

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

**NGĀI TE RANGI SETTLEMENT TRUST
ON BEHALF OF NGĀ HAPŪ O NGĀI TE RANGI
RESPONSE TO REQUEST FOR INFORMATION [MINUTE 5]:**

CHARLIE TAWHIAO

08 JUNE 2026

JGH BARRISTER

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INTRODUCTION

1. My name is Charlie Tawhiao.
2. I have dedicated my life to serving my people. I have held various leadership roles within Ngai Te Rangi iwi for nearly two decades now. In recognition of my commitment to my people and work, I was recently conferred an honorary doctorate.
3. My response builds on my earlier comments and is provided in response to the Panel's request for further information concerning section 7 of the Fast-track Approvals Act.
4. I address this matter from an iwi negotiations perspective, drawing on my direct involvement in the negotiation of both the Ngāi Te Rangi settlement and the Tauranga Moana Iwi Collective settlement and also as the Chairperson of the Ngāi Te Rangi Settlement Trust (**NST**), the Post Settlement Governance Entity (**PSGE**) that was established as part of the requirements for finalising our treaty settlement.
5. These comments are directed toward explaining how these settlements were understood during negotiations, and assisting the Panel to understand the intent and expectations embedded within them and should be read together with my first comments filed on 30 April 2026 and with the updated comments of Pia Bennett.

Summary recap

6. As previously mentioned, the Ngāi Te Rangi settlement has not progressed to legislation. There are several reasons for this, most of which are not relevant to the current intent and purposes and have therefore not been expanded upon. However, in terms of the provisions and section 7 obligations under the Fast Track Approvals legislation, our relevance is provided for through two Deeds of Settlement.
 - i. the Ngāi Te Rangi & Nga Potiki Deed of Settlement, and
 - ii. the Tauranga Moana Iwi Collective Deed of Settlement.

7. I address the role and meaning of the Crown's apologies contained within the Ngāi Te Rangi settlement documents, and how those apologies should be understood when assessing consistency under section 7 of the Fast-track Approvals Act.
8. From an iwi negotiation perspective, it is important to clarify that the apologies contained within our Ngāi Te Rangi settlement are not symbolic narratives or historical reflections alone. They are an integral part of the settlement framework that record:
 - what went wrong;
 - how those actions affected our people; and
 - what must be different going forward
9. In that sense, the apology is not separate from the settlement—it is central to it. It explains both the nature of the obligations and the direction of future conduct expected from the Crown and those exercising statutory powers affecting Ngāi Te Rangi peoples, taonga and/or our rohe.
10. In this respect, I need to object to the comments made by the lawyer for the Port who suggests that the apologies that sit within our settlements are mere context. Respectfully, she was not part of our settlement and cannot understand the pivotal importance of the whakapāhā (apology) process as the very basis of the settlement. He mana tō te kupu.
11. The suggestion that the apology is merely contextual is, with respect, *he mana kore tōna kupu* — it is devoid of authority and unsupported by the structure, content, and legislative incorporation of settlement.
12. Whakapāhā restores the mana of the offended party and therefore makes negotiations and settlement outcomes more meaningful and binding. Whakapāhā is central to completing the process of 'utu'.
13. I cannot see that the Port's lawyer refers to any evidence to support her assertion that the apology and the acknowledgements are essentially "fluff" around the fringes. Indeed, the fact that these parts of the settlements are ultimately enshrined in the legislation that empowers the settlements highlights that she is clearly wrong..

14. Lastly, she notes that our understanding of the framework would make it impossible to navigate the fast track process. That is clearly not the case, as I understand that many fast track applications have been successful. Clearly, the process is therefore not impossible. What is required, however, is respect. Respect for our place here as tangata whenua, and respect for what we have endured in the name of progress and 'better utilisation'.
15. Arguments such as the ones now made for the Port are the very reason that we were deprived and disempowered historically. The Crown apologised and said it wouldn't happen again, yet here we are.

Backdrop – Treaty Settlements

16. In Tauranga Moana, the Treaty settlement context is not abstract. It arises from claims that the Crown failed to protect the ability of Ngāi Te Rangi and its hapū to exercise rangatiratanga and kaitiakitanga in relation to Te Awanui, while permitting and facilitating patterns of land alienation, harbour modification, environmental degradation, and exclusion from decision-making.
17. The settlement arrangements that followed, including iwi-specific and collective Tauranga Moana instruments, record not only the history of those breaches but also the Crown's acknowledgements, apologies, and forward-looking commitments. They therefore provide relevant context for understanding the obligations engaged by sections 7, particularly where a proposal concerns the harbour, cumulative effects, and the practical exercise of rangatiratanga and kaitiakitanga.

Ngāi Te Rangi Treaty Claims Settlement

18. Against that backdrop, I turn to the Ngāi Te Rangi settlement. Although not yet enacted in legislation, it remains a central part of the settlement framework relevant to Ngāi Te Rangi and its hapū. As understood at the time, it was not merely a record of past grievance, but a framework identifying both the harms acknowledged by the Crown and the future conduct intended to avoid their repetition.

19. That is so in Tauranga Moana, where the matters acknowledged in the settlement include not only land loss and Crown marginalisation, but also the condition of Te Awanui, the effects of harbour development, and the erosion of the practical ability of tangata whenua to exercise rangatiratanga in relation to taonga within their rohe.

Settlements as forward looking frameworks

20. The Ngāi Te Rangi settlement, like other Treaty settlements, acknowledges the past and establishes a framework for the future. In that respect, the Crown's acknowledgements are material because they identify the patterns of conduct that caused the harm and the matters that must not be repeated.

- its failure to actively protect Ngāi Te Rangi interests;
- the large-scale taking of lands through public works processes; and
- the environmental degradation of Tauranga Moana, including through port development activities.

21. Those acknowledgements are accompanied by a commitment to establish a new relationship based on mutual respect and cooperation. This commitment has practical implications signalling that future decisions should depart from the exclusion, degradation and inadequate protection that gave rise to the claim.

22. Properly understood, it is both restorative and preventive. It was restorative in acknowledging and responding to historic harm, and preventive in its intention that future conduct not replicate the same forms of harm in another guise.

23. It follows that any proposal affecting Te Awanui must be assessed not only by reference to its immediate effects, but also by reference to whether it is consistent with that forward-looking settlement framework and the Crown's commitment to a different course for the future.

24. Ms Bennett accurately articulated that the apologies set out in the respective Deeds of Settlement record a series of commitments by the Crown.

25. Of relevance are the apologies that acknowledge the failure to actively protect Ngāi Te Rangi because the failures to actively protect Ngai Te Rangi led to the most serious offences, not only to Ngāi Te Rangi peoples, but to our taonga, and the one thing that Ngāi Te Rangi treasures the most – our harbour.

26. Excerpts taken from the Ngāi Te Rangi DOS –

3.7 The crown acknowledges that it failed to actively protect Ngāi Te Rangi interests ...

3.9 The crown acknowledges that it:

3.9.1 frequently made use of monopoly powers

3.14 The crown acknowledges that it compulsorily acquired over 4000 acres of land ... under public works legislation, including areas ... such as Panepane ... These takings have given rise to a serious grievance that is still felt today by ... The Crown further acknowledges that it breached the Treaty of Waitangi and its principles by:

3.14.1 failing to protect the interests of the owners in relation to the Whareroa lands taken for 'better utilisation';

3.15 The Crown acknowledges that public works have had enduring negative effects on the lands, resources, and cultural identity of Ngai Te Rangi, including:

3.15.4 the development of the port and airport

3.1.6 The Crown further acknowledges:

3.16.1 the significant contribution that Ngai Te Rangi and Nga Potiki have made to the wealth and infrastructure of Tauranga on account of the lands taken for public works;

3.18 The Crown also acknowledges:

3.18.1 the significance of the land, forests, harbours, and waterways of Tauranga Moana to Ngai Te Rangi and Nga Potiki as a physical and spiritual resource; and

3.18.2 that the development of the Port of Tauranga, the disposing of sewerage and wastewater into the harbours and waterways of Tauranga Moana, and the construction of effluent treatment ponds on Te Tahuna o Rangataua, have resulted in the environmental degradation of Tauranga Moana and reduction of biodiversity and food resources which remain a source of great distress to Ngai Te Rangi and Nga Potiki.

3.24 Through this apology and this settlement the Crown seeks to address the wrongs of the past and to create a new platform from which to establish a relationship with Ngai Te Rangi and Nga Potiki, a relationship based on mutual respect and cooperation as was originally envisaged by the Treaty of Waitangi.

27. Relevant excerpts from the TMIC Deed of Settlement where it records agreements, commitments, and interpretive or operational guidance, include:

2.8 Recognition of their mana, rangatiratanga and kaitiakitanga over the moana is fundamentally important to Tauranga Moana iwi and hapu who aspire to achieve, among other things:

2.8.1 the restoration, protection and maintenance of the health and wellbeing of Tauranga Moana and the health and wellbeing of the people around the moana; and

2.8.2 direct involvement in policy development and decision-making affecting Tauranga Moana; and

2.8.3 use of the full range of tools available under existing and newly developed regulatory frameworks; and

2.8.4 consistent good-faith engagement on relevant issues.

2.9 For the Crown, arrangements in respect of Tauranga Moana should

2.9.1 meet Treaty of Waitangi obligations and be informed by the reports of the Waitangi Tribunal concerning the Tauranga Moana claims; and

2.9.2 be consistent with the principle of public access within marine and coastal area as reflected in sections 26 and 27 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

- 2.9.3 preserve democratic local decision-making and action by and on behalf of communities, including preserving the role of, and final decision-making by, local authorities as provided in relevant legislation; and
 - 2.9.4 provide an effective role for iwi and hapu in natural resource management; and
 - 2.9.5 promote sustainable management of natural and physical resources; and
 - 2.9.6 improve and protect the health of the moana and the connected health of whanau, hapu and iwi; and
 - 2.9.7 provide for customary interests and accommodate cultural diversity and more than one world-view; and
 - 2.9.8 be characterised by arrangements that are fit for purpose; and
 - 2.9.9 be characterised by arrangements that are durable and will endure.
- 2.10 The Crown acknowledges that the Tauranga Moana iwi are the Crown's Treaty partners.
- 2.11 . For the purpose of recognising and addressing the foregoing matters the Crown and Tauranga Moana iwi agree:
- 2.11.1 that the collective legislation will, on the terms provided by part 3 of the legislative matters schedule –
 - (a) establish a statutory committee called the Tauranga Moana Governance Group; and
 - (b) provide for the preparation, review, amendment and adoption of a Tauranga Moana framework document - Nga Tai ki Mauao; and
 - 2.11.2 to the other provisions in this part 2; and
 - 2.11.3 within 20 business days of the settlement date the Crown will provide a financial contribution to the Bay of Plenty Regional Council to support the provision of administrative and technical support to the Tauranga Moana Governance Group and the preparation and

adoption of Nga Tai ki Mauao (the Tauranga Moana framework document).

28. For completeness, I consider it appropriate that the Panel also be provided with key negotiation-derived harbour documents, including the Cabinet paper *Parameters for Treaty Settlement Negotiations over Harbours and Other Parts of the Coast* and the *Tauranga Moana Iwi Collective Statement of Position and Intent*.
29. I do not rely on these documents as if they were regulatory instruments, nor as creating freestanding legal obligations. Rather, I refer to them as contextual material capable of assisting the Panel to understand the settlement architecture, the harbour-focused negotiations that informed it, and the wider context in which the section 7 argument is advanced.

THE DUAL NATURE OF CROWN APOLOGIES

Apologies as general commitments

30. Some elements of the Crown apology operate at a general level. They include acknowledgements that the Crown failed to actively protect Ngāi Te Rangi interests, marginalised Ngāi Te Rangi within their own rohe, and contributed to long-term social, cultural, and environmental harm.
31. Those acknowledgements inform the standard by which future conduct should be assessed. In practical terms, they indicate that decision-makers should protect remaining taonga, avoid further marginalisation or exclusion, and direct outcomes toward restoration rather than continued degradation.
32. These are not abstract propositions. They reflect the matters that informed the claims, shaped the negotiations, and are now recorded in the settlement material.

Apologies as specific commitments

33. Other parts of the apology operate at a greater level of specificity. In the Ngāi Te Rangi material, that includes references to compulsory land acquisition at places such as Panepane and Whareroa, the role of public works and harbour development, and the environmental degradation of

Tauranga Moana (Te Awanui) together with the reduction of customary resources.

34. Those references are not incidental. They identify particular forms of Crown conduct that caused harm in the past and remain relevant when considering the consistency of present-day decision-making with the settlement framework.
35. As was understood at the time, each acknowledgement carried a corresponding implication for future conduct. Where the settlement records harm arising from land takings, harbour degradation, or exclusion from decision-making, it supports the proposition that comparable patterns were not intended to be repeated or extended through contemporary proposals.
36. In this way, the apology gives rise to context-specific commitments, depending on the nature of the harm being acknowledged.

The Principle of Non-Repetition

37. A central feature of the settlement apologies, as intended, was that they were directed not only to acknowledgement of past harm but also to the avoidance of its repetition.
38. Where the Crown apologised for failures of protection, degradation of the harbour, and the marginalisation of tangata whenua, the evident intention was that those same patterns were not to continue under a different form. That understanding was fundamental to the settlement framework. The apology was not intended to be merely symbolic; it was intended to mark a change in approach so that the matters acknowledged as harmful would not simply be reproduced in future decision-making.
39. In the Tauranga Moana context, that supports the view that actions replicating, extending, or adding to those historic patterns of harm are difficult to reconcile with the settlement purpose.

Cumulative effects and system integrity

40. The harms acknowledged in the settlement were not understood as arising from a single event. They were understood as the product of repeated land takings, incremental harbour modification, and the sustained exclusion of tangata whenua from decision-making over time.
41. The Panel also has evidence from other witnesses and experts indicating that those effects have been cumulative, compounding, and intergenerational.
42. Against that background, and consistently with the settlement framework, the effects of any new proposal should not be assessed in isolation. Incremental additions to an already harmful trajectory require careful scrutiny.
43. Where a proposal contributes to the same pattern of cumulative degradation acknowledged in the settlement material, it risks undermining the integrity and purpose of the settlement framework.

Rangatiratanga and the practical effect of apologies

44. A central objective of the settlement was the recognition of Ngāi Te Rangi mana and rangatiratanga in relation to Tauranga Moana. That objective remains directly relevant to this assessment.
45. The Crown's acknowledgements of past marginalisation make clear that the erosion of rangatiratanga was a material component of Treaty breach. On that footing, the settlement was intended to support the restoration and practical exercise of rangatiratanga, rather than its further diminution.
46. In practical terms, that requires more than consultation. It requires outcomes that maintain and strengthen the relationship between tangata whenua and their taiao, and support the ability of hapū to exercise kaitiakitanga in a real and effective way.
 - Where a proposal constrains access to the moana, diminishes the health and mauri of taonga, or limits the practical ability of hapū to

exercise authority, it tends toward a further weakening of rangatiratanga.

47. That kind of outcome would be difficult to reconcile with the purpose for which this aspect of the settlement exists.

Application to Section 7 of the FTAA

48. Section 7 requires decision-makers to act consistently with obligations arising under Treaty settlements. In my submission, those obligations are not confined to discrete items of redress or narrow technical rights.
49. They include the commitments expressed in the apology, both at a general level, concerning standards of future conduct, and at a specific level, concerning the particular forms of harm identified in the settlement material.
50. The relevant question is therefore not simply whether a particular item of redress is directly affected, but whether the decision aligns with, or cuts across, the commitments expressed in the apology and the settlement framework to which it belongs.

TAURANGA MOANA IWI COLLECTIVE

51. I now turn to the Tauranga Moana Iwi Collective (TMIC) Settlement and address its relevance in the context of section 7 of the Fast-track Approvals Act.
52. While the Ngāi Te Rangi settlement provides an important iwi-specific framework, the TMIC settlement must be understood as a collective expression of the interests of all Tauranga Moana iwi, and as a unifying framework for the management and restoration of Tauranga Moana as a whole system.
53. The TMIC documents use the phrase “Tauranga Moana” interchangeably to describe either Tauranga Moana “the people” or Tauranga Moana “the harbour”.

54. The collective settlement proceeded on the understanding that the TMIC settlement carried particular weight because it directly addresses the harbour (Te Awanui) as a shared taonga and establishes a coordinated pathway for restoring relationships, governance, and environmental integrity at scale.
55. In that context, the Crown apologies and acknowledgements within the TMIC settlement are not generalised statements. They are system-level commitments directed specifically at the very issues engaged by this proposal.

Nature and Purpose of the TMIC Settlement

56. The Tauranga Moana Iwi Collective (TMIC) settlement must be understood as a collective expression of the interests of Ngāti Ranginui, Ngāi Te Rangi, and Ngāti Pūkenga in relation to Tauranga Moana as a shared taonga.
57. As the key driver for the collective settlement, it was intended to address harm that was system-wide, cumulative, and intergenerational, and which could not adequately be resolved through iwi-by-iwi instruments alone.
58. The TMIC settlement arose from a shared recognition that the impacts on Tauranga Moana were not confined to isolated sites or discrete events, but reflected sustained patterns of land alienation, harbour modification, environmental degradation, and erosion of iwi and hapū authority over time. The collective approach was therefore intended to provide a coordinated framework for restoring relationships, governance, and environmental integrity across the Tauranga Moana system as a whole. This represented a deliberate shift away from fragmented decision-making toward an integrated response commensurate with the scale of the harm acknowledged.

The role of Crown apologies in the collective settlement

59. The Crown apologies contained within the TMIC settlement operate at a system level. There was a shared understanding that they were directed not simply to site-specific grievances, but to the cumulative condition of Tauranga Moana and the collective experience of harm across iwi, hapū, and generations.

60. Those apologies acknowledge:

- the cumulative impacts of Crown actions across Tauranga Moana;
- the degradation of the harbour system and associated taonga; and
- the long-term erosion of iwi and hapū authority.

61. As was intended, that system-level acknowledgement was significant. It reflected an understanding that harm had occurred through repeated processes operating across time and space, rather than through one-off decisions alone.

Apologies as commitments to a different system outcome

62. Like iwi-specific settlements, the TMIC settlement includes commitments to restore relationships and improve outcomes for tangata whenua.

63. However, those commitments take on an additional dimension in the collective context. They signal an intention to move from incremental, project-by-project decision-making toward integrated, harbour-wide management grounded in shared responsibility.

64. This was not simply a governance preference. It was the negotiated response to the Crown's own acknowledgements of cumulative failure. The settlement was intended to establish a framework capable of altering the trajectory of Tauranga Moana from ongoing degradation toward restoration.

General & specific commitments arising from the TMIC settlement

65. Generally speaking, it was intended that the TMIC apologies give rise to commitments applying across all activities affecting Tauranga Moana.

66. These would include commitments to active protection of the harbour system, restoration of ecological and cultural integrity, and collective forms of decision-making and shared authority.

67. At a more specific level, the settlement addresses matters directly engaged by harbour development and modification. It was intended that future activities would:

- not compound existing degradation;
- explicitly recognise and address cumulative effects; and
- preserve the capacity of iwi and hapū to influence outcomes affecting the harbour.

68. Those commitments are not abstract. They reflect the particular forms of harm acknowledged in the settlement material and the circumstances that gave rise to the collective negotiation.

The importance of integrated management

69. A central feature of the TMIC settlement is the recognition of Tauranga Moana as an integrated cultural and ecological system.

70. As reflected in the settlement framework, this aligned with an understanding that harbour processes are interconnected, that environmental and cultural effects operate across spatial boundaries, and that decisions made in one part of the system can have consequences elsewhere.

71. The settlement therefore envisaged that assessment of future proposals would move beyond isolated consideration of individual activities and instead address the overall trajectory of the harbour system, including impacts on sediment dynamics, habitat, kaimoana, and the ability of iwi and hapū to exercise kaitiakitanga in practice.

Assessment under section 7 of the Fast-track Approvals Act

72. In applying section 7, the relevant inquiry is whether granting approval would be consistent with the obligations arising from the TMIC settlement. That assessment should include the Crown's acknowledgements of cumulative harm, the commitments to restore and protect the harbour system, and the intention to establish integrated, collective governance. This would ensure the intent of our settlement is upheld.

73. The key question is therefore whether the proposal moves Tauranga Moana closer to the future state envisaged in the settlement, or further away from it.

Application to the proposal

74. The proposal involves further permanent occupation of harbour space, increased dredging and physical disturbance over an extended timeframe, and continued reliance on an already highly modified system as the baseline. When viewed against the TMIC settlement context, those effects must be considered in terms of their contribution to cumulative degradation, their impact on system integrity, and their implications for future restoration.
75. A concern that arises when the proposal is assessed against the settlement framework is the risk that it continues the pattern of incremental, development-driven modification of the harbour that the settlement material acknowledges as harmful.

If so, it risks reinforcing a degraded baseline, constraining recovery, and cutting across the integrated restoration approach envisaged in the collective settlement.

Collective rangatiratanga and decision-making

76. The TMIC settlement places emphasis on collective rangatiratanga and shared responsibility for Tauranga Moana. This was not intended to be satisfied by consultation alone, but by outcomes that preserve the integrity of the harbour system and enable iwi and hapū to exercise meaningful influence over its future.
77. Where development proceeds in a manner that constrains restoration, entrenches cumulative effects, or limits the effectiveness of collective governance arrangements, it tends to weaken that framework.

Summary

78. The TMIC settlement represented a commitment to address cumulative harm across Tauranga Moana and to establish a new, integrated approach to its management and restoration. The Crown apologies within that settlement give rise to both general commitments to protect and restore the system and specific commitments to avoid further cumulative degradation.
79. Where a proposal adds incrementally to the patterns of harm acknowledged in the settlement material, or limits the practical ability to restore system

integrity, it moves away from, rather than toward, the outcomes envisaged in the TMIC settlement. In that context, serious questions arise as to whether approval would be consistent with the obligations arising under section 7.

CONCLUSION

80. For the reasons set out above, Ngai Te Rangi support and endorse the submissions that have been made by Ngati Kuku and Ngati Ranginui. Granting the application to extend the Port would cut directly across our settlement, breaching it directly.
81. The Crown apology is not the end point of settlement but the starting point for how the relationship is intended to operate in the future.
82. It establishes general commitments to protect, restore, and respect; and specific commitments directed at the types of harm that Ngāi Te Rangi have experienced.
83. Where a proposal contributes to further degradation of Tauranga Moana, adds to cumulative loss, or diminishes the practical exercise of rangatiratanga, it moves away from those commitments.
84. In that situation, it cannot be said that the decision is consistent with the obligations arising under the Ngāi Te Rangi settlement.
85. The Panel is therefore required to consider not only what the settlement records, but what it requires of us going forward.
86. If the Panel have confidence that it can demonstrate how its decision upholds the apologies, commitments, and acknowledgements made in these deeds by the Crown, then it will have acted consistently with the respective settlements. On the contrary, if unable to demonstrate how its decision upholds the apologies, commitments, and acknowledgements made in those deeds by the Crown, then it must decline the consent.

Charlie Tawhiao

08 June 2026