

Before the Expert Consenting Panel

In the matter of an application for approvals under section 42 of of the
Fast-track Approvals Act 2024 (**Act** or **FTAA**)

and

In the matter of Ashbourne

FTAA-2507-1087, a referred project under section 21 of
the FTAA

**MEMORANDUM OF COUNSEL ON BEHALF OF MATAMATA DEVELOPMENT
LIMITED**

17 March 2026



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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the applicant, Matamata Development Limited (**MDL**) and provides the clarifications sought by the Expert Consenting Panel (**Panel**) in paragraph 4 of Minute 24.
2. In paragraph 4(a), (b) and (c) the Panel expresses concerns regarding its jurisdiction to direct further expert conferencing, now that it has issued a draft decision under section 69 of the Act. As the Panel will be aware, section 69(2) of the Act sets out two tasks that the Panel *must* direct the Environmental Protection Authority (**EPA**) to carry out, namely:
 - (a) provide the applicant with a copy of its draft decision document for every approval sought in the substantive application; and
 - (b) invite the applicant to—
 - (i) propose conditions on, or modifications to, any of the approvals sought; or
 - (ii) withdraw the part of the substantive application that seeks any of the approvals sought.
3. Having directed the EPA in accordance with the mandatory requirements of section 69(2), the Panel *may* make further directions using its discretion to “regulate its own procedure as it thinks appropriate”.¹
4. Additionally, section 67 allows the Panel to direct the EPA to request further information, or to commission a report, “[a]t any time before a panel makes its decisions under section 81 on a substantive application”. In MDL’s submission, the powers under section 67(1) are available to the Panel even after a draft decision has been issued, and regardless of whether a draft decision proposes to decline or approval the approvals sought (or both).
5. Consistent with that interpretation of the Act, the Panel stated in Minute 20 that:²

The Panel maintains its view expressed in Minute 19 (paras 26-30) that issuing the draft decision prior to expert conferencing remains both lawful and appropriate, including for a draft decision that contains both

1 Fast-track Approvals Act 2024, section 10(1).
2 Minute 20 at [9].

proposed grants and proposed declines, particularly given the significance of the outstanding stormwater and groundwater matters.

6. MDL respectfully submits that those comments are relevant to all types of expert conferencing, including regarding the National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**), rather than exclusively expert conferencing on stormwater and groundwater issues.
7. As the Panel commented in relation to stormwater/groundwater issues, issues relating to highly productive land (**HPL**) “have been contentious from the outset”. Furthermore, given the reasoning in the draft decision, it is not difficult to see why the outcome of any conferencing on the NPS-HPL, as with stormwater and groundwater issues, “might be pivotal in the exercise of weighing the evidence the Panel has to consider”.³
8. While the relevant experts have expressed differing views on aspects of the HPL assessment, it is important to note the sequence in which the evidence was provided. In particular, the evidence of Mr Hunt was clarified and provided to the Panel later in the process than that of Mr Walker. Critically, Mr Hunt’s assessment under Clause 3.10 of the NPS-HPL relied upon, and drew from, the soils evidence prepared by Mr Walker in forming his conclusions. In those circumstances, and particularly given that the evidence is interrelated and was developed sequentially, MDL considers that it is important that the Panel allow an opportunity for the relevant experts to discuss:⁴
 - (a) the availability of a pathway through the NPS-HPL via clause 3.10; and
 - (b) the predicted adverse impacts of the loss of productive capacity of HPL if the proposal proceeds in full.

3 Minute 19 at [26].

4 Memorandum of counsel on behalf of MDL dated 16 March 2026 at [5].

9. If contrary to the submissions above, the Panel considered section 69(2) to limit the directions it may make after issuing a draft decision that declines some of the approvals sought, MDL respectfully submits that expert conferencing on HPL issues will assist the Panel with understanding the evidence that is already before it, and the conditions or modifications to the Ashbourne project that MDL may propose under section 69(2)(b)(i).

10. In light of the clarifications in this memorandum, MDL respectfully repeats the requests made in paragraphs 8 and 9 of its memorandum of counsel dated 16 March 2026.

DATED at Auckland this 17th day of March 2026



W S Loutit / P Lang
Counsel for Matamata Development Limited