

Appendix One - Applicant responses to relevant comments from Ngā Tai Ki Mauao Collective – Updated Māori Cultural Planning Summary (Pia Bennett) on the Stella Passage Development Fast-track Substantive Application

Comment Number	Comment	Applicant Technical Input	Where Addressed in the Application Documents	Response
NTKM Māori Cultural Planning Summary - Pia Bennett				
1	Ms Bennett comments that where iwi and hapu are marginalised by the fast-track process, it is indicative of a non-Te Tiriti compliant process and would undermine the settlements that apply to Tauranga Moana.	Māori Cultural Advisor	Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026 at [18] and [51] – [73]. Hamm, V (2026). Legal Submissions on behalf of Port of Tauranga Limited in Response to Comments Received, May 2026, at [82] and [83].	POTL does not consider that the tangata whenua groups have been or will be marginalised by the fast-track process. Extensive consultation, both pre and post lodgement, has been substantive, even where it has not resulted in agreement. Tangata whenua views have been articulated through that consultation, including direct engagement with iwi and hapū, technical workshops, CVRs, post-lodgment engagement processes, and previous consenting processes. The substance of that engagement has materially informed the application, particularly the articulation of cultural effects, and the design of mitigation measures and conditions, including design changes, the Stella Passage Development Advisory Group (SPDAG), and cultural monitoring. The submitter (and its various constituents) has been provided with extensive opportunities to participate and the extent to which they participated in processes is not indicative of any marginlisation or inconsistency. Rather, whether the submitter will be marginalised should be assessed objectively, based on the opportunities provided throughout this process that allows it to exercise kaitiakitanga and rangatiratanga. It is POTL’s view that the submitter has been provided with ample opportunity and that the Panel should not equate a <i>feeling</i> of marginalisation resulting from opposition to the Project as undermining Treaty settlements. When viewed objectively, the process has provided meaningful opportunities for participation and influence consistent with the relevant settlement arrangements.
2	Ms Bennett criticises the chronology POTL provided as part of its response to the Panel’s first request for further information on the basis that it omits several development events that related to a loss or harm of some kind, under-handed dealings, or breaches of Te Tiriti that would culminate in significant cumulative loss or impacts for tangata whenua.	Māori Cultural Advisor	Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026 at [120] to [142]. Hamm, V (2026). Legal Submissions on behalf of Port of Tauranga Limited in Response to Comments Received, May 2026, at [82] and [83].	POTL considers that the chronology provided to the Panel to be complete and fulsome and disagrees with Ms Bennett’s assertion that significant events were omitted. The chronology filed by POTL responds directly to the Panel’s request for information regarding the historical development and progressive expansion of the Port and associated regulatory, consenting, and Treaty settlement milestones. The chronology put forward by Ms Bennett pays particular attention to loss or harm suffered by tangata whenua and the cumulative impacts upon their rights, obligations, values, and interests. POTL does not seek to dispute that much of that harm or loss occurred. However, it does question whether it can be said to assist in advancing the Panel’s assessment of the substantive application. Whilst not being solely historical looking instruments, Treaty settlements are a mechanism for the Crown to atone for historic grievances and go so far as expressly providing that they settle the historical claims of the relevant iwi or hapū (i.e. all claims prior to the date of the settlement deed). Treaty settlements within Te Awanui were entered into within an already modified harbour environment that included longstanding port operations, historical reclamations, industrial activity, catchment modification, and existing environment degradation. Much of the loss and harm put forward in the chronology has been acknowledged by the Treaty settlements (i.e. they occurred pre-settlement). Such harm and loss, whilst not being outright ignored, has already been “acknowledged”. In other words, the Crown has acknowledged, apologised, and provided redress (both cultural and financial) for that harm and/or loss. It cannot be the intention of Treaty settlements to settle historical grievances, only for that same harm and loss to form part of an assessment of future effects. POTL considers that the position put forward in Ms Bennett’s amended evidence to be incorrect and rather any harm or loss that may be the focus of the Panel should be that which arises <i>post</i> Treaty settlement(s).

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3	Ms Bennett states that as a benefactor of the historical harm and loss tangata whenua experienced at the hands of the Crown, POTL inherited a role in reversing that harm and loss requiring an acknowledgement similar to that made by the Crown and a requirement to honour commitments of Treaty settlements.	Māori Cultural Advisor	Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026 at [20] to [23], and [32].	The FTAA does not anticipate a broad reassessment of historical grievances. Rather, it requires consideration of any obligations arising under Treaty settlement legislation and instruments. POTL does not accept that the existence of historical loss, or the fact that the Port has developed within a landscape shaped by historical Crown actions, creates freestanding obligations on POTL to provide additional redress, make similar acknowledgement to that made by the Crown, or reverse historical loss and harm. Without directive provision, there is no basis on which it would be found that there are freestanding <i>obligations</i> on POTL to undertake both or either action. The more relevant question for the Panel is therefore not whether POTL should assume responsibilities beyond those contained in the settlements, but whether the Project is inconsistent with obligations arising under those settlements. In POTL’s view, it is not.
4	Ms Bennett purports that there is an absence of compliance or enforcement action provided in the substantive application, and noted the following non-compliances which were not accounted for: • No annual monitoring of kaimoana at Te Paritaha for seven years; • Erosion trigger points met with no compliance with conditions to restore shoreline, or enforcement of conditions by regional council; • Non-compliance with matters of national importance (e.g. failure to recognise and provide for the relationship of Māori with their ancestral water and taonga); and • Failure to give particular regard to kaitiakitanga.	POTL	Substantive Application, pp 38 and 39.	The requirement in the FTAA (ss 13(4)(x) and 43) is for the following to be included in a substantive application for a listed project: <i>a summary of compliance or enforcement actions (if any), and the outcome of those actions, taken against the applicant (or if the referral application is lodged by more than 1 person, any of those persons) under a specified Act:</i> [emphasis added] The substantive application is complete in this regard, and the assertion that it is incomplete appears to arise from a misinterpretation of the substantive application requirements. The “compliance issues” raised by Ms Bennett were not subject to compliance or enforcement <i>actions</i> at the time the substantive application was lodged. Nor are they subject to compliance or enforcement actions at the time this response is filed.

5	Ms Bennett raises concern with the substantive application asserting that the baseline, being derived from previous developments, is used to ‘justify’ the Project. Ms Bennett considers that the substantive application must undertake a full assessment (i.e. all historical effects) with affected iwi/hapū and addressing unremedied historic effects as a priority.	Planning	Faithfull, L (2026). Statement of Evidence of Luke Christopher James Faithfull - Planning, 7 May 2026, at [11](d), [31], and [32]. Hamm, V (2026). Legal Submissions on behalf of Port of Tauranga Limited in Response to Comments Received, May 2026, at [119] – [127]. Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026 at [19].	Ms Bennett appropriately alludes to the fact that cumulative cultural effects are a relevant consideration. POTL does not dispute this. However, the substantive application characterises the existing environment, against which effects are to be assessed, in line with normal planning practice and the definition of <i>environment</i> in the RMA. This is the current state of the environment (that incorporates past activities, whether related to the Port of Tauranga or not) that has shaped the receiving environment in which the Project sits. The substantive application focuses the assessment of effects on the relationship between tangata whenua and Te Awanui on effects that may arise from <u>this proposal</u> and distinguishes between: • The existing cumulative baseline (long-standing harbour modification); and • Whether the Project materially adds to or alters that trajectory. POTL’s view is that undertaking an assessment of effects as Ms Bennett seeks is fanciful and unrealistic. To attempt to formulate an accurate pre-development (or even a pre-port) baseline given the extent of development (port and non-port related) that has occurred in the environment over time is likely to be impossible or at the very least extremely difficult. POTL considers that the baseline on which the Project’s effects are to be assessed is not that of a pre-development ‘Garden of Eden’ and rather it must be informed by existing development, consents, permits, outline development plans, and zoning.
6	Ms Bennett purports that the dredging of Te Awanui by POTL is causing destabilisation at Panepane.	Hydrodynamics and Sedimentation	de Lange, W (2026). Statement of Evidence of Dr Willem Pieter de Lange, 7 May 2026, at [48] – [63] and Appendix 1.	The erosion of Panepane is predominantly occurring above the influence of tidal currents where rising tides enhanced by storm surges allow waves to erode the foredunes that are not normally exposed to such wave action. The frequency of these surges is low and occurred pre- and post- the development of the Port of Tauranga. The capital dredging completed by POTL under an earlier consent did result in a slight realignment of ebb tidal currents, but not flood currents, due to the widening of Cutter Channel shifting the thalweg (line of maximum flow). This was predicted to cause the loss of 10-30 m from the subtidal area at the very tip of Panepane, which occurred rapidly after the dredging of Cutter Channel, along with overlying beach deposits. Future periods of erosion and accretion are likely to continue, as they have done historically, and are not impacted by the proposed capital dredging of Stella Passage.
7	Ms Bennett purports that POTL is non-compliant with respect to a condition relating shoreline erosion at Matakana Island.	POTL	-	Ms Bennett’s evidence raises concerns with POTL’s compliance with conditions 12.4, 14.5 and 14.8 of Resource Consent 65806 (capital dredging). Conditions 12.4 and 14.5 relate to monitoring and reporting requirements for the Matakana Island shoreline and ebb tide delta, including Panepane Point and require certain actions to be taken should monitoring identify certain morphological changes following the capital dredging. Given the consistent conclusion of reporting that morphological changes are not linked to dredging activities, POTL has not considered there to be a ‘trigger’ for seeking a resource consent under condition 14.5. POTL is not opposed to depositing of dredging materials at or offshore of Panepane and this can be accommodated by the capital dredging conditions with BOPRC approval. However, POTL wants to ensure that if it does so, it will not result in unintended adverse effects, such as effects on Te Paritaha. POTL has accepted an invitation to a meeting with BOPRC and concerned parties regarding this issue and look forward to discussing this further. Condition 14.8 relates to a series of conditions which provide a pathway for POTL to increase the amount

				of dredge material able to be removed. POTL has not sought to increase its maintenance dredging volumes and as such condition 14.8 has not been triggered or breached.
8	Ms Bennett is concerned with POTL’s reliance on compliance with conditions to advocate that the Project appropriately responds to iwi and hapū management plan directions regarding management of Te Awanui and the facilitation of the kaitaki role.	-	-	Ms Bennett’s statement disregards the fact that conditions are an accepted element of planning approvals. This is reflected by the provisions of the FTAA (and the RMA) that empower the Panel to place conditions on the grant of consent. A consent applicant should be treated as if it will comply with applicable rules and consents that it holds. Albeit that principle is qualified – the decision maker must be satisfied with the material before it, that the proposal is sufficiently defined and capable of being carried out in compliance with those conditions. The condition set put forward by POTL is wholly workable, and there is nothing on the facts of the substantive application, or in Ms Bennett’s evidence, to suggest anything to the contrary.
9	Ms Bennett is concerned with an element of the proposal that relies on an existing statutory regime as a mitigation measure.	Planning	-	Compliance with regulatory controls is a valid way to address potential effects. Controls and rules comprised in statutory regimes (e.g. the Marine Mammals Protection Act 1978) are likely to be framed in a manner to prevent the occurrence of harm.
10	Ms Bennett points to cumulative effects on biophysical systems arising from permanent loss of seabed and repeated physical disturbance arising from dredging.	Marine Ecology	De Luca, S (2026). Statement of Evidence of Dr Sharon Betty De Luca, 7 May 2026, at [27] – [34].	POTL acknowledges that there will be repeated disturbance of benthic communities arising from the capital and maintenance dredging associated with the Project. However, the technical reports provide that any effect is temporary and spatially limited with natural recovery of soft sediment benthic habitat occurring over short timeframes – this being one to three years. The effect of temporary benthic invertebrate community loss within the dredging footprint is assessed as a low level of effect in the short-term (one to three years), and a very low level of effect in the longer term (more than three years) due to the natural recolonisation processes that will occur. With respect to the reclamations, the Project will result in a percentage loss of coastal marine area benthic habitat of Stella Passage and southern Te Awanui of 3.39% and 0.1% respectively due to reclamation and permanent occupation. The loss of marine benthic habitat has been assessed by Dr De Luca as being of low magnitude.
11	Ms Bennett comments that port development has incrementally reduced the spatial and ecological integrity of the harbour thereby altering the relationship of tangata whenua and their ancestral environment.	Planning	Faithfull, L (2026). Statement of Evidence of Luke Christopher James Faithfull - Planning, 7 May 2026, at [58] – [61].	Tikanga based outcomes are supported over the term of the consent. The substantive application, by way of conditions, adopts an approach that moves beyond the management of biophysical effects and recognises the residual cultural effects of the Project. These conditions provide targeted cultural outcomes and mitigation measures that proportionally respond to the Project’s contribution to cultural effects.
12	Ms Bennett makes note that tangata whenua hold relationships with Te Awanui, sustaining identity, whakapapa, and cultural responsibilities. Such relationships encompass and extend beyond discrete sites and resources and encompass the harbour as an integrated cultural and ecological system.	Planning	Hamm, V (2026). Legal Submissions on behalf of Port of Tauranga Limited in Response to Comments Received, May 2026, at [46].	POTL does not dispute the characterisation of tangata whenua’s relationship with Te Awanui. However, as restricted discretionary and controlled activities the matters of discretion limit what may be considered by the Panel. With respect to cultural matters, the matters of discretion are clear – the Bay of Plenty Regional Coastal Environment Plan restricts discretion to consideration of: <i>site specific</i> historical or cultural values under ss 6(e) or 7(a) of the RMA [emphasis added] Whilst at first blush ‘site specific’ could constrain the assessment to the physical area of the works, this is not the approach that has been adopted. Instead, a broader approach has been taken both in terms of the site’s geographical footprint and what effects can be considered.
13	The presence of recurrent dredging and the absence of meaningful recovery periods limits and constrains the ability for tangata whenua to exercise kaitiakitanga.	Māori Cultural Advisor	Hamm, V (2026). Legal Submissions on behalf of Port of Tauranga Limited in	The Project does not <i>materially</i> constrain the practical exercise of kaitiakitanga through dredging of Stella Passage – its effects are localised to an existing port environment and are managed through technical controls and culturally informed monitoring. The Project does not prevent tangata whenua from exercising

			Response to Comments Received, May 2026, at [166] and [168](f). Faithfull, L (2026). Statement of Evidence of Luke Christopher James Faithfull - Planning, 7 May 2026, at [82] and [101]. Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026 at [33] to [36], [81], and [131] to [134].	their responsibilities as kaitiaki and, through the proposed conditions, provide mechanisms to support, inform and give practical expression to that exercise. Moreover, the exercise of kaitiakitanga is recognised prominently through the SPDAG itself, and its responsibilities, as well as through various practical requirements such as: • Funding for the SPDAG to undertake independent audit and assessment of discharges; • Provision for cultural monitoring during dredging; • Quarterly engagement with SPDAG during dredging works; and • Funding for assessing and developing opportunities to enhance avifauna habitat. The intention of the SPDAG is that it will similarly enable the exercise of kaitiakitanga and mana moana, without diminishing the mana or autonomy of individual iwi or hapū. The proposed arrangements recognise that kaitiakitanga extends beyond participation in decision-making and includes stewardship responsibilities for the health and wellbeing of Te Awanui. The proposed conditions support that role by providing opportunities for tangata whenua involvement in monitoring, assessment, adaptive management, and restoration initiatives. The provision of funds to tangata whenua, so that they have control over how those funds are spent, gives expression to the principles of rangatiratanga and kaitiakitanga and is central to POTL’s proposed mitigation. This is also in keeping with the desire of tangata whenua (which has been expressed to POTL) that they sought to have control over how resources are directed. The presence of disagreement or opposition as to whether kaitiakitanga can be expressed is not definitive and should be assessed with reference to whether tangata whenua are able to express their views, have those views taken into account, and continue to engage in effects management over time.
14	Ms Bennett puts forward a cumulative effects pathway matrix to demonstrate the level of cumulative effects.	-	De Luca, S (2026). Statement of Evidence of Dr Sharon Betty De Luca, 7 May 2026, at [27] - [31]. de Lange, W (2026). Statement of Evidence of Dr Willem Pieter de Lange, 7 May 2026, at [42] - [47]. Substantive Application, pp 167 and 168. Rolleston, S (2026). Statement of Evidence of Shadrach Rolleston, 7 May 2026, at [36].	POTL’s response to Ms Bennett’s ‘cumulative effect’ position is set out in the covering Memorandum of Counsel and elsewhere in this table. However, POTL makes the following comments in response to aspects of her table: • Access to the CMA will not be further restricted by the Project (and will not have an adverse effect on the operation of the Matakana Island barge service). • Effects arising from the disturbance of benthic communities are geographically limited to the dredged area and its immediate surrounds and temporary as subtidal benthic communities that are disturbed will reset and follow a natural pattern of recolonisation and succession in the dredge areas. These effects are assessed as minor to less than minor. • The proposed condition set furthers tangata whenua’s ability to be involved in the management of the harbour and as such provides an avenue for them to uphold and express kaitiakitanga. • The extent of permanent occupation of the coastal marine area is spatially limited and is wholly within the coastal occupation permit held by POTL. • The impacts of the dredging on water quality are transient and confined to the shipping channels within the harbour. The highest levels of suspended sediment occur near the dredge, and outside the mixing zone the levels decrease rapidly. The Dredge Management Plan and consent conditions prevent potential adverse effects on water quality. • With respect to gradual sloping beaches, the Project is unlikely to have adverse effects on specific areas outside the immediate vicinity of the dredging. • The Project can proceed within the statutory framework of the FTAA without materially undermining the exercise of kaitiakitanga. This is dependent on the proposed participation, monitoring, and engagement mechanisms (as set out in the proposed condition set) are implemented in a manner consistent with their intended purpose. • Disagreement with or opposition to the Project does not, in and of itself, indicate a failure to provide for kaitiakitanga or rangatiratanga.

15	Critiques are made of the NZIER report that it does not set out a “baseline” including how ships are effected by depth and tide, the seriousness of those effects and their frequency, or how commercial decisions may impact on this.	-	Substantive Application – Appendix 2, Economic Effects Assessment, at 3.2.2. Kneebone, D (2026). Statement of Evidence of Daniel Alexander Kneebone, 7 May 2026, at [7] and [8].	The NZIER applies the status quo as the starting point for the opportunity cost assessment presented in the NZIER report. POTL considers that that report has appropriately undertaken the modelling to determine the opportunity cost associated with the Project. Moreover, the Panel has received plentiful comments that constraints at the Port of Tauranga affect their business.
16	Ms Bennett questions whether economic effects are relevant, if the restricted discretionary criteria in the RMA are to be applied.	-	-	Whilst the RMA is relevant to this process, the fast-track process is predicated on the provisions of the FTAA which is a similar, albeit different, consenting regime. The FTAA’s purpose and various operational provisions contemplate the consideration of economic effects and the Panel is empowered, and in certain situations required to, assess the economic effects of the Project despite it not being a matter to which discretion is restricted. This position is supported by various provisions of the FTAA including the following: • An assessment of a project’s effects under Schedule 5 (i.e. for RMA consents) must include any effect on the people in the neighborhood and (if relevant) the wider community including economic effects. • For referral applications, the Minister for infrastructure must, in determining whether a project has significant regional or national benefits) consider whether it will deliver significant economic benefits (s22(2)(iv)). For substantive applications, various panels have imported the criteria in s 22(2) into the proportionality assessment to assist in establishing a project’s benefits. • When the purpose of the FTAA is taken into account, the Panel is required to consider the extent of the Project’s regional and national benefits (s 83(4)). • The proportionality assessment in s 85(3) provides for the weighing of benefits and adverse impacts.
17	Several “solutions” are put forward to respond to adverse effects from past activities in combination with claimed adverse effects arising from the Project: • Regular dredging of Otapu and Opureora channels for barge access • When POTL dredges the shipping channel it also dredges tangata whenua channels • Provision of materials to replenish marae frontages • Provision for Opureora marae coastal erosion defence project • Provision for a coastal margins assessment programme to assess defence options of vulnerable areas • Reinstatement of beaches most affected from loss of gradual slope • Provision to upgrade Panepane wharf	POTL Hydrodynamics	de Lange, W (2026). Statement of Evidence of Dr Willem Pieter de Lange, 7 May 2026, Appendix 1 at [42] and [90].	Each of the proposed solutions go beyond addressing effects caused by POTL in Te Awanui and as such POTL does not propose any conditions to address these effects. Further, it is noted that: • Siltation affecting boating access to the Opureora and Rangiwaia/Otapu (Hunters Creek) channels are dominated by locally sources terrestrial sediment. • The closest marae to the Project is Whareroa. There are several reports on the cause of the loss of sand at the beach adjacent to that marae (linked here) which has been linked to the Tauranga Harbour bridge crossing. The Project will not have an effect on beach erosion in front of Whareroa Marae. • TCC commissioned reports in 2015 on the erosion processes on inner harbour landforms and estimated erosion rates (linked here). This indicated that the erosion risk at Opureora West and South is low (20 years) and medium (100 years). • With respect to beaches, the Project is unlikely to have adverse effects on specific areas outside the immediate vicinity of the dredging. • No details are provided as to why Panepane Wharf requires upgrading or how it relates to an effect generated by the Project. On 25 March 2025 the Western Bay of Plenty Council reported that a new \$2.1m wharf is being built at Panepane Point (linked here).
18	Ms Bennett concludes the application is fragmented and normalises existing degradation, resulting in cumulative effects that have not been adequately	Planning	Faithfull, L (2026). Statement of Evidence of Luke Christopher	See the discussion in the statement of evidence of Mr Faithfull at paragraphs [30 - 40].

	addressed, remedied, or enforced over time.		James Faithfull - Planning, 7 May 2026, at [30] to [40].	
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