

BEFORE THE FAST-TRACK EXPERT CONSENTING PANEL

IN THE MATTER

An application for approvals under section 42 of
the Fast-track Approvals Act 2024

AND

IN THE MATTER

Delmore, a project listed in Schedule 2 to the Fast-
track Approvals Act 2024

MEMORANDUM OF COUNSEL FOR THE APPLICANT

15 August 2025

MAY IT PLEASE THE PANEL

Introduction

1. This memorandum relates to the further information on the applicant's flood model provided by the Council on 5 August 2025 and the economic analysis produced for the panel by Tim Denne and provided to the applicant 13 August 2025.

Council's further information on the applicant's flood model

2. The further information from the Council raises eight bullet points about the applicant's flood model.
3. McKenzie & Co can rerun the flood model and/or provide a written response to those points if that would assist the panel.
4. However, in the applicant's view the Council's points do not go to the substance of McKenzie & Co's overall findings that flooding is contained within existing streams and channels; no buildings, parking, egress routes or roading are within any flood extent; and overland flow paths will be channelled within the road network and avoid habitable areas and parks.¹ Rather, they relate to modelling details that can be worked through at EPA stage. The applicant is open to considering conditions relating to flood modelling as part of the EPA-related conditions.

Economic analysis produced by Tim Denne

5. Mr Denne's analysis provides his view on assessing significant benefits under the FTAA and of Delmore's economic benefits.
6. The applicant has concerns about the scope of Mr Denne's analysis and respectfully notes that:
 - a. The analysis is not based on review of all economic analyses before the panel,² including: Appendix 53.2 UE Response to AC Economics; Appendix 53.4 Response to EPA; 8 August 2025 applicant further information response Attachment D.
 - b. The analysis assumes that there is insufficient water supply and wastewater capacity based on comments from the Council family. It does not refer to or take account of McKenzie & Co's technical capacity assessment which shows otherwise.³
 - c. The analysis does not address the benefits of increasing housing supply; addressing housing needs; or contributing to a well-functioning urban environment.⁴ An assessment of the benefits of a development's homes for FTAA purposes cannot be undertaken without considering those matters.⁵

¹ Revised AEE 7 July 2025 pg 76

² Per outline of material considered in Section 1 para 1

³ Applicant response to further information 5 August 2025

⁴ At 3.3.2

⁵ FTAA, s 22(2)(iii)

- d. The analysis provides an interpretation of terms used within the FTAA based only on economic analysis and theory, when those terms apply to matters that are much broader than economics.⁶

Regarding comments on the meaning of the term “benefits”, a definition of making the lives of *New Zealanders* better is contrary to the FTAA’s focus on regional benefits as well as national benefits.

The term “Benefits” is not defined by the FTAA. Orthodox statutory interpretation supports interpretation based on its ordinary meaning which is simply “advantage”, not “net benefit” as assumed by Mr Denne.⁷

A “net benefit” interpretation sees benefits and costs being weighed equally. That approach does not fit with the scheme of the FTAA which does not weigh benefits and costs equally. The FTAA puts the greatest weight on benefits and facilitating the delivery of those benefits.⁸

Regarding comments on the meaning of the term “significant”, that term is also not defined in the FTAA. Applying narrow economic definitions to an undefined statutory term of broad application is inconsistent with orthodox statutory interpretation.⁹ Whether something is significant, and the extent of significant benefits, is a factual question; there is no justification for limiting its meaning in the way suggested.

- e. The narrow interpretation of “benefit” and “significant” adopted underpins the conclusion that an economic cost benefit analysis is required that looks beyond the project and the project site at consumers purchasing houses elsewhere in Auckland or outside Auckland.¹⁰

As the applicant has already submitted, the question of whether the site should be urbanised generally has been determined through the AUP process. The question of whether the site should be used for development now has been determined by Parliament in listing Delmore in Sch 2 and referring it to a process the purpose of which is to facilitate development. This means that at substantive application stage, the focus is on the benefits and adverse impacts of the project itself.¹¹

Indeed, even when deciding whether a project has significant regional or national benefits for the purposes of referral, s 22(6) directs the Minister’s focus towards

⁶ As the applicant has already submitted, s 22 FTAA provides non-exhaustive guidance on potential benefits. “Economic benefits” (not “net economic benefits”) are only one type of potential benefit

⁷ Pocket Oxford Dictionary, 4th Ed, pg 67

⁸ FTAA, Sch 5 cl 17 and ss 4 and 85(3)

⁹ It is noted that the draft decision on the Maitahi Village fast-track project applies the ordinary meaning of “significant” being “sufficiently great or important to be worthy of attention; noteworthy” para 436. The panel also looked to s 22 for guidance as to potential benefits para 449

¹⁰ This in effect means that Mr Denne is suggesting that the project should be assessed against consumers purchasing house

¹¹ Refer to 8 August 2025 applicant further information response Attachment D and memorandum of counsel for the applicant 5 July 2025 paras 6.2-6.9

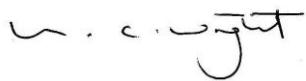
the proposed project and project site, and the benefits of using the space for that purpose as opposed to using it for another purpose. The Minister (emphasis added):

“may compare the activity involved in the project against the current and other likely uses of the space, taking into account:

- a. The economic benefits and strategic importance of the proposed project; and
- b. The likely impact of the proposed project on current and proposed marine management regimes; and
- c. The environmental impacts of the competing activities.”

Urban Economics’ focus on “the project” and alternative uses of the site is consistent with the scheme of the FTAA.

7. Urban Economics can prepare a response to Mr Denne if that would assist the panel. However, the applicant appreciates there are already a number of economic analyses before the panel, and it respectfully notes that it considers that Urban Economics’ approach and conclusions are clear.
8. The applicant thanks the panel for attending to this matter.



Madeleine C Wright, Counsel for Vineway Ltd