

Before the Fast-track Expert Panel

FTAA-2511-1150

Under the Fast-track Approvals Act 2024 (**FTAA**)

And

In the Matter of an application for approvals by McCallum Brothers Limited for the Te Ākau Bream Bay Sand Extraction Project located at Te Ākau Bream Bay, Northland

**Memorandum of Counsel on behalf of McCallum Brothers Limited in Response to
Minute 15 of the Expert Panel**

Dated 12 October 2026

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May it Please the Expert Panel:

1. This memorandum is presented on behalf of McCallum Brothers Limited (**MBL**), the Applicant for the Bream Bay Sand Extraction Project (**Application**).
2. The Panel issued Minute 15 on 6 October 2026. That minute directs, at paragraph 4, that the parties lodge submissions regarding unsolicited correspondence lodged by Bream Bay Guardians Association Inc (**BBG**). The expressed preference is that these are lodged on a joint basis, and they were requested to be lodged no later than 12 October.
3. Commencing with the preference for a joint memorandum I note I am overseas in the period 8-12 October and therefore have not had direct discussions with counsel for BBG. BBG's counsel have prepared a draft joint memorandum, for which I record my thanks, albeit it is not in a form which I have instructions to agree to. Given my availability limitations due to travel, I have proceeded to prepare this separate memorandum.

Background

4. The comments lodged by BBG included reference to what is being termed the "peat reef (identification pending)", but no coordinates were provided for its location.¹ In my submission, that is unusual in the context of expert evidence where specific assertions and assessments are advanced with respect to a particular location (acknowledging there may be a desire to keep the location confidential, but that can be secured through other methods).

¹ BBG's comment refers to the report titled Bream Bay First Order Ecological Survey – Phase 2 prepared by eCoast dated 25 May 2026 (the eCoast Report). The e-Coast report uses the term "peat reef (identification pending)" – the reference to "identification pending" is made in the executive summary and at page 25.

5. The response to comments on behalf of MBL specifically recorded the inability for MBL's experts to respond directly to that location specific proposition, given the absence of detail provided.²
6. MBL has no direct ability itself through the fast-track process to compel provision by other parties of details, such as coordinates, and therefore anticipated the Panel might seek that detail through an RFI.
7. In due course, given there had not been any RFI directed to that issue, on 25 August 2026 I wrote to counsel for BBG requesting that coordinates of the asserted peat reef locations referred to in BBG's invited comment on the Project be provided. As the Panel is aware, that detail was provided on 5 September 2026, albeit accompanied by an additional package of commentary from Professor Mark Dickson.
8. The letter I sent on 25 August 2026 to BBG did not seek additional commentary. Rather than attempt to summarise that letter here, I **attach** it for the Panel's information. As the Panel will see, at paragraph 8 the letter requested some specific spatial clarification only.
9. As might be expected, MBL intends to look specifically at the particular area identified. However, MBL had made no assumptions about its right to provide further material to the Panel dependent on what was found at that location. Rather than lodge material uninvited, my intention was to write to the Panel in due course, if MBL felt there was material the Panel and other parties might benefit from (which may or may not be the case), to seek directions as to how that might be dealt with.

Response to direction

10. MBL's primary position is that the additional uninvited commentary from Professor Dickson should not be accepted by the Panel. It is not material limited to descriptions or clarification regarding the location of the asserted peat reef. Rather, it is commentary from someone who has not personally

² See, for example evidence of Simon West in response to invited comments dated 12 August 2026 at paragraph 124 and 130.

visited the location in question, and it advances broader statements about coastal geomorphology, sediment transport and comments on T+T responses to RFI questions.

11. In my submission, uninvited commentary such as that above should not be accepted by the Panel at this stage. BBG has had its opportunity to provide its views regarding the asserted peat reef. The issue at question here relates to the failure for relevant provenance to be provided with respect to the location of those asserted features and therefore the ability for MBL to respond.
12. The course of action suggested by BBG in essence translates to a scenario where BBG commentary was provided without appropriate provenance/locational information for MBL to consider, investigate, and respond to. Subsequently, much later in time in response to a request simply seeking relevant locational coordinates, BBG has advanced uninvited additional commentary which BBG has had further time to prepare unbeknownst to MBL, leaving MBL in a position where again it has had no opportunity to respond. From a natural justice and process perspective, BBG should be limited to providing clarification as to location, with the potential for MBL to provide any further material in response the subject of a separate direction in due course.
13. In the alternative, if the Panel determines to accept the additional material from Professor Dickson, then MBL respectfully requests a direction that it is able to provide a response to that material (this direction including allowance for any response or analysis specifically relating to the peat reef asserted features in the locations identified by BBG) to the Panel. Turning to timing for such a response, the question becomes more complex given MBL have only just received the relevant coordinates and is in the process of arranging site investigation. In that context I propose lodging a response by one working day in advance of any expert conference on coastal processes and landforms

but expressly recording that MBL may need to seek additional or further directions, dependent on findings from that site investigation.



Jeremy Brabant
Counsel for McCallum Brothers Limited

12 October 2026

25 August 2026

Bream Bay Guardians Society
C/ Lee Salmon Long

by email

Attention: Adam McDonald / Tim Mullins

Dear Bream Bay Guardians Society

Bream Bay Project – McCallum Brothers Limited – Request for Coordinates of Peat Reef Locations

1. I act for McCallum Brothers Limited (**MBL**).
2. I write to request further information from you in relation to the comments made by the Bream Bay Guardians Society (**BBG**) on MBL's Bream Bay Sand Extraction Project (**Project**).
3. BBG's comment refers to the report titled *Bream Bay First Order Ecological Survey – Phase 2* prepared by eCoast dated 25 May 2026 (the **eCoast Report**).
4. The eCoast Report refers to areas of peat reef bedforms and supporting habitats. The eCoast Report does not provide coordinates identifying the specific location of the peat reef bedforms and supporting habitats.
5. There appears to be inconsistency in the descriptions provided as to the specific location and relationship to the proposed sand extraction area.
6. For example, the eCoast Report states that peat reef was:
 - a. "adjacent the northern boundary of the sand extraction area" (Executive Summary, page i);

- b. “within the proposed extraction area” (Executive Summary, page ii);
 - c. “evident towards the inshore boundary mid-way along the proposed extraction area and northern-most control area” (page 11);
 - d. “observed within and bordering the sand extraction area” (page 11); and
 - e. “within and adjacent to the proposed sampling area” (page 27).
- 7. The varied descriptions used in the eCoast Report make it difficult to establish where the peat reef is. In particular, there is a material distinction between peat reef being *within* the proposed extraction area, *bordering* the area, *adjacent to* its northern boundary, and being located within the *inshore boundary mid-way along the proposed extraction area and northern-most control area*. Without coordinates, or other spatial information, it is difficult to establish precisely what features the report is referring to and whether the same peat reef features are being described in each instance.
- 8. I therefore request that BBG provide the underlying spatial information supporting the above statements made in the eCoast Report, including, where available:
 - a. The coordinates or GPS locations of each peat reef observation;
 - b. The extent or approximate boundaries of the identified peat reef areas;
 - c. Any GIS shapefiles, maps or other spatial datasets used to identify or delineate the peat reef; and
 - d. Clarification as to whether the peat reef referred to at the various locations throughout the report represents the same feature(s) or separate areas of peat reef.
- 9. As part of its ongoing operations MBL has scheduled to undertake further investigations of the proposed sand extraction area. As part of that process, MBL would like to take the opportunity to locate and investigate the areas of peat reef identified by BBG and the eCoast Report.

10. I am happy to discuss the above further.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'JB' followed by a stylized flourish.

Jeremy Brabant

cc Tim Mullins