

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
(Application - FTA072 /
FTAA-2512-1163)

**SUBMISSION ON BEHALF OF PIRIRĀKAU TRIBAL AUTHORITY –
INCORPORATED (PTAI)**

**IN RESPOSNE TO
MINUTE 5 OF THE EXPERT PANEL
DATED 8 JUNE 2026**

[REDACTED]
RD6 Te Puna
Tauranga 3176

Senior Environmental Planner: Julie Shepherd

M: [REDACTED]

Kaihautū - General Manager: Heta Gardiner

M: [REDACTED]
[REDACTED]

May it please the panel

1. INTRODUCTION

- 1.1 Pirirākau Tribal Authority - Incorporated (PTAI) submits this Memorandum in response to Expert Panel Minute 5 (received 22 May 2026). This submission affirms the *Pirirākau* statutory position as *kaitiaki* within the Tauranga Moana ecosystem and delineates the requirement for a project-specific, hapū-mandated rehabilitation framework.
- 1.2 PTAI maintains that the Applicant's proposal, as currently structured, fails to discharge the obligations mandated by the *Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025* and the procedural requirements of the *Fast-track Approvals Act 2024* (FTAA), while failing to provide for the fundamental principles of the *Resource Management Act 1991* (RMA) which continue to govern cultural assessments.

2. RESPONSE TO EXPERT PANEL MINUTE 5

2.1 Treaty Settlement Consistency and Hapū Mandate (Point 3)

- 2.1.1 Pirirākau (PTAI's) statutory status is affirmed under the *Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025*¹. The Crown's formal acknowledgment in *Part 2, Section 8* of the Act explicitly identifies that;

*"the clearing of forests, development of the Port of Tauranga, the development of the Mangapapa hydro scheme and the collapse of the Ruahihi Canal, and the disposing of sewage and wastewater into the harbours and waterways of Tauranga Moana have resulted in environmental degradation of Tauranga Moana which remains a source of great distress to the hapū of Ngāti Ranginui"*².

- 2.1.2 This Settlement Act recognises that mana and authority are held at the *hapū* level. Our position is formally affirmed by our Chairperson, who serves as the *Pirirākau* Representative on the *Ngā Hapū o Ngāti Ranginui* Post-Settlement Governance Entity (PSGE)³. This dual role ensures that PTAI's technical and cultural positions are fully integrated with the broader settlement governance architecture, while maintaining the *hapū* autonomy required by our Settlement⁴. Consequently, the Applicant's practice of diverting consultation away from mandated *hapū* leaders toward generic, collective advisory

¹ Pirirākau Tribal Authority Memoranda (17 March 2026; 30 April 2026).

² Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, Part 2, Section 8.

³ Cross-governance roles as confirmed by board appointments for the Ngā Hapū o Ngāti Ranginui PSGE (2026).

⁴ Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025, s 8(17)(a).

structures (such as SPDAG) is a failure to recognise the *hapū* mandate codified in our settlement.

- 2.1.3 Any determination under the FTAA must not only avoid perpetuating historical grievances but must affirmatively contribute to the restoration of *mauri*. The *Settlement Act* is intended to devolve decision-making power back to the *hapū*, where our *kōrero*, as the people of the land, carries primary weight. The Applicant's reliance on discretionary advisory committees, rather than direct, site-specific restorative engagement, is inherently inconsistent with the statutory objectives of the Settlement Act and denies the *hapū* the primacy in resource management we are legally entitled to exercise.

2.2 Cumulative Effects and the Pre-eminence of PACE (Point 4)

- (i) The Applicant's distillation of adverse cumulative effects is procedurally deficient⁵. The *Pirirākau Assessment of Cultural Effects (PACE)* establishes that *Te Awanui* functions as a connected cultural receiving environment, where the *mauri* of the *Te Puna* interface is currently at a catastrophic tipping point due to the documented collapse of *kaimoana* and associated intertidal ecosystems.

The proposed Stella Passage Development introduces new, direct material impacts - including further sediment disturbance and hydro-morphological disruption - that compound these existing systemic injuries⁶. This constitutes an "industrial lock-in" that forces *Pirirākau* to endure ongoing ecological degradation, necessitating restorative action commensurate with both the new project-specific harm and the historical scale of collapse.

- (ii) The *PACE* serves as the authoritative assessment of cultural effects. The Applicant explicitly admits that their proposed mitigation "does not and is not intended to address historic degradation or wider cumulative effects unrelated to the Project"⁷.

By attempting to narrow mitigation solely to "direct project impacts" [Faithfull Evidence, para 87]⁸, the Applicant explicitly ignores the *PACE* findings that the collapse of *kaimoana* values at the *Te Puna* interface is indivisible from the historic cumulative degradation documented in the Settlement Act⁹. PTAI asserts that the project's new, compounding impacts cannot be isolated from this fragile baseline; the Applicant's refusal to address the aggregate injury fails to achieve the

⁵ Response to comments from Appropriate Parties, p. 15.

⁶ Pirirākau Assessment of Cultural Effects (PACE), Section 5.1 (Cumulative Impact Assessment, p. 22).

⁷ Response to comments from Appropriate Parties, p. 15 (Applicant's response to Comment 32).

⁸ Faithfull, L (2026). Statement of Evidence, para 87.

⁹ PACE, Section 3.1 (Mauri and Receiving Environment Integrity, p. 12).

standard of *kaitiakitanga* required to mitigate these cumulative, intergenerational injuries¹⁰.

2.3 Interpretation of Statutory Discretion (Point 7)

- 2.3.1 The exercise of discretion by the Panel must be interpreted through the primacy of *Pirirākau* cultural thresholds. Even within the fast-track framework, the principles of the *Resource Management Act 1991* (ss 6(e) and 7(a)) remain the operative standards for the recognition of *kaitiakitanga*¹¹. Where conflict arises between proponent technical framing and *Pirirākau* cultural evidence, the latter must prevail to satisfy the obligations set out in the RMA and the overarching principles of the *FTAA*¹².

3. PROCEDURAL CONDUCT, GOVERNANCE, AND REBUTTAL

3.1 Rebuttal: Failure of Due Diligence and Exclusionary Strategy

PTAI formally records that the Applicant failed to initiate a single project-specific meeting with the current PTAI mandated leadership following the withdrawal of the first substantive application and the filing of the second.

The Applicant's reliance on correspondence from January 2025, addressed to a former Chairperson, constitutes a procedural failure to exercise reasonable due diligence¹³. This refusal to initiate a meeting with the present PTAI planning office reflects an exclusionary strategy that bypasses substantive consultation in favour of administrative deferral.

The Applicant's attempt to characterise this lack of contact as a "Pirirākau decline of engagement" is a material misrepresentation¹⁴. This is not a "game of dismissal"; it is a deliberate attempt to bypass substantive consultation entirely.

3.2 Rebuttal: Strategic Misdirection and Mitigation Deficit

The Applicant's correspondence (4 June 2026) confirms a policy of diverting cultural concerns away from the consenting framework. The Applicant prioritises "relationship-based opportunities" over binding consent conditions, explicitly stating that "there is limited scope for significant refinement of the consent package itself".

PTAI contends this is a strategic misdirection. By channelling cultural interests into a collective, non-decision-making advisory body (SPDAG) and redirecting potential rehabilitation efforts into generic regional funding streams, rather than committing to genuine mitigation through the *Te Puna*

¹⁰ Resource Management Act 1991, s 6(e) and s 7(a).

¹¹ Fast-track Approvals Act 2024, s 7(1)(a)(i).

¹² Response to comments from Appropriate Parties, p. 14 (Applicant's consultation records)

¹³ Response to comments from Appropriate Parties, p. 14 (Applicant's response to Pirirākau engagement).

¹⁴ Applicant Correspondence to PTAI (dated 4 June 2026).

rehabilitation pilot. The Applicant actively avoids its obligation to mitigate both the project-specific and the historic, documented degradation of Te Awanui including our *rohe interface*¹⁵.

Furthermore, the Applicant's characterisation of the *Pirirākau* position as a request for "funding" is a material misrepresentation. As clarified in our correspondence with the Applicant's Māori Relationships Advisor, the Applicant currently utilises its technical expertise in dredging exclusively for economic expansion and port maintenance, while treating ecological outcomes as an externalised afterthought.

Pirirākau has consistently sought a direct, project-specific partnership to leverage this technical expertise for the ecological restoration of *Te Puna*. We are not seeking ad-hoc financial support; we are seeking a genuine, collaborative project that the Port can take ownership of in partnership with *Pirirākau*, an actual, tangible result of the Port's investment in Te Awanui and this *rohe*.

By failing to mitigate the active reduction of the customary area and offering only incomplete assessments of the impacts on our *marae* and customary sites, the Applicant is actively diminishing our ability to exercise *kaitiakitanga*.

The Applicant is not "exploring" these opportunities; they are dismissing the request for direct project delivery and deferring our cultural interests to generic pools.

The Applicant's argument that the application is at an "advanced stage" is a self-imposed barrier that does not absolve them of their statutory obligations. Procedural convenience cannot override the Crown's settlement commitments or the Panel's duty to rigorously evaluate the written evidence.

Under Schedule 4, Clause 31 of the *Fast-track Approvals Act 2024*, the Panel possesses the express power to require further assessments and the conditioning of substantive rehabilitation to ensure the application meets the required statutory standards¹⁶. The Applicant's internal process constraints cannot override the Panel's broad investigative and restorative jurisdiction.

4. PROCEDURAL SUFFICIENCY AND PREFERENCE FOR DIRECT EXPERT CAUCUSING

4.1 Response to Expert Panel Minute 5 (Point 9)

- 4.1.1 Pirirākau Tribal Authority - Incorporated (PTAI) asserts that an open, public oral hearing involving competing *tangata whenua* interests would result in unnecessary procedural duplication and counter-productive adversarial

¹⁵ Applicant Correspondence to PTAI (dated 4 June 2026).

¹⁶ Fast-track Approvals Act 2024, Schedule 4, cl 31 (Power of the Panel to require further assessments).

conflict. The material facts, statutory standing, and cultural thresholds of Pirirākau are already fully and clearly articulated within our written submissions and the accompanying PACE document.

- 4.1.2 Rather than introducing a public oral submission exchange, which risks diluting site-specific *hapū* mandates through collective regional structures. The remaining procedural focus must look toward direct, focused discussion. PTAI's written evidence stands on its own merits as the definitive statement on the cultural acceptability of this application. Any further interaction must move away from public presentation and toward binding, project-specific resolution.
- 4.1.3 A structured, non-adversarial environment is required to address a critical procedural deficiency: the absence of genuine, project-specific engagement between the Applicant and the currently mandated leadership of Pirirākau. Following the substantial dredging consents of 2010, a period marked by historically fractured relations. The Applicant has failed to initiate any meaningful dialogue with the Pirirākau resource management unit regarding the Stella Passage Development¹⁷.
- 4.1.4 The Applicant's reliance on outdated correspondence, coupled with its mischaracterisation of our position as a "decline of engagement," constitutes a failure to exercise the due diligence necessary to satisfy meaningful consultation requirements¹⁸. The Applicant's primary reliance on collective regional funding streams and advisory bodies fails to constitute the necessary mitigation to address site-specific injury to *kaimoana* and *mauri* within the Pirirākau *rohe*¹⁹.
- 4.1.5 To bypass public duplication while ensuring our written evidence is properly addressed, PTAI remains available to participate in targeted, next-step expert caucusing. This represents the necessary forum to formally resolve the Applicant's systemic engagement failures and their persistent unwillingness to move beyond superficial consultation since the 2010 consents.

5. PROCEDURAL DIRECTIONS AND RELIEF SOUGHT

- 5.1 In light of the submissions and evidence detailed above, PTAI respectfully requests that the Expert Panel issue the following procedural directions and relief:

¹⁷ Referring to the Environment Court direct referral and subsequent resource consents granted to Port of Tauranga Limited in 2010.

¹⁸ See Port of Tauranga Limited Substantive Application Report (Appendix 18: Mahea NZ Ltd Cultural Consultation Report), January 2026.

¹⁹ Pirirākau Assessment of Cultural Effects (PACE): Port of Tauranga – Stella Passage Development (FTA072), April 2026, Section 6.0.

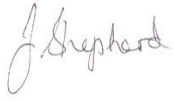
1. **Dispense with an Open Oral Hearing on Cultural Matters:** Utilise the Panel's statutory discretion to rely on the comprehensive written evidence already exchanged, avoiding a competing public forum.
 2. **Direct an Expert Witness Caucus:** Require the Applicant's environmental and engineering consultants to enter a private, structured caucus with the PTAI resource management unit. This discussion must focus strictly on the technical, operational, and resourcing parameters required to develop the Te Puna rehabilitation pilot.
 3. **Mandate a Joint Witness Statement:** Direct that the conclusion of this expert caucus be recorded in a formal Joint Witness Statement, identifying exactly where the parties agree or differ on site-specific *mauri* and *kaimoana* restoration.
 4. **Mandate Substantive Rehabilitation:** Pursuant to its powers under the Fast-track Approvals Act, require the Applicant to formalise a project-specific rehabilitation framework for the Te Puna interface, moving beyond the current deficient consultation framework toward a binding, resourced, and time-bound commitment²⁰.
 5. **Correct the Consenting Record:** Acknowledge that the Applicant's current mitigation package is procedurally and substantively deficient regarding its failure to address the active reduction of the customary area available to Pirirākau, and the incomplete assessment of impacts on the *marae* and adjacent customary sites.
 6. **Require Direct Partnership:** Direct the Applicant to engage in direct, project-specific negotiations with the Pirirākau Tribal Authority - Incorporated as the mandated rights-holder, rather than diverting these discussions into collective advisory structures that lack the mandate and authority to deliver site-specific restoration outcomes²¹.
- 5.2 PTAI maintains that the granting of any consent under the Fast-track Approvals Act must be contingent upon the Applicant demonstrating an affirmative contribution to the restoration of *mauri*, as recognised by the Ngā Hapū o Ngāti Ranginui Claims Settlement Act 2025.

²⁰ Fast-track Approvals Act, schedule 4 clause 31.

²¹ Referring to the Stella Passage Development Advisory Group (SPDAG).

Julie Shepherd

Senior Environmental Planner, Pirirākau Tribal Authority – Incorporated (PTAI)

A handwritten signature in cursive script, appearing to read 'J. Shepherd'.

DATED at Tauranga this 8th day of June 2026
