

BEFORE THE EXPERT PANEL

IN THE MATTER OF

the Fast-track Approvals

Act 2024

AND IN THE MATTER OF

an application by the Port
of Tauranga Limited for the
Stella Passage
Development (Application
- FTA072 / FTAA-2512-
1163)

**SUBMISSION ON BEHALF OF PIRIRĀKAU TRIBAL AUTHORITY –
INCORPORATED (PTAI)**

**IN RESPOSNE TO
MINUTE 7 OF THE EXPERT PANEL
DATED 1 JULY 2026**

3 Lochhead Road
RD6 Te Puna
Tauranga 3176

Senior Environmental Planner: Julie Shepherd

M: [REDACTED]

Kaihautū - General Manager: Heta Gardiner

M: [REDACTED]

[REDACTED]

May it please the panel

1. INTRODUCTION

- 1.1 Pirirākau Tribal Authority - Incorporated (PTAI) submits this Memorandum in response to Expert Panel Minute 7 (dated 29 June 2026). This submission addresses the Panel's requests for further information, responds to the proposed process for the Cultural Issues hearing, and advances PTAI's position on the characterisation of consent conditions.
- 1.2 PTAI reiterates that it has been excluded from all substantive engagement regarding the development of consent conditions for this application. The Applicant has at no stage initiated direct, project-specific engagement with the currently mandated PTAI leadership on conditions or mitigation. PTAI is now being asked to respond to a conditions framework it was never consulted on, within a process it was actively excluded from.

2. RESPONSE TO FURTHER INFORMATION REQUESTS

2.1 Augier Conditions and the Scope of s108AA(1)(b) (Paragraph 2)

- 2.1.1 PTAI submits that conditions identified by the Applicant in Appendix 2 of its response to Minute 5 as *Augier* conditions may properly fall within the scope of allowable conditions under s108AA(1)(b) of the Resource Management Act 1991.
- 2.1.2 The Applicant's characterisation of conditions as voluntarily offered serves a strategic purpose: it positions the Applicant as the arbiter of the scope and adequacy of its own mitigation package. By framing conditions as *Augier* (voluntarily proffered), the Applicant retains control over what is offered, to whom, and on what terms. This framing is inconsistent with the Panel's independent jurisdiction to impose conditions that are necessary to give effect to statutory obligations.
- 2.1.3 The obligations arising under the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, and the requirements of ss 6(e) and 7(a) of the RMA (which continue to apply to cultural assessments under the FTAA¹), are not discretionary extras that depend on the Applicant's goodwill. Conditions that give effect to these statutory requirements are within the Panel's lawful conditioning power under s108AA(1)(b). They are imposable, not merely capable of acceptance as a concession.
- 2.1.4 The Applicant cannot reframe statutory obligations as voluntary concessions. Where conditions are necessary to:

¹ Fast-track Approvals Act 2024, s 7(1)(a)(i).

- (a) Recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga (s 6(e) RMA);
- (b) Have particular regard to kaitiakitanga (s 7(a) RMA); and
- (c) Ensure the decision is not inconsistent with the obligations arising under the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 (s 85(1)(b) FTAA),

those conditions fall squarely within s108AA(1)(b) as conditions that the Panel may lawfully impose, regardless of whether the Applicant has chosen to offer them.

2.1.5 The procedural context reinforces this analysis. The Applicant excluded PTAI from the entire conditions development process, presented pre-formed conditions to the Panel on its own terms, and now characterises them in a manner that maximises Applicant control over scope and enforceability. PTAI is not in a position to "agree" to conditions it was never engaged on. The *Augier* characterisation is a product of exclusionary process, not legal reality.

2.1.6 PTAI submits that the Panel should exercise its independent jurisdiction to determine whether conditions are necessary to satisfy the statutory tests, irrespective of the label the Applicant has applied to them².

2.2 Treaty Settlement Consistency: Sections 7, 82 and 85(1)(b) of the FTAA (Paragraph 2)

2.2.1 PTAI identifies the following in response to the Panel's request:

(i) The existing Treaty settlement

The relevant Treaty settlement, as defined in the FTAA, is the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025. Pirirākau is a constituent hapū of Ngāti Ranginui whose statutory status is affirmed under this Act³.

(ii) The relevant obligation(s) arising under that settlement

The Settlement Act contains the Crown's formal acknowledgement in Part 2, Section 8 that:

"the clearing of forests, development of the Port of Tauranga, the development of the Mangapapa hydro scheme and the collapse of the Ruahihi Canal, and the disposing of sewage and wastewater into the harbours and waterways of Tauranga Moana have resulted in environmental degradation of Tauranga

² Resource Management Act 1991, s 108AA(1)(b); Fast-track Approvals Act 2024, Schedule 4, cl 31.

³ Pirirākau Tribal Authority Memoranda (17 March 2026; 30 April 2026).

Moana which remains a source of great distress to the hapū of Ngāti Ranginui"⁴.

The Act recognises that mana and authority are held at the hapū level⁵. The statutory architecture is intended to devolve decision-making power back to the hapū, where kōrero of the people of the land carries primary weight. This creates an obligation on decision-makers to ensure that determinations do not perpetuate the historical grievances acknowledged in the settlement and must affirmatively contribute to the restoration of mauri.

(iii) How a decision to grant the approvals would arguably be inconsistent with the obligation(s)

A decision to grant the approvals as currently structured would be inconsistent with the settlement obligations because:

- (a) The Applicant's mitigation package fails to address the cumulative, intergenerational degradation of the Te Puna interface documented in the Settlement Act, and compounds it with new project-specific harm (sediment disturbance and hydro-morphological disruption)⁶;
- (b) The Applicant explicitly acknowledges its mitigation "does not and is not intended to address historic degradation or wider cumulative effects unrelated to the Project"⁷, directly contradicting the settlement obligation to restore mauri rather than perpetuate its decline;
- (c) The Applicant diverts cultural interests into collective, non-decision-making advisory bodies (SPDAG) and generic regional funding streams, rather than engaging directly with the mandated hapū leadership as required by a settlement that recognises hapū-level authority⁸;
- (d) The absence of any genuine, project-specific engagement with the currently mandated PTAI leadership on conditions or mitigation constitutes a procedural inconsistency with a settlement that requires hapū primacy in resource management decisions affecting their rohe.

⁴ Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, Part 2, Section 8.

⁵ Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, s 8(17)(a).

⁶ Pirirākau Assessment of Cultural Effects (PACE), Section 5.1 (Cumulative Impact Assessment, p. 22).

⁷ Response to comments from Appropriate Parties, p. 15 (Applicant's response to Comment 32).

⁸ Applicants Tangata Whenua Liaison Correspondence to PTAI (dated 4 June 2026).

(iv) **Whether the settlement provides for the consideration of any document (as defined in s82(4))**

The Pirirākau Hapū Management Plan (PHMP) 2017 is a document relevant to decisions made under s104 of the RMA. The PHMP sets out the environmental and cultural management objectives of Pirirākau within the Tauranga Moana ecosystem, including specific provisions relating to harbour management, kaimoana protection, and the restoration of mauri⁹. The Pirirākau Assessment of Cultural Effects (PACE), prepared pursuant to the PHMP framework, constitutes the authoritative hapū assessment of the cultural effects of this project¹⁰.

3. CULTURAL ISSUES HEARING (Paragraphs [7]-[8])

- 3.1 PTAI confirms its intention to attend the Cultural Issues hearing at Whareroa Marae on 27 - 29 July 2026, adopting the tikanga-consistent oral process proposed by the Panel.
- 3.2 PTAI records that while it previously expressed a preference for direct expert caucusing over a public oral hearing¹¹, the Panel's proposal for a tikanga-consistent process on a marae is a materially different forum. PTAI accepts this process as appropriate for the presentation of cultural evidence in a manner consistent with Pirirākau tikanga.
- 3.3 PTAI has no specific preference for day or time and is available across all three hearing days. PTAI is content to be allocated to whichever day or time best suits the Panel's scheduling.
- 3.4 Regarding translation: the PTAI Senior Environmental Planner does not require a translator. However, the PTAI Kaihautū (General Manager, Heta Gardiner) may be present and is fluent in te reo Māori. The Panel may be assisted by a translator depending on the extent of te reo Māori spoken by the Kaihautū during proceedings.

4. PROCEDURAL DIRECTIONS AND RELIEF SOUGHT

4.1 In light of the submissions above, PTAI respectfully requests that the Expert Panel:

1. **Exercise independent conditioning jurisdiction:** Determine the scope of allowable conditions under s108AA(1)(b) on the merits of the statutory tests, irrespective of the Applicant's *Augier* characterisation, and acknowledge that conditions giving

⁹Pirirakau Hapū Management Plan (PHMP) 2017, Section 2 Environment Action Sheets, Items 3.5 and 4.4; see also "Te Wai o Pirirakau", pp. 29-31.

¹⁰ Pirirākau Assessment of Cultural Effects (PACE): Port of Tauranga – Stella Passage Development (FTA072), April 2026.

¹¹ PTAI Submission in Response to Minute 5 (dated 8 June 2026), Section 4.

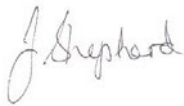
effect to settlement obligations and RMA ss 6(e)/7(a) are impossible rather than dependent on Applicant consent.

2. **Note the engagement deficit:** Record that the Applicant has failed to initiate any direct, project-specific engagement with the currently mandated PTAI leadership regarding conditions or mitigation for the Stella Passage Development, and that PTAI's inability to "agree" to conditions is a consequence of this exclusion.
3. **Direct substantive engagement:** Prior to or concurrent with the Cultural Issues hearing, direct the Applicant to initiate meaningful, project-specific engagement with PTAI regarding the Te Puna rehabilitation framework and the conditions necessary to give effect to the Settlement Act obligations.
4. **Confirm PACE status:** Acknowledge the Pirirākau Assessment of Cultural Effects (PACE) as the authoritative hapū assessment of cultural effects for this project, and the Pirirākau Hapū Management Plan as a relevant document under s82(4) of the FTAA.

- 4.2 PTAI maintains that the granting of any consent under the Fast-track Approvals Act must be contingent upon the Applicant demonstrating an affirmative contribution to the restoration of mauri, as recognised by the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025.

Julie Shepherd

Senior Environmental Planner, Pirirākau Tribal Authority – Incorporated (PTAI)



DATED at Tauranga this 1st day of July 2026
