

Before the Hearing Commissioners
at Gisborne District Council, Ōpōtiki District Council and
Bay of Plenty Regional Council

under: the Resource Management Act 1991

in the matter of: An application by Te Ara Tipuna Charitable Trust for
land use consents, coastal permits and other consents
to construct, operate and maintain a recreational
pathway from Tairāwhiti around the coast to Ōpōtiki,
known as "Te Ara Tipuna"

between: **Te Ara Tipuna Charitable Trust**
Applicant

and: **Gisborne District Council**
Ōpōtiki District Council and
Bay of Plenty Regional Council
Consent Authorities

Memorandum of counsel on behalf of Te Ara Tipuna Charitable
Trust

Dated: 10 February 2025

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MEMORANDUM OF COUNSEL ON BEHALF OF TE ARA TIPUNA CHARITABLE TRUST

- 1 This memorandum is filed on behalf of Te Ara Tipuna Charitable Trust (*Trust*) in relation to applications for land use consents, coastal permits and other consents (*Application*) to construct, operate and maintain a recreational pathway from Tairāwhiti around the coast to Ōpōtiki, known as “Te Ara Tipuna” (the *Project*). This memorandum provides:
 - 1.1 a response to Minute 2 (*Minute*) of the Independent Hearing Commissioners (*Commissioners*) in relation to the Councils’ late notification of 24 landowners¹ and resulting procedural implications; and
 - 1.2 an update on the progress of the Trust’s response to the Councils’ 31 January 2025 memoranda from the Councils’ reporting planner and technical experts requesting further information in relation to the Application (*Further Information Request*).²

Notification defects and procedural implications

- 2 As outlined in the Minute, the Trust understands that the Councils have advised the Commissioners that as a result of an error in its notification process, 24 potentially affected landowners were not directly notified of the Application until recently (more than six weeks after the initial public notification of the Application).³
- 3 By way of background, the error that resulted in the delayed notification was one that the Trust pointed out to the Councils on Thursday 12 December 2024 – the day before public notification of the Application. The Trust noted that the error was associated with the Council’s mapping system and asked that this be corrected. Public notification of the Application occurred the following day, on Friday 13 December.
- 4 The Trust had assumed the notification list and mapping error had been corrected and any potentially affected parties directly notified on or shortly after public notification of the Application. However, following correspondence with the Councils’ hearing advisor on Wednesday 29 January, the

¹ Te Ara Tipuna (Stage 1) – Minute 2 & Directions of Hearing Commissioners dated 5 February 2025.

² Memo to Commissioners – Te Ara Tipuna – Minute 1 & Directions of Hearing Commissioners – requests for further information, Te Ara Tipuna dated 31 January 2025.

³ Letters to potentially affected landowners from Awhina White (Resource Consents Manager – Gisborne District Council on behalf of Bay of Plenty Regional Council and Ōpōtiki District Council) dated 29 and 30 January 2025. However, the Trust understands that this notification may have occurred as late as 3 February 2025.

Trust became aware that the correction was inexplicably delayed by some six weeks.

5 The Trust is understandably disappointed in the delay, not least because it had proactively attempted to avoid any issue with notification by identifying the issue in Council's own mapping system. However, the Trust wishes to ensure all potentially affected parties have a fair and reasonable opportunity to lodge a submission on the Application. It is important to the Trust that each of these submitters is provided an opportunity to be heard if they wish to make a submission on the Application. As such, the Trust considers that the 24 potentially affected landowners should be afforded a 20 working day period to lodge a submission from the date they were notified. Consequently, the Trust respectfully requests that the Commissioners:

5.1 confirm that they will accept submissions for the 24 landowners in question up until 3 March 2025; and

5.2 clarify that the original closing date for submissions of 7 February apply to any other persons. To be clear, the Trust considers that this extended submission timeframe should only apply to the 24 landowners affected by the Councils' delay notification.

Trust's Response to Further Information Request

6 The Trust and its technical experts have been reviewing and preparing a response to the extensive list of information and additional expert assessments specified in the Further Information Request.

7 The Trust is focused on providing the Councils and Commissioners with a comprehensive and high-quality response, in keeping with the Trust's care and dedication to the Project and its importance and significance to the region.

8 Over the last week, as the Trust's consideration of the response has progressed, the scope and extent of the additional work required to respond to the Councils' requests has become apparent.

9 Based on progress to date, the Trust has come to a view that providing a response to the Further Information Request, of a quality befitting the Project, will not be possible by 14 February 2025 and is likely to take a number of additional weeks.

10 Given the extensive information that has been requested by the Councils at such a late stage of the consenting process, the Trust wants to ensure that any response it provides is

sufficient to meet the Councils' requirements. In particular, the Trust wishes to confirm the scope of information it will be providing to the Councils' reporting planner and technical experts will meet their expectations and enable them to undertake their assessments. Accordingly, the Trust's planner will be contacting the Councils' reporting planner to set up a meeting later this week / early next week to outline and agree the nature, format and timing of its proposed response to the Further Information Request.

- 11 Following that meeting, the Trust anticipates that it will be in a position to confirm a date for providing a response to the Further Information Request to the Commissioners. Consequently, counsel proposes that the Trust will report to the Commissioners as to its expected timing for providing a response to the Further Information Request on Friday 21 February 2025 (after its anticipated meeting with the Councils' reporting planner and technical experts).
- 12 The Trust understands and accepts that this timeline for providing information will necessarily result in a delay to the hearing of the Application. That outcome is unfortunately unavoidable given the late timing and extensive scale of the Further Information Request. However, the Trust accepts this delay on the basis that it will allow time to ensure its response to the Further Information Request will provide information of a sort that has been confirmed to be necessary for the Councils (and their expert teams) to undertake an appropriate assessment of the Project.
- 13 Should the Commissioners or the Councils wish to discuss any aspect of this memorandum with counsel or the Trust, we would be happy to attend a further teleconference.

Dated: 10 February 2025



Alana Lampitt / Rebecca Tompkins
Counsel for Te Ara Tipuna Charitable Trust