

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
(FTA072 / FTAA-2512-
1163)

MEMORANDUM OF PIRIRĀKAU TRIBAL AUTHORITY – INCORPORATED

DATED 24 AUGUST 2026

3 Lochhead Road
RD6 Te Puna
Tauranga 3176

Senior Environmental Planner: Julie Shepherd

M: [REDACTED]

Kaihautū - General Manager: Heta Gardiner

M: [REDACTED]

[REDACTED]

To: Expert Panel, Stella Passage Development (FTAA-2512-1163)

From: Julie Shepherd, Senior Environmental Planner, on behalf of Pirirākau Tribal Authority Incorporated

Date: 24 August 2026

Re: Comments on Draft Conditions, Draft Decision and the Applicant response to Consent Conditions

1. Introduction

These comments are filed on behalf of Pirirākau Tribal Authority Incorporated pursuant to section 70 of the Fast-track Approvals Act 2024 in response to the draft conditions and draft decision released on 17 August 2026 and having regard to the Applicant response to the draft conditions 20 August 2026.

Pirirākau Tribal Authority Incorporated is the mandated hapū entity for Pirirākau, a hapū recognised under the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 (section 11(g)). Pirirākau is also a constituent hapū of the Ngā Hapū o Ngāti Ranginui Customary Marine Title applicant group (MAC-01-05-016).

Pirirākau Tribal Authority Incorporated provided comments under section 53, filed a Pirirākau Assessment of Cultural Effects, and presented statements of evidence at the tikanga hearing of 27 to 29 July 2026. A further memorandum responding to Panel Minute 13 was filed on 14 August 2026.

2. Overarching Concerns

2.1 The Panel's own findings are not reflected in the conditions

The Panel at paragraph [236] of the draft decision accepts that "whether cultural effects are appropriately avoided, remedied or mitigated is also best evidenced by the impacted Māori party, and is unable to be substituted by the Panel's view". Pirirākau Tribal Authority Incorporated confirms that the draft conditions do not appropriately avoid, remedy, or mitigate the adverse cultural effects on Pirirākau.

The Panel at paragraph [145] records that Pirirākau seek "recognition of hapū rangatiratanga, which requires meaningful involvement at all levels (in governance, cultural monitoring and enforceable cultural thresholds)". The draft conditions provide none of these things for Pirirākau specifically. Pirirākau is one name on a list of sixteen parties in an advisory group that has no decision-making authority and no enforceable cultural thresholds.

The Panel at paragraph [226] accepts that "activities to maintain and improve the mauri of Te Awanui may extend beyond the location of the Project." Yet the monitoring conditions (condition 16 of the dredging consent; condition 14 of the structures consent) are confined to the Port Zone and the immediate dredging channel.

No monitoring condition addresses the Pirirākau rohe interface (the western inner harbour from the Wairoa River to the Aongatete Stream).

2.2 The SPDAG structure is inconsistent with the Settlement Act

The Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 is structurally hapū-centric. The Act is named for the hapū. Section 11 defines each hapū individually. The Crown's apology is made directly to the named hapū. The Settlement accordingly devolves mana and authority to the hapū level.

The SPDAG treats sixteen parties as equivalent. It requires only eight nominations to form. It is advisory only. The consent holder can reject its advice with written reasons. Pirirākau could be excluded from a functioning SPDAG. The conditions provide no mechanism for Pirirākau to exercise hapū-level rangatiratanga or kaitiakitanga independently of a collective that does not reflect the hapū-centric architecture of the Settlement Act.

At paragraph [171], the Panel states it considers the SPDAG "should have a stronger mandate rather than merely as a means of receiving information". Yet in the conditions as drafted, SPDAG's mandate remains advisory. It cannot require monitoring at locations of its choosing. It cannot impose cultural thresholds. Where its advice is not adopted, the consent holder need only explain why in writing. This is not a stronger mandate. It is the same structure with more detailed paperwork.

Pirirākau Tribal Authority Incorporated notes the Panel's confirmation (21 August 2026) that all obligations in the conditions are to be placed on the consent holder, not on the SPDAG. This is the correct approach. It follows that where Pirirākau Tribal Authority Incorporated seeks direct obligations on the consent holder (notification, monitoring access, data provision, and cultural monitoring to measure sediment discharge in western Te Awanui), those obligations are structurally consistent with the Panel's confirmed position. They do not depend on the existence or functioning of the SPDAG.

2.3 Cultural monitoring through the Tauranga Moana Iwi Customary Fisheries Trust is not a hapū process

Condition 14 of the dredging consent routes cultural monitoring exclusively through the Tauranga Moana Iwi Customary Fisheries Trust. This entity holds a specific and limited mandate: the administration of customary fishing authorisations and the management of the Mātaitai Reserve. It is not a hapū governance entity. It does not exercise kaitiakitanga on behalf of individual hapū. It is not mandated by Pirirākau or any other hapū to represent their interests in resource management processes beyond customary fisheries.

The exercise of kaitiakitanga resides with whānau and hapū, and with those they recognise and authorise to act on their behalf. The Tauranga Moana Iwi Customary Fisheries Trust has not been authorised by Pirirākau or other hapū to displace the

exercise of kaitiakitanga over Te Awanui, to monitor the cultural effects of dredging, or to determine whether the mauri of Te Awanui as it relates to Pirirākau values is being appropriately protected.

The conditions should not route hapū kaitiakitanga responsibilities through an entity whose mandate is confined to customary fisheries tools. Cultural monitoring of dredging operations must be provided for through mechanisms that recognise and enable the exercise of kaitiakitanga by the hapū whose values are directly engaged.

2.4 The Panel should not retreat from its strengthened conditions

Pirirākau Tribal Authority Incorporated has reviewed the Memorandum on behalf of the Applicant dated 19 August 2026. Port of Tauranga Limited seeks the removal of the tikanga-based approach requirement, the removal of the Terms of Reference process for the SPDAG, the removal of the obligation to facilitate the Mātauranga Māori State of the Environment Report, and the removal of the Te Pā Pātiki framework from the Mātauranga Monitoring Plan. In each case, Port of Tauranga Limited asks the Panel to reinstate its earlier (weaker) condition set.

Pirirākau Tribal Authority Incorporated opposes each of these requests and supports the Panel's strengthened conditions. Specifically:

- a. The Panel found at paragraph [99(d)] that "the incremental nature of the effect in the context of historical and ongoing modification to Te Awanui/Tauranga Harbour, is a significant cumulative cultural effect." It found at paragraph [237] that "Tangata Whenua remain fundamentally opposed to the Project... regardless of the mitigation or enhancement measures proposed." Having made those findings, the Panel strengthened the conditions. Port of Tauranga Limited now asks the Panel to undo that work. The Panel should not do so.
- b. Port of Tauranga Limited argues (at paragraph 11(a)) that "tikanga-based approach" is uncertain because tikanga is not uniform and "relevant tangata whenua groups are to determine and articulate their own tikanga-based standard". This is precisely why the obligation is correctly placed on the consent holder: it requires the consent holder to create the conditions in which hapū can come together to bring their tikanga to the engagement, rather than dictating the process from above. The uncertainty Port of Tauranga Limited identifies is not a drafting deficiency; it is the nature of the obligation. If tikanga were defined by the consent holder in advance, it would not be tikanga.
- c. Port of Tauranga Limited at paragraph 9 asserts the Environment Court "agreed that POTL's conditions were sufficient" for Stage 1. This is selective. The Environment Court's first interim decision (cited by the Panel at paragraph [201(b)]) found that the proposal "does not adequately provide for the relationship of Māori and their culture and traditions" and "does not adequately provide for kaitiakitanga". The second interim decision was never

finalised and no consent issued. The Panel should give the first interim decision's findings the weight they warrant.

- d. Port of Tauranga Limited argues (at paragraph 18) that if the Terms of Reference are not finalised, Port of Tauranga Limited "would be unable to lodge management plans with BOPRC for certification" and "would be prevented from implementing its consents". This is the concern of a party that wishes to proceed without tangata whenua involvement. The Panel has already addressed this through condition 3.6 (which allows the consent holder to proceed if SPDAG is not formed within ten months). Port of Tauranga Limited's concern is not with workability but with the obligation to engage meaningfully before proceeding.
- e. Port of Tauranga Limited confirms at paragraph 28 that it is "currently undertaking dredging pursuant to RC62920." Dredging is occurring within Te Awanui now, without the conditions this Panel has determined are necessary to address cumulative cultural effects. This confirms the urgency of securing enforceable conditions before further works proceed, not the basis for weakening those conditions.

The Panel has determined to grant the approvals. Having done so, the conditions are the sole mechanism through which the acknowledged adverse cultural effects are addressed. If the Panel retreats from its strengthened conditions, there is nothing else. Pirirākau Tribal Authority Incorporated submits that the Panel should maintain its position and, for the reasons set out in Part 3, strengthen the conditions further in the specific areas identified.

2.5 The Panel Minute 13 memorandum is unaddressed

Pirirākau Tribal Authority Incorporated filed a memorandum on 14 August 2026 in response to Panel Minute 13. That memorandum sought an independent coastal processes assessment addressing the receiving environment gaps at Panepane Point, Mauao, and the western reaches of Te Awanui. The draft decision at paragraph [8] records that the Panel accepted additional information as recorded in Minute 13 (14 August 2026). However, neither the draft decision nor the draft conditions address the matters raised. No independent assessment has been directed. No condition addresses the unassessed receiving environment.

2.6 Customary marine interests are unprotected

The MACA application MAC-01-05-016 is live. The proposal involves permanent reclamation of 3.58 hectares of coastal marine area over which Ngā Hapū o Ngāti Ranginui including Pirirākau seeks to exercise customary rights. No condition addresses protection of customary marine interests or prevents prejudice to the Customary Marine Title outcome. The Panel's own draft decision does not address this matter in conditions despite acknowledging the relevant Treaty settlements.

3. Comments on Specific Conditions

Appendix A: Wildlife Approval Conditions

3.1 *No tangata whenua involvement*

The Wildlife Approval conditions are a closed regulatory loop between the approval holder and the Department of Conservation. Kororā are taonga species with whakapapa significance to Pirirākau. The Position Assessment of Cultural Effects (Section 6.4) identifies that effects on taonga species are cultural effects, not merely ecological effects. The conditions contain no provision for cultural monitoring, tikanga-based handling protocols, hapū notification, or reporting to tangata whenua.

Amendment sought: Insert a new condition requiring the consent holder to notify the SPDAG (or if not formed, the parties listed in condition 3.1 of the Structures consent) at least ten working days prior to any capture, handling, or relocation of kororā, and to provide cultural monitors the opportunity to be present during such activities.

3.2 *No lighting management*

Neither the Wildlife Approval conditions nor the Land Use Consent conditions (Appendix B) contain any requirement for crane or wharf lighting to be designed to minimise avifauna effects (seabird disorientation, fallout events). The Avifauna Management Plan identifies artificial light at night as an effect pathway, but no condition operationalises this.

Amendment sought: Insert a condition in Appendix D (Structures) requiring all new lighting on wharf extensions and cranes to comply with the lighting specifications in Section 4 of the Avifauna Management Plan (shielding, colour temperature limits, minimisation of blue wavelengths, motion sensors where practicable) and requiring monitoring and reporting of any bird fallout or disorientation events.

Appendix C: Dredging Conditions

3.3 *Monitoring confined to the dredging channel*

Condition 16 requires water quality monitoring at 200 metres and 500 metres from the actively dredged area only. The Pirirākau rohe interface (western inner harbour: Te Puna, Motuhōa, Raropua, Waikaraka) is entirely outside the monitoring envelope. The Position Assessment of Cultural Effects (Section 6, Table 3 analysis) identifies this as a scope gap. The Panel at paragraph [226] accepts that effects on mauri may extend beyond the project location.

Amendment sought: Insert a new condition requiring the establishment of at least two turbidity and sediment quality monitoring stations within the western inner harbour (Te Puna estuary and Motuhōa/Raropua foreshore) to be monitored prior to, during, and following each dredging campaign (capital and maintenance), with results reported to the SPDAG, the Bay of Plenty Regional Council, and the named interested iwi and hapū associated with this consent.

3.4 *Cultural monitoring limited to capital dredging only, via an entity without mandate*

Condition 14 provides cultural monitoring for capital dredging operations only, through the Tauranga Moana Iwi Customary Fisheries Trust. Maintenance dredging (the ongoing, perpetual activity) has no cultural monitoring provision. The consent holder is not required to resource or provide for hapū cultural monitors at any stage.

As set out in section 2.3 above, the Tauranga Moana Iwi Customary Fisheries Trust is not a hapū governance entity and does not hold a mandate from Pirirākau to exercise kaitiakitanga on its behalf. The Pirirākau Assessment of Cultural Effects identifies maintenance dredging as "industrial lock-in": the mechanism by which natural recovery is prevented. A consent authorising perpetual maintenance dredging to 16 metres without hapū – led cultural monitoring is inconsistent with the Panel's finding at paragraph [234] that conditions should "improve the Project's response to the Tangata Whenua values of rangatiratanga and kaitiakitanga".

Amendment sought: Amend condition 14 to

- (a) provide cultural monitoring during both capital and maintenance dredging operations; and
- (b) provide for hapū cultural monitors (funded by the consent holder) in addition to or in place of those provided through the Tauranga Moana Iwi Customary Fisheries Trust. Individual hapū with recognised kaitiakitanga responsibilities for the area of dredging operations should be able to nominate monitors directly.

3.5 *Mātauranga monitoring limited to Port Zone*

The Mātauranga Monitoring Plan (condition 15) is explicitly limited to "the extent it overlaps with the Port Zone." The Pirirākau rohe interface is outside the Port Zone. This condition cannot provide information about the cultural health of the receiving environment within the Pirirākau rohe (western Te Awanui), which is the environment Pirirākau exercises kaitiakitanga over.

Amendment sought: Remove the limitation to the Port Zone in condition 15. The Mātauranga Monitoring Plan should encompass the receiving environment as it relates to the cultural values of the parties identified in condition 3.1, including areas outside the Port Zone that may be affected by the activities authorised by the consent.

3.6 *No direct notification of Pirirākau*

Condition 4.1 requires notification of the SPDAG (or if not formed, the parties listed in condition 3.1). This is satisfactory, provided it is clear that notification to the SPDAG constitutes notification to each member party directly. Pirirākau Tribal Authority Incorporated records that notification must be directed to its Senior Environmental Planner (not the Chairperson's personal email) to be effective.

Appendix D: Structures Conditions

3.7 *Relationship Agreements have no consequence*

Condition 2 requires the consent holder to "facilitate the preparation of relationship agreements" within twelve months. If not concluded in thirteen months, the consent holder must merely explain why. There is no consequence for failure. The Panel at paragraph [233] itself acknowledges it is "unsure... whether the agreements can appropriately and effectively address this adverse effect".

Amendment sought: Amend condition 2.3 to require that if a relationship agreement has not been concluded with the named iwi and hapū within thirteen months, the consent holder must engage an independent mediator (agreed between the parties or, failing agreement, appointed by the Bay of Plenty Regional Council) to facilitate the completion of the agreement within a further six months.

3.8 *SPDAG: consent holder can proceed without it*

Condition 3.6 provides that if no SPDAG is formed within ten months, the consent holder may proceed to implement the consent, including seeking certification of management plans. This means all cultural engagement mechanisms can be bypassed entirely. Construction, dredging, and reclamation can proceed without any tangata whenua involvement.

Amendment sought: Amend condition 3.6 to require that where the SPDAG is not formed, the consent holder must provide directly to all parties listed in condition 3.1 the same information, access to monitoring data, and opportunity for comment that would otherwise be provided to the SPDAG and must take into account any feedback received.

3.9 *No hapū-specific monitoring or engagement outside SPDAG*

No condition provides for direct engagement between the consent holder and Pirirākau Tribal Authority Incorporated on matters arising within the Pirirākau rohe interface. The only engagement mechanism is the collective SPDAG. The Panel at paragraph [148] acknowledges the Crown's express recognition under section 8(17) of the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025 that port development has caused environmental degradation that "remains a source of great distress to the hapū of Ngāti Ranginui".

Amendment sought: Insert a condition requiring the consent holder to notify the named iwi and hapū directly (in addition to the SPDAG) at least twenty working days prior to any dredging operation, and to provide those identified with direct access to the monitoring data required under conditions 16 and 17 of the dredging consent within five working days of its collection.

3.10 *Biosecurity: inadequate*

Condition 16 of the Structures consent provides a one-off payment of \$30,000 to the Bay of Plenty Regional Council for surveillance of new structures only. The Position Assessment of Cultural Effects (Section 6.4, Marine Pest Species) identifies hull fouling as the primary vector for non-indigenous species introductions (approximately 75% of introductions). The Pirirākau Hapū Management Plan 2017 Action Sheet 17.2 names Port of Tauranga as having "a large role to play in biosecurity issues."

Amendment sought: Amend condition 16 to include an annual contribution (not one-off) of \$30,000 to the Bay of Plenty Regional Council biosecurity programme for the duration of the consent, and to include monitoring of Te Awanui for invasive species enabled by increased vessel movements.

3.11 Customary fisheries fund

Condition 15.7 provides \$500,000 to the Tauranga Moana Customary Fisheries Trust for customary fisheries restoration within Te Awanui/Tauranga Harbour. No condition provides for mahinga kai restoration within the Pirirākau rohe interface specifically. The Pirirākau Assessment of Cultural Effects documents the collapse of mahinga kai at Te Puna within living memory and proposes a specific Te Puna rehabilitation pilot. This is not conditioned to be explored. The fund itself will be quickly absorbed by Customary fisheries. No accountability measures are in place.

Amendment sought: Insert a condition requiring the consent holder to fund and co-design, in direct partnership with Pirirākau Tribal Authority Incorporated, a mahinga kai baseline assessment and restoration pilot within the western inner harbour (Pirirākau rohe interface). The pilot should include a baseline kaimoana stocktake at identified Pirirākau sites, a co-designed rehabilitation methodology, and enforceable performance standards with adaptive management triggers.

3.12 Consent term: 35 years with no effective review

The consent expires thirty-five years after commencement (condition 22.2 of the Structures consent; condition 25.2 of the Dredging consent). Review under condition 21/24 is limited to effects that "only became evident after the date of issue." Known effects (including all effects identified in the Pirirākau Assessment of Cultural Effects, the tikanga hearing, and this memorandum) are excluded from review by definition.

Amendment sought: Amend the review condition to provide for a mandatory review at five-year intervals (not limited to effects that only became evident after the date of issue) that includes a requirement for the consent holder to report on the state of the relationship with each party listed in condition 3.1 and on the outcomes of the Mātauranga Monitoring Plan.

3.13 No independent receiving environment assessment

The memorandum filed by Pirirākau Tribal Authority Incorporated on 14 August 2026 sought a direction from the Panel that an independent coastal processes assessment be undertaken addressing Panepane Point, the base of Mauao, and the western reaches of

Te Awanui. No condition addresses this. The evidence of Dr de Lange filed by the Applicant in reply (accepted by the Panel at paragraph [47]) confirms that the Applicant considers these matters relevant, but no site-specific investigation has been undertaken.

Amendment sought: Insert a condition requiring the consent holder, prior to commencing Stage 2 of the works, to commission an independent coastal processes assessment (by an expert or experts not previously retained by or associated with Port of Tauranga Limited) addressing the relationship between the proposal and the progressive loss of sand features at Panepane Point, the stability of the coastal margin at the base of Mauao, and the hydrodynamic and sediment transport effects on the western reaches of Te Awanui. The results must be provided to the SPDAG and the Bay of Plenty Regional Council and must inform the review under condition 21/24.

4. Comments on Draft Decision

Pirirākau Tribal Authority Incorporated records the following comments on the draft decision:

1. At paragraph [152], the Panel finds that granting approval would not be inconsistent with the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, stating the conditions "will provide mechanisms that allow Ngati Ranginui and hapū to participate in the Project." Pirirākau Tribal Authority Incorporated submits that the conditions as drafted do not provide for meaningful hapū-level participation. They provide for participation in a collective advisory group in which Pirirākau is one of sixteen parties with no decision-making authority. This is not consistent with the hapū-centric architecture of the Settlement Act.
2. At paragraph [214], the Panel states it "does not accept there is an obligation on the Applicant to remedy historical degradation." Pirirākau Tribal Authority Incorporated does not ask the Applicant to remedy all historical degradation. It asks that a proposal of this scale contribute proportionately to understanding and addressing the receiving environment within which its effects occur. A baseline assessment of the Pirirākau rohe interface is not remedying history; it is characterising the receiving environment in which this consent will operate for 35 years.
3. The draft decision does not address Pirirākau Tribal Authority Incorporated's memorandum of 14 August 2026 regarding the adequacy of the receiving environment assessment, the independence of expert evidence, or the scope issue regarding Mauao. Pirirākau Tribal Authority Incorporated requests that the final decision address these matters and record the Panel's findings.

5. Summary of Amendments Sought

In summary, Pirirākau Tribal Authority Incorporated seeks the following amendments to the draft conditions:

1. Cultural monitors to be present during kororā capture/relocation (Wildlife Approval).
2. Lighting management condition for avifauna (Structures consent).
3. Monitoring stations within the western inner harbour (Dredging consent).
4. Cultural monitoring extended to maintenance dredging, with hapū monitors funded directly (not routed exclusively through an entity without hapū mandate) (Dredging consent).
5. Mātauranga Monitoring Plan scope extended beyond Port Zone (Dredging and Structures consents).
6. Independent mediator for unconcluded relationship agreements (Structures consent).
7. Direct engagement obligations where SPDAG not formed (Structures consent).
8. Direct notification and data access for listed iwi and hapū (Dredging consent).
9. Annual biosecurity contribution (Structures consent).
10. Mahinga kai baseline and restoration pilot for Te Awanui to be the sole purpose of SPDAG. (Structures consent).
11. Mandatory five-year review not limited to post-commencement effects (both regional consents).
12. Independent coastal processes assessment prior to Stage 2 (Structures consent).

These amendments are proportionate to the scale and duration of the consent sought. They are directed at ensuring the conditions give effect to the Panel's own findings regarding cumulative cultural effects, hapū rangatiratanga, and the need for Tangata Whenua participation in the Project. They are not more onerous than necessary to address the reason for which they are sought.

Pirirākau Tribal Authority Incorporated supports the Panel's strengthened conditions and opposes Port of Tauranga Limited's request to reinstate its earlier condition set. The conditions are the sole remaining mechanism through which the acknowledged adverse cultural effects are to be addressed. They should not be weakened.

Julie Shepherd Senior Environmental Planner

On behalf of Pirirākau Tribal Authority Incorporated – 24 August 2026