review should be initiated; and that the purposes for which review may be initiated expressly include the adequacy of any amount specified in the conditions to achieve the purpose for which it was set.
D.1 (DC) Dredging volume	POTL has stated that approximately 800,000 m ³ within the dredging area is already authorised under RC62920, that dredging is occurring under that consent, and that RC62920 will be surrendered on grant.	POTL confirms that approximately 800,000m ³ within the dredging area is already authorised under RC62920, that it is presently dredging under that consent, and that RC62920 will be surrendered on grant — but does not propose any reduction to the 1.5Mm ³ volume. The consent would therefore authorise more dredging than the Panel assessed. Ngāti Ranginui asks that the authorised volume be reduced by the volume already dredged under RC62920 as at commencement, and that POTL be directed to provide that figure.
Avifauna Management Plan (wildlife approval)	Ngāi Tamarāwaho's cultural impact assessment identifies Sulphur Point and the Waikareao Estuary as important kuaka landing areas and records the hapū's relationship with kuaka and kororā.	The plan is prepared and certified without any requirement that it address the kuaka landing sites at Sulphur Point and the Waikareao Estuary, and without any requirement for involvement of the hapū whose rohe those sites lie within. Ngāti Ranginui asks that the conditions require the plan to address those landing sites, and provide for Ngāi Tamarāwaho involvement in its preparation rather than an opportunity to comment after it is drafted.

Condition	Cultural effect, and position previously advanced	Deficiency, and amendment sought
Cultural monitors and accidental discovery (SC)(DC)	Ngāi Tamarāwaho assessment requests that cultural monitors nominated by the hapū be present whenever excavation occurs near places of potential cultural significance, and that any discovery be addressed under tikanga with the hapū directing reburial.	To the extent the conditions provide for accidental discovery, they do not provide for cultural monitors nominated by the hapū within whose rohe the works occur to be present during excavation, and do not identify who directs the response to a discovery. Ngāti Ranginui asks that both be provided for.
Motuopae and the Waikareao Estuary (DC)	Motuopae is an urupā of Ngāi Tamarāwaho in the Waikareao Estuary, immediately south of Sulphur Point. The assessment records the hapū's concern that changes to estuary ecology, tidal flows or sediment deposition arising from dredging of the adjacent channels could cause erosion and expose kōiwi.	No condition requires monitoring of tidal flow, erosion or sediment deposition in the Waikareao Estuary in the vicinity of Motuopae, and no response is specified if change is observed. Ngāti Ranginui asks that monitoring be provided for, with an identified response.
No condition — heavy vehicle movements and the Takitimu Drive corridor	Ngāi Tamarāwaho's assessment records that the route serving the port and the inland port at Hamilton runs past Huria marae and the Motuopae urupā along Takitimu Drive and through the Kōpūrerua Valley, the largest urban wetland in Australasia, where construction of the highway severed Puketoromiro Pā in two and where Orini Pā lies. The assessment records that no traffic assessment was produced by the applicant for the proposed extension.	No condition presently responds to those identified effects. Ngāti Ranginui asks the Panel to consider whether conditions are required to assess, monitor and mitigate Project-related traffic effects on Ngāi Tamarāwaho and the identified places of significance, including through engagement with the hapū on appropriate mitigation.
WA 4, WA 11 Wildlife approval term	The Department of Conservation's position recorded at [356] was a preference for a 10-year term, with recertification as an alternative if a 35-year term were granted.	Ngāti Ranginui supports the Department's preferred 10-year term.
Land use consent (cranes)	Ngāi Tamarāwaho's assessment states in terms that the gantry cranes will increase in number and create visual disturbance to the sightlines to Mauao, the hapū's ancestral maunga, and identifies the sightlines from Huria marae, Otamataha Pā, Otūmoetai Pā, Motuopae, Puketoromiro and Orini Pā. It records the concern that the silhouette and mana of Mauao will be visually crowded or obscured, and that night lighting will add to that effect. Charlie Rahiri's kōrero at the hearing identified the obstruction of Honoruru and the viewshafts to Mauao by port lighting, structures and industrial occupation, and their significance to the journey of the dead.	Ngāti Ranginui does not accept that these cultural effects fall outside the Panel's consideration. The conditions should, to the extent available within the land use approval, address practicable measures to reduce the visual and cultural effects identified, including measures of the kind proposed in Ngāi Tamarāwaho's assessment. Ngāti Ranginui otherwise reserves its position on the Panel's conclusions at [99] and [245]–[248].