

**BEFORE INDEPENDENT COMMISSIONERS APPOINTED BY GISBORNE  
DISTRICT COUNCIL, BAY OF PLENTY REGIONAL COUNCIL, AND  
ŌPŌTIKI DISTRICT COUNCIL**

**References: GDC LU-2023-112074-00,  
LR-2023-112076-00, LL-2023-112077-00,  
LV-2023-112078-00; BOPRC RM-0508-  
AP; ODC RC2024-04**

**IN THE MATTER** of the Resource Management Act  
1991 (**RMA**)

**AND**

**IN THE MATTER** of an application to construct,  
operate and maintain a pathway for  
pedestrians, to be known as  
Te Ara Tipuna (Stage 1), from  
Gisborne around the coast to  
Ōpōtiki, updated November 20204

**APPLICANT** Te Ara Tipuna Charitable Trust

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**SECOND MEMORANDUM OF COUNSEL ON BEHALF OF THE CONSENT  
AUTHORITIES' REPORTING TEAM**

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## **MAY IT PLEASE THE COMMISSIONERS**

1. This memorandum provides confirmation regarding an issue raised in the Hearing Commissioners' Minute 3 dated 13 February 2025 (**Minute 3**), and responds to the Memorandum of Counsel for the Applicant dated 10 February 2025 (**Applicant's Memorandum**).

### **Response to Minute 3**

2. Paragraph 4 of Minute 3 provides that:

We therefore direct that the period for the 24 landowners, served notice of the publicly notified application on 29 January 2025, have until 3 March 2025 to lodge any submission. The Gisborne District Council, Bay of Plenty Regional Council, and Ōpōtiki District Council should clarify this with the 24 landowners, if they have not already done so.

3. Counsel confirms that the 24 landowners have now been formally advised in writing that they have until 3 March 2025 to lodge any submission.

### **Response to Applicant's Memorandum**

#### Notification issue

4. Although the Councils appreciate that the Hearings Panel is tasked with a substantive assessment of the application, rather than determining procedural issues, the Councils wish to clarify certain procedural matters raised in the Applicant's Memorandum for the record.
5. The Applicant's Memorandum refers to the above issue as a "*notification defect*" and suggests that this arose due to an "*error associated with the Council's mapping system*". The implication is that this error was generated by the Councils.
6. That is not correct. Rather, the Councils provided the Applicant with access to their GIS mapping system. Amendments to the application maps were made by the Applicant's consultants not by Council officers. Following preparation of the postal and email notification letters by Council officers, the Applicant advised the Councils that amendments that had made to the maps by the Applicant's consultants appeared not to have been saved. By that point it was too late to halt the notification process.

7. The Councils acknowledge the regrettable delay in the letters being sent out to the 24 landowners affected by the updated maps. Given new properties were affected, this required some GIS and rating database analysis. The delay was due to the relevant GIS officer being on leave over the relevant (summer holiday) period. Upon their return from leave the matter was actioned.

Further information request

8. The Applicant's memorandum refers to "*the extensive information that has been requested by the Councils at such a late stage of the consenting process.*" This statement also requires a response for the record. The information request contained in the memorandum from the reporting officer dated 31 January was provided at the request of the Hearing Commissioners.<sup>1</sup>
9. The information request arises from the Applicant's choice of "management plan" approach, which raises an issue identified by the Hearings Panel, specifically, that management plans are not an acceptable mechanism for deferring effects assessments. The Councils (though counsel) appropriately and proactively raised this issue with the Applicant and Hearings Panel, to ensure that it is addressed prior to hearing.



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**Mary Hill**  
Counsel assisting the reporting team

Dated 14 February 2025

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<sup>1</sup> Minute 1 dated 24 January 2024.