

BEFORE THE PANEL CONVENER

FTAA-2512-1163

UNDER THE

FAST TRACK APPROVALS ACT 2024 ("Act")

IN THE MATTER OF

a substantive application by the Port of Tauranga Limited, for resource consent and a wildlife approval associated with the Stella Passage Development Project listed in Schedule 2 of the FTAA

NGĀ TAI KI MAUAO

RESPONSE TO REQUEST FOR INFORMATION [MINUTE 5]:

PIA BENNETT

10 JUNE 2026

JGH BARRISTER

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INTRODUCTION

1. My name is Pia Bennett.
2. This response addresses the Expert Panel's Minute 5 request for further information.
3. In particular, I respond to the requests concerning:
 - (a) the Applicant's distillation of the adverse cumulative cultural effects of allowing this project, including an alternative explanation of those effects;
 - (b) the existence of any positive effects of allowing the project;
 - (c) the interpretation of the Regional Coastal Environment Plan matter of discretion concerning site specific historical or cultural values under sections 6(e) and 7(a) of the Resource Management Act 1991; and
 - (d) concerns with the proposed Stella Passage Development Advisory Group, possible amendments, and whether there are better alternative mechanisms.

CUMULATIVE EFFECTS

Indivisibility - Tauranga Moana

4. For tangata whenua, culture is not something that sits apart from the environment. It is formed through whakapapa, use, responsibility, memory, and ongoing relationship with place. Separating culture from the environment would be artificial and conceptually wrong—like trying to take the Tauranga out of Tauranga Moana. It cannot and should not be done.
5. The Environment Court acknowledged this inseparability as part of its assessment of effects on the relationship of Māori with their ancestral taonga (Te Awanui). It recognised that effects on one part of Te Awanui necessarily affect other parts and the whole, and situated that understanding within a longer historical pattern in which port development has occurred at the expense of tangata whenua relationships with the harbour. It said:

We discussed the significance of Te Awanui in Part 6.2. It is a taonga and tupuna of tangata whenua, which in a Te Ao Māori worldview cannot be separated into discrete compartments when assessing effects on cultural values. It must be viewed as an integrated whole, where an effect on one part of Te Awanui has effects on other parts and the whole¹.

6. As part of situating the understandings around indivisibility and effects upon tangata whenua, the Court cited a report to the Waitangi Tribunal as follows²:

Development of the Port of Tauranga is a major issue for all of the iwi of the Tauranga District, and is a particularly sore point for Ngai Te Rangi. From humble beginnings the Port has developed to become one of the major ports for the country. Ngai Te Rangi views this development and growth as being very much at the expense of their hapu, particularly as the Port is situated within their hapu rohe.

...

For them, the development and growth of the Port has occurred at the expense of the traditional and customary relationship they had formerly enjoyed with the Harbour. The impact of the Port development on the Harbour eco-systems and the ability of those systems to support the cultural values and lore of Ngai Te Rangi was particularly severe.

7. The view that Tauranga can be separated from Tauranga Moana is illustrative of how the process itself creates adverse effects, and consistent with the Environment Courts findings on the cumulative effects upon tangata whenua from their participation in the process.

Attempt at distillation

8. The Applicant's "distillation" of cumulative adverse effects is incomplete and applicant-framed. It does not adequately capture the full nature, scale or meaning of cumulative effects identified by tangata whenua.

¹

² Para 339, Page 100 in NZEnvC 270

9. It treats the tangata whenua evidence on cumulative effects as if they are mostly historical background rather than ongoing, compounding, present-day prejudice to mana, rangatiratanga, kaitiakitanga, ahikaa, and the relationship with Te Awanui.
10. Effects are presented as localised, discrete, and manageable, when the evidence points instead to cumulative, system-wide, and potentially irreversible effects on Te Awanui and on the relationships that tangata whenua maintain with it.
11. In particular, the Applicant's framing appears to confine effects to areas in close proximity to the works, to link the effects largely to the construction period, and to describe impacts in terms of reduced access rather than loss of safe, reliable, or culturally meaningful use.
12. It also groups distinct concepts such as mauri, whakapapa relationships, mātauranga, and kaitiakitanga under the broad label of "cultural values", which obscures the way these concepts operate together as part of a wider cultural framework.
13. Further, the Applicant's description assumes that the identified effects can be addressed through mitigation measures. That assumption is not supported by the evidence. Some effects, including impacts on mauri, degradation of system integrity, and intergenerational consequences, are not readily avoided, remedied, or mitigated. A comparative framing that measures significance against the wider harbour environment also risks diminishing the seriousness of the effects by treating the harbour as a set of separate parts rather than as an interconnected cultural and ecological whole.
14. A proper assessment of cumulative effects requires Te Awanui to be considered as an integrated whole. That includes the relationships between physical processes, cultural practices, knowledge systems, whakapapa, and intergenerational wellbeing.
15. When assessed on that basis, the effects cannot reasonably be described as localised, limited, or readily managed. Presenting effects in this way understates their cumulative, system-wide, and potentially irreversible

nature, and risks minimising their significance. They are better understood as another increment in a long-standing pattern of encroachment, exclusion, industrialisation, and degradation affecting Te Awanui and the ability of tangata whenua to exercise rangatiratanga and kaitiakitanga.

16. This is not helped by the Panel where it further reduces adverse cumulative effects to adverse cumulative cultural effects. This erodes connections, systems and interdependencies by isolating 'culture' from the 'taonga'.
17. Taken together, these framing approaches mean that paragraph 128 does not adequately capture the cumulative and system-wide nature of the adverse effects. It does not fully reflect the interrelated ecological, cultural, and social impacts identified in the evidence, nor the potential for irreversible change and loss of future options.
18. A proper assessment of cumulative effects requires consideration of Te Awanui as an integrated whole. This includes the relationships between physical processes, cultural practices, knowledge systems, and intergenerational wellbeing. When assessed on that basis, the effects cannot reasonably be described as localised, limited, or readily managed.

Positive effects

19. Responding to the Panels request at [4](a)(ii) the existence of positive effects – in a way that maintains our tikanga and mana is difficult. It is difficult because the process was one that forced us to consider the question from a different world view.
20. There was a general sense that no matter how we articulate this part of the response, we will not be able to avoid perceptions or accusations of bias. But the fact of it is, this proposal generates no positive benefits.
21. In light of the fact that positive economic effects are not identified as matters that the regional council has restricted its discretion to within the RDA framework in the RCEP, they did not significantly influence our assessment.
22. That said, the positive effects of job creation and export through-put, regional economy effects, are not effects that either reach our whanau, or that we benefit from directly or indirectly. Kiwifruit, logs and dairy products

will end up on the ships as they do now. Automation will replace the jobs that the Applicant claims will be generated. Regional economic benefits typically do not impact the impoverished positively (if at all). At a stretch these claimed 'positive effects' could be characterised as less than minor or negligible.

23. To the extent that POTL points to funding, monitoring, advisory structures, or relationship mechanisms as positive effects, we did not consider those matters, in themselves, as part of our assessment of positive effects. We looked only at the activities that require a consent.
24. At most, some proposed measures may have the potential to contribute to mitigation or management if they are materially revised and grounded in tangata whenua authority. However, they should not be treated as offsetting or outweighing cumulative cultural harm merely because they involve funding, participation opportunities, or advisory arrangements. The existence of a fund or forum is not itself evidence that cumulative cultural effects have been appropriately addressed.
25. If the Panel considers there may be positive effects in the foreseeable future, they must only be treated as theoretical or potential 'effects' because they remain contingent, uncertain, and dependent on a range of other design, accountability, and implementation outcomes. They are therefore not presently sufficient to materially diminish the adverse cumulative cultural effects identified by tangata whenua.
26. When understood properly against impacts such as the severance of connections, the interference and disruption of customary and commercial practices, the harm and degradation to the wellbeing of an ancestor (Te Awanui) and life that he supports, it is extremely difficult to determine positive effects.
27. The applicant must acknowledge that the cost of rectifying environmental damage is substantial. If the applicant committed to mitigating past harm and loss, preventing ongoing harm and loss and making significant ongoing investment in supporting hapū and kaitiaki with hapū-kaitiaki-based projects focused on the wellbeing of Te Awanui, without limiting projects or scope to the Ports operational footprint, these would be the hallmarks of realising

positive effects. However, the proposed measures do not meet the required level of commitment.

Provisions of the Regional Coastal Environment Plan

28. As with most regional plan review processes, the development of our RCEP included an appeals phase. I was personally involved in the appeals on behalf of my iwi and hapū, Ngati Ranginui, Ngati Kahu and Ngati Makino. I also provided support to Ngā Hapū o ngā Moutere during the appeals process.
29. Our appeal was founded on a systemic failure to recognise and provide for tangata whenua rights, interests, and obligations in the coastal environment. In particular, the decisions failed to give effect to the relationship of Māori with their coastal taonga, to recognise and enable the exercise of kaitiakitanga, or to incorporate mātauranga Māori into sustainable management. They did not protect areas, sites, landscapes, and features of significance to iwi Māori, nor take proper account of Iwi Management Plans. Robust, iwi-led mechanisms to enable meaningful participation, cultural monitoring, protection of taonga, and management of sites of significance were absent. Māori coastal use and development aspirations were not adequately supported, and the framework failed to give proper effect to the operative Regional Policy Statement, was inconsistent with the intent of the New Zealand Coastal Policy Statement, and contrary to core provisions of the Resource Management Act 1991, resulting in an approach that could not achieve sustainable management of natural and physical resources.
30. The provisions of the Port Zone (PZ) referenced in Minute 5 were specific points pursued in our appeal.
31. Our appeal provided a general statement of issues for each of the appeal topics. The general statement of issues with the Activities-based Policies & Rules of the pRCEP (where the PZ provisions are) recorded the following:

NMHT submissions were mindful of the fact that there exist few opportunities for iwi Maori to participate in decision making for example, within the consenting process, in ways that are meaningful ...

... the lack of inclusion of iwi Maori interests and conditions in matters that consent authorities retain or restrict control, reserved authority and/or discretion over in relation to the different types of activities identified in the pRCEP lack any provisions for consideration of iwi Maori rights and interests. In this way, iwi Maori become mere spectators in a process.

Treaty Settlements tools such as statutory acknowledgements are not an end game to recognising and providing for iwi Maori and our relationship with our taonga or negating the need to have regard to kaitiakitanga. The use of these Treaty Settlement mechanisms to circumvent the requirements of the Act is unacceptable.

... motivated by a need to give more emphasis to recognising our enduring relationship with the coastal environment in practical ways. In our view, this might require some radical amendments to ensure the management of our taonga occurs in a way that provides for our social, cultural and political needs.

32. Relief was sought that would ensure that we were appropriately recognised and provided for within the planning framework in a way that had proper regard for our ongoing obligations as tangata whenua and in keeping with the spirit of the Treaty of Waitangi. Specifically:

- (a). Removal of provisions in rules or policies that seek to exploit statutory acknowledgements as tools to evade proper consultative process – see Rules HD3, 4, 5 & 6; Rules PZ5, PZ5A, PZ6, PZ8, PZ9, PZ9A for example.
- (b). Removal of provisions in rules or policies that limited the ability of iwi Maori involvement through the prescriptive use of statutory acknowledgements – see Rules HD3, 4, 5 & 6; Rules PZ5, PZ5A, PZ6, PZ8, PZ9, PZ9A for example.
- (c). A requirement that Controlled activities must include appropriate standards and terms to allow iwi Maori participation

- (d). A requirement that Restricted Discretionary Activities must include in the matters of discretion, provisions that recognise iwi Maori rights and interests.
 - (e). Review of all rules and matters of discretion to ensure relevant processes, matters over which discretion was restricted and linkages to other parts of the Plan and RPS where are consistent and properly cross-referenced
33. The operative rules reflect the outcome of the appeals, not the proposals that the regional council included originally. Given the operative rules were partly of our making, we are able to offer the insights into their intent and purpose, particularly where the provisions relating to Maori changed in response to our participation.
 34. To put it simply, these provisions or matters of discretion were intended to ensure our rights, interests and obligations were not able to be ignored, side-lined, diminished or suppressed. to operate in a way that gave Maori a voice, influence and abilities to protect or restore parts of the coastal environment that are important to us.
 35. The Panel is urged to look at the plan framework as a whole. In other words, the Port Zone policies by themselves are not enough.
 36. To properly to understand what the policies aim to achieve, it is critical to view the issues and more importantly the objectives that link to the policies.
 37. There are only two Port Zone objectives – Objectives 52 & 53.

Objective 52 The current operational needs of the Port of Tauranga are provided for as a matter of priority while avoiding, remedying or mitigating the effects of those activities on cultural values and the environment.

Objective 53 The future expansion and operational needs of the Port of Tauranga and its shipping channels are provided for in appropriate locations, having regard to the potential adverse effects on the environment.

38. Objective 52 is considered the primary objective in the context of the further information requested, and it is clear that the end-goal is one where adverse effects of the activities are avoided, remedied or mitigated. The objective does not put any limitations on the scale or severity of effects, for example, it does not contemplate that only significant adverse effects are avoided, remedied or mitigated.
39. Turning to the RDA status and matters of discretion on Rules PZ5, PZ8, PZ10 and PZ11 of the RCEP, perhaps the most relevant authority for the present case, is the Environment Court.
40. In 2023, at Para 269, the Court noted:

Of note is that the Council restricts its discretion to “site specific” historical or cultural values under ss 6(e) and 7(a) of the RMA. While at first blush there might be some constraints implicit in the term “site specific”, the site in this case is the Port and the Port is located in Te Awanui, and the effects of the activities arising from the proposed works are wider in scope than those in the immediate vicinity of new structures.

At Para 275:

... We have read them in their entirety, noting that some are more relevant than others. For instance, the objective relating to integrated management in section 2.1 is to achieve integrated management of the coastal environment by, among other things, enabling the exercise of kaitiakitanga and planning for and managing cumulative effects ...

And at Para 281, it had this to say:

... Importantly, while the Port Zone provisions contain some cross-references to certain policies in the RCEP, it is clear, when the RCEP is read as a whole, that other management policies are also relevant to this case, particularly those concerning Iwi and Integrated Management.

41. In short, the Port Zone provisions of the RCEP were expressly shaped through the appeals process to address entrenched deficiencies in how tangata whenua rights, interests, and obligations had been recognised in coastal decision-making.

42. They were intended to ensure that Māori are not marginalised or reduced to passive observers, but have substantive voice, influence, and practical ability to protect and restore their coastal taonga. Those provisions must be read within the wider plan framework, particularly the Integrated Management and Iwi Resource Management chapters, and Objectives.
43. Objective 52, which makes clear that port activities are provided for only on the condition that adverse effects on cultural values and the environment are avoided, remedied, or mitigated.
44. Properly applied, the RCEP does not permit the dilution of Māori interests, the minimisation of cumulative effects, or reliance on generic or applicant-designed mechanisms; rather, it requires active, rigorous, and outcomes-focused provision for tangata whenua relationships, kaitiakitanga, and responsibilities in decision-making.

SPDAG condition

45. As acknowledged, remedies and/or solutions to problems, are best identified or constructed alongside those who are affected by the problem that you are trying to resolve. This is acknowledged in RCEP provisions (IW 5 RCEP) and by the Applicant.
46. The SPDAG condition is something that the applicant developed on its own. It is not surprising that the majority of Maori responses are opposed.
47. We see similar conditions that use mechanisms like the SPDAG, often. In fact it is common practice now for dealing with Maori issues – such as kaitiakitanga, decision-making roles etc. Just set up a committee.
48. I have extensive experience in the way these committees operate having now participated in over 6 consent-condition-related processes like what is proposed. As mechanisms for recognising and providing for the relationship of Maori and/or having particular regard to kaitiakitanga, they unsustainable and ineffective.

49. Key factors that culminate in these mechanisms usually failing are:
- (a) Purpose & Objects
 - Revival of relationship/connections to place does not take place around a board table
 - Practical exercise of kaitiakitanga involves interacting with the environment. We do not want to exercise kaitiakitanga around a board table.
 - (b) Under-resourced
 - Real impact is prevented
 - Workload strains already limited capacity
 - Limitations on the kind of projects supported
 - (c) Representation
 - Membership is usually exclusive to iwi representatives, not hapū or kaitiaki . This will often lead to inefficiencies through duplication and wasted resources. Issues such as the inability to apply matauranga Maori because the knowledge holders are not involved are also prevalent.
 - The SPDAG condition is exclusive. It identifies only some hapū and excludes others.
 - Lack of support from technicians – no strategic level input
50. The linking of any conditions to another consent, as a means to not have to address effects arising from the other consented activity, is vehemently opposed.
51. Amending the SPDAG condition will not make a difference to strengthening or reviving the connections between people and place (s6(e) or s7(a)). Relationships of the kind that have been impacted, cannot be mended by having discussions around a board table.
52. If the Panel is inclined to adopted a structure of some kind, what is needed is a structure that locates governance with governance, technicians in technical roles, kaitiaki in practical management roles, and all to be supported by a central administration/coordination base.

53. The above structure would require an annual budget to operate. Aside from functioning properly, this would enable tangata whenua to be in control of their own processes.

Applicants suggested process involving a facilitator

54. The Applicant has previously been critical of facilitated processes and so we are unsure why it would be suggesting one is appropriate now. That aside, we are supportive of the tono (invitation/request) extended to the Panel by Ngāti Kuku / Whareroa marae that in the event of any hearing that may be decided by the Panel, that it is appropriate that it take place at Whareroa marae.

Pia Bennett

11 June 2026