

BEFORE THE EXPERT PANEL UNDER THE FAST-TRACK APPROVALS ACT 2024

IN THE MATTER of a substantive application by Port of Tauranga Limited for resource consents and a wildlife approval for the Stella Passage Development project (the **Project**), being a listed project in Schedule 2 of the Fast-track Approvals Act 2024

**MEMORANDUM ON BEHALF OF THE APPLICANT IN RESPONSE TO MINUTE 12 OF THE
STELLA PASSAGE DEVELOPMENT EXPERT PANEL
[FTAA-2512-1163]
30 JULY 2026**


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Introduction

1. This memorandum is filed on behalf of Port of Tauranga Limited (**POTL** or the **Applicant**) in response to Minute 12 (dated 29 July 2026) (**Minute**) of the Stella Passage Development Expert Panel (**Panel**). In the Minute, the Panel has requested responses from the Applicant to a number of matters – we address each in turn.

Suspension

2. As directed in the Minute, the Panel has requested an updated condition set from the Applicant, and at the same time strongly encouraged the Applicant to consider whether a s 64 Fast-track Approvals Act 2024 (**FTAA**) suspension of processing might enable actions to be taken that may assist with the rebuilding of trust and relationships during the preparation of the updated sets.
3. The Applicant has carefully considered that suggestion. It does not seek a suspension of processing.
4. The Applicant acknowledges the importance of continuing to engage constructively with iwi, hapū and other submitters, and remains committed to doing so. However, it does not consider that a suspension of processing would materially assist the Panel, the parties, or the timely resolution of the application at this stage of the process.
5. There are several reasons for this:
 - (a) The Applicant has established relationships with a number of the parties who appeared before the Panel. Those relationships were acknowledged during the hearing, including by representatives of Ngāi Tukairangi (Riri Ellis), Ngā Tai ki Mauao (Charlie Tawhiao) and the Tauranga Moana Iwi Customary Fisheries Trust (Jane Pou, Kia Maia Ellis). Those relationships will continue regardless of whether this process is paused.

- (b) The Applicant is realistic about the limits of what a pause could achieve in terms of rebuilding trust and relationships. The concerns expressed by iwi and hapū in relation to the Project are longstanding and well understood. They do not arise from a lack of opportunity to engage, nor are they the product of insufficient time for discussion. Rather, they reflect the diversity and complexity of hapū and iwi perspectives on mitigation frameworks, together with genuine differences in views regarding the costs and level of support required.
 - (c) There have already been a number of pauses in the consenting history of the Project, including in relation to lodgement of the resource consent application, following the Environment Court's first interim decision, and before lodgement of the fast-track application. The Environment Court in its second interim decision noted the nine months that had passed since its first interim decision, and said that "Further delays cannot be justified".¹ Pauses have not resolved the matters now before the Panel. In the Applicant's view, the history of the process indicates that a further pause is unlikely to advance matters.
 - (d) The Project remains urgent. The Panel has before it extensive comments from importers, exporters and shipping lines as to the importance of the Project. The Project was also given a 'priority' status under the FTAA, which is reflective of its urgency. A suspension would defer the Panel's consideration of the application and, in the Applicant's view, would not be reasonable in the circumstances.
 - (e) The Applicant is continually engaging with iwi and hapū on a broader range of matters as they relate to the operation of the Port of Tauranga.
6. For these reasons the Applicant does not seek to pause this process. It remains ready and willing to assist the Panel with any questions it may have.

¹ See paragraph [11] of the second interim decision, Appendix 4 to the Substantive Application Report.

Updates to conditions

7. As above, the Panel has invited the Applicant to provide an updated condition set in light of the matters raised during the course of the cultural effects hearing on 27 – 29 July 2026. The Applicant has reflected on the matters raised, and now proposes various amendments to its proposed conditions to address these matters.
8. Attached, and marked as Appendix 'A' and 'B' are copies of the clean and tracked-changes versions of the draft Regional Council Dredging Conditions (Resource Consent No RM26-0055-DC) respectively (**Dredging Conditions**). Attached, and marked as Appendix 'C' and 'D' are copies of the clean and tracked-changes versions of the draft Regional Council Structures and Reclamations Conditions (Resource Consent No RM26-0055-LC) respectively (**Reclamation and Structures Conditions**). To assist the Panel, a table setting out each amendment is attached and marked as Appendix 'E'.
9. The Applicant's key amendments are focused on the following areas:
 - (a) Establishment of a Customary Fisheries Restoration Fund consisting of a one-off payment of \$500,000 to support Tauranga Moana Iwi Customary Fisheries Trust (**TMICFT**) projects, directed towards the restoration and enhancement of customary fisheries values within Tauranga Moana.
 - (b) Clarification that the annual contributions of \$25,000 are to be directed towards the *delivery* of the Mātauranga Monitoring Plan (**MMP**) and the establishment of new a one-off contribution of \$250,000 for the *preparation* of the MMP.
 - (c) Funding of up to \$51,360 per annum, provided by the Applicant, for the administration of the Stella Passage Development Advisory Group (**SPDAG**) during the first two years, reducing to \$39,600 each year following. This is

intended to clarify that reasonable administrative costs associated with the SPDAG will be met by the Applicant and are not to be funded from the \$2,000,000 contribution intended to be available for projects selected by the SPDAG.

- (d) Clarification of the role of the consent holder in the SPDAG, in that it must provide a written response to any recommendations it receives from the SPDAG, including any reasons why it does not adopt such recommendations. The written response must also be provided to the Bay of Plenty Regional Council.
- (e) Clarification of the Applicant's intention to retain a barge landing ramp at Butters Landing.
- (f) Development of the land-use policy to be in consultation with Whareroa Marae.

Customary fisheries restoration fund

- 10. The Applicant has proposed a one-off fund of \$500,000 for kaimoana restoration projects to be delivered through the TMICFT.
- 11. As discussed verbally on 29 July 2026, TMICFT is recognised in the conditions of the resource consents authorising POTL's capital dredging as the appropriate mechanism through which the consent holder could recognise the relevant iwi and hapū as kaitiaki of Te Awanui Tauranga Harbour and the importance of Te Awanui including Mauao and Te Paritaha to Tangata Whenua.²
- 12. When entering the Environment Court process, the Applicant made similar proposals for the Stella Passage Project, but as recorded in the first interim decision, this was

² Consent 65806.

contested.³ As a result, the Applicant leant into the proposition of an advisory group established by iwi and hapū on their own terms through a tikanga based process, which is the genesis of the SPDAG proposal before the Panel.

13. The conditions originally proposed as part of the substantive application, proposed that the TMICFT and the Ngā Mātarae Trust form the SPDAG, if a SPDAG was not formed.⁴
14. Through the comments process, TMICFT noted that it had been left out of the SPDAG and relationship agreement conditions, and the Applicant has proposed amendments which instead incorporate TMICFT within the SPDAG and relationship agreement conditions.
15. While the Applicant does not accept that the Project will adversely affect customary fisheries within the mātaimai reserve, and its evidence is that there will be no effect in the reserve, it has reflected on the matters raised through the hearing process by TMICFT, including the evidence and submissions concerning the long-term health of customary fisheries within Tauranga Moana and the desire for restoration initiatives that sit alongside the proposed monitoring and management framework.
16. The Applicant acknowledges the importance that tangata whenua place on restoration and enhancement initiatives and the role that such initiatives can play in supporting ongoing relationships with Te Awanui.
17. Accordingly, the Applicant proposes the establishment of a one-off \$500,000 Customary Fisheries Restoration Fund to support TMICFT projects directed towards the restoration and enhancement of customary fisheries values within Tauranga Moana. This also provides additional recognition to TMICFT as sought in their presentation yesterday.

³ See paragraphs [118]-[121] of the first interim decision, Appendix 3 to the Substantive Application Report.

⁴ See for example proposed consent condition 3.2 of the Dredging Conditions.

18. The Applicant does not advance the proposal on the basis that it is required to avoid, remedy or mitigate any identified adverse effect on Te Paritaha or the mātaihai reserve. Rather, it is offered as a voluntary enhancement measure that will deliver tangible environmental and cultural benefits in the form of restoring, protecting and enhancing the moana, irrespective of differing views as to the nature and extent of the Project's effects.

Mātauranga Monitoring Plan

19. The Ngāti Ranginui parties raised concerns regarding the MMP, in particular the cost associated with its preparation. The Applicant acknowledges these concerns and to address them, now proposes that it establish a separate, one-off, contribution of \$250,000 for the *preparation* of the MMP, distinct from the annual contributions which are directed towards the *delivery* of measurables specified in the MMP.
20. For the avoidance of doubt, the existing annual funding contribution of \$25,000 remains proposed for the delivery of the MMP. The Applicant does not propose to increase this annual funding contribution. Counsel records that the Environment Court did not query the proposed annual contribution of \$25,000 for the delivery of the MMP.⁵
21. As discussed by Mr Faithfull on 29 July 2026, the Mātauranga Māori State of the Environment Report is intended to contribute to the preparation and delivery of the MMP. By way of example, the MMP is required to include methodologies for cultural indicators to be surveyed and monitored and how any results will be compared with information provided in any Mātauranga Māori State of the Environment Report.⁶

⁵ *Port of Tauranga Ltd v Bay of Plenty Regional Council* [2024] NZEnvC 337.

⁶ Condition 15.3(c), Dredging Conditions.

22. As set out in the conditions, the MMP is intended to relate to the area of overlap between Te Awanui and the Port Zone.⁷ The funding provided for in the conditions is proposed in that context.

Barge ramp

23. Concerns were raised by Brendon Taingahue, on behalf of Ngā Tai ki Mauao, regarding the future of the Butters Landing barge ramp. As advised by Dan Kneebone at the hearing, the Applicant has always proposed to retain a barge ramp at Butters Landing and this has been the consistent narrative the Applicant has put forward to the participants. The plans that are part of the substantive application show the reconstructed barge ramp. For the avoidance of any doubt, the Applicant has proposed a condition in the Reclamation and Structures Conditions for the provision of a barge ramp generally in accordance with the relevant plan at all times.

Land-use plan

24. As advised at the hearing, the proposed land use policy was incorporated as a specific response to mitigation suggested by Ngāti Kuku Hapū and Whareroa Marae's then planners, The Catalyst Group, during the direct referral process. As per Mr Faithfull's evidence, the conditions relating to that policy can be removed if they are not supported by Ngāti Kuku Hapū and Whareroa Marae.⁸
25. The Applicant is not aware of any desire for the land-use policy to be removed from the conditions. However, following the hearing and feedback from Ngāti Kuku Hapū, Whareroa Marae, and the Panel, the Applicant has revised the relevant conditions to say that the policy must be prepared in consultation with Whareroa Marae.
26. The Applicant is offering the land-use policy on an *Augier* basis. In reviewing the condition set, the Applicant has become aware that the land-use policy condition in

⁷ Condition 14.2, Structures and Reclamations Conditions and Condition 15.2, Dredging Conditions.
⁸ Statement of Evidence Of Luke Christopher James Faithfull dated 7 May 2026 at 99(d).

the Dredging Conditions does not include an advice note confirming that it is offered on that basis. Counsel records that the equivalent condition in the Structures and Reclamations Conditions (15.6) contains such an advice note and was recorded in the Applicant's *Augier* condition table filed in response to Minute 5 of the Panel. The Dredging Conditions have been updated to include an advice note to reflect the *Augier* status of the land-use policy condition.

Public health

27. The Panel has requested the Applicant provide a response to paragraphs 73 and 74 of Professor Simon Hales' updated evidence, in light of the Panel's finding that those new paragraphs go beyond the scope of the agreed amendments as set out in the public health joint witness statement. Attached and marked as Annexure 'F' is the reply evidence of Dr Lyn Denison addressing those paragraphs.

Dredging volume

28. At the cultural issues hearing the Panel queried whether the reference in the substantive application report to the dredging of '850,000Mm³' of material was an error. Counsel understand that the Panel was referring to section 4.2, page 106, of the substantive application report where the Project's staging and timing is set out.
29. Counsel confirm that the reference there is intended to be **850,000m³** not 850,000,000m³. That is reflective of the proposed dredging volume for Stage One of the Project as set out in the 'staging' table earlier in the substantive application report.⁹
30. As advised during the project overview conference, 5.9 ha of the area proposed to be dredged as part of the Project (approximately 800,000 m³ to a depth of 12.9 m chart datum) is already authorised under Port of Tauranga Limited's existing consent RC

⁹ Substantive Application Report, Table 3, p 13.

62920. The expiry date of RC 62920 was extended to 31 December 2027,¹⁰ and the Applicant is currently undertaking dredging pursuant to that consent. As the Panel is aware, the Project encompasses the area authorised under RC 62920, and the Applicant will surrender that consent upon commencement of the consents sought for the Project.¹¹

31. POTL intends to provide an update on the volume dredged under RC 62920 closer to the time that the draft decision is released so that the Panel can factor this into the condition set.

Conclusion

32. The Applicant has carefully considered the matters raised during the cultural effects hearing and has responded with a suite of targeted amendments that directly address key concerns raised. While it maintains its position that the Project's effects are addressed by the previous version of the proposed conditions, it has sought to respond constructively to the issues raised and to offer further voluntary enhancement mechanisms to improve the mauri of Te Awanui.
33. Finally, the Panel has also made requests to two parties to provide documents referred to or relied upon by participants at the cultural issues hearing. These are due to be filed after this memorandum. To the extent that those materials introduce new evidence, information, or arguments, the Applicant respectfully requests an opportunity to respond to them before a draft decision is issued.

¹⁰ By the by the Resource Management (Duration of Consents) Amendment Act 2025.
¹¹ Condition 23.1, Dredging Consent.

DATED at Tauranga this 30th day of July 2026

Three handwritten signatures in blue ink are displayed side-by-side. The first signature is a cursive 'V Hamm'. The second signature is a cursive 'L Murphy'. The third signature is a cursive 'C Lipinski'.

Vanessa Hamm / Laura Murphy / Cory Lipinski
Counsel for Port of Tauranga Limited