
MINUTE 19 OF THE EXPERT PANEL

Response to memoranda from the Applicant and the
Councils

Fast-track Approvals Act 2024
Ashbourne [FTAA-2507-1087]

(24 February 2026)

1. The issue of stormwater management on the Ashbourne site has been persistent throughout the course of this Application before the Panel.
2. Latterly, on 4 February the Panel issued Minute 14 requesting further stormwater evidence in regard to the mounding assessment for proposed Stormwater Basin A and expressing concerns regarding the diminishing timeframes for information to be made available, with the date for the draft decision to issue looming.
3. On 5 February the Applicant sought to suspend processing of the application until 20th February in order to address, inter alia, the stormwater issues identified. That request was approved.
4. A comprehensive response to Minute 14 was provided on the 13 February which included a hydrogeology memorandum from WGA.
5. On 20 February the Panel issued Minute 16 which gave notice to the Applicant that concerns regarding the further shortcomings in the reporting from the Applicant on stormwater discharge issues, particularly in respect to Basin A. These concerns were confirmed in the advice the Applicant sought and obtained from its expert Jon Williamson.
6. The report from the Panel's expert, Mr Williamson, was uploaded onto the Fast Track website on 20 February.
7. The Panel was scheduled to issue the draft decision on 23 February. In the circumstances, without further action from the Applicant, these identified uncertainties compelled the Panel to advise the Applicant that the residential component of the Ashbourne project would have to be declined unless these issues could be resolved.
8. On Friday 20 February the Applicant filed a memo requesting further suspension of the processing of the Application in order to enable expert conferencing to occur between Mr Williamson and the Applicant's stormwater experts on the subject, specifically, of Basin A.

9. Given that the draft decision was scheduled to issue on Monday 23 February, which was one working day away, the Panel considered it prudent, on 20 February in Minute 17, to allow the Applicant the option of receiving the draft decision to identify whether the joint conferencing might need to have a wider scope than just Basin A and that the conferencing might more appropriately include the experts from the MPDC who had previously attended joint witness conferencing. The Panel indicated it was otherwise willing to suspend processing.
10. On the 23 February the Panel was advised that the Applicant intended to proceed with the suspension of processing and defer the release of the draft decision until the 27 February. Expert conferencing on the subject of stormwater was scheduled by the Applicant to proceed on 24 February with a JWS to be provided to the Panel on 25 February.
11. As a result, the Panel granted the request for suspension in Minute 18, also dated 23 February. That minute also directed that Conferencing would be undertaken in accordance with the timeframe requested by the Applicant.
12. Furthermore, at paragraph 5c of Minute 18 the Panel indicated that an agenda would be provided separately.
13. That agenda was provided to the Applicant on 23 February and is attached to this Minute (Attachment 1). It identifies the stormwater issues the Panel has outstanding in respect to the Ashbourne project.
14. A memorandum from Counsel for Matamata-Piako District Council and Waikato Regional Council was received on 23 February. It expressed concern that it had received late notice of the proposed conferencing and requested that, because of the importance of technical input from the Councils' experts, that conferencing should be rescheduled to a later date to enable meaningful participation by the Councils' experts.
15. Counsel indicated that it had been unable to obtain information from the Applicant, despite 'multiple requests' on sub-soil drainage and that if conferencing was to occur the Applicant would need to provide a list of identified documents and materials in advance.
16. Counsel further requested an independent facilitator and offered the advice that it would "be more efficient for expert conferencing to occur after the draft decision is release".
17. Simultaneously the Panel received a memorandum from Counsel for the Applicant. That memo criticised Mr Williamson's involvement in giving advice to the Panel and challenging the advice he gave on the basis that Mr Williamson had not participated in expert conferencing (Mr Williamson had been involved in groundwater conferencing but not stormwater conferencing).
18. The Applicant's memo also sought that the Panel's indication in Minute 17 that there were other concerns that the Applicant might need to address and would perhaps benefit from understanding the contents of the draft decision, was

inappropriate. At paragraph 6 of that memorandum it is stated:

“If there are “other issues” other than the aforementioned groundwater and stormwater issues, MDL respectfully considers that a more appropriate process would involve it having notice of the Panel’s concerns in advance of a draft decision being issued, so that MDL has the opportunity to respond or file evidence with the Panel that addresses its concerns. Noting the detailed responses that MDL has provided to the Panel to date, an efficient way for MDL to understand those concerns would be to convene a conference with the Panel where the Panel can outline its outstanding issues. Expert conferencing, as has been directed in relation to the stormwater and groundwater issues, could then follow as needed.”

19. The Applicant also considered that “aspects of the process adopted by the Panel does not accord with the principles of natural justice”.
20. With the greatest respect to the Applicant, the Panel does not agree. Every effort has been made to take advantage of the ability of the Panel to request further information from the Applicant through s67 of the FTAA and to keep the Applicant advised of outstanding issues that needed to be addressed in order to assist in the process of weighing the proportionality of adverse impacts against the weight given to the purpose of the Act.
21. The Panel suggested the Applicant had the option of receiving the draft decision in advance of conferencing to ensure that it would, as Counsel for MPDC and WRC commented, be more efficient. The Applicant declined to exercise that option.
22. The conferencing agenda has already identified to the Applicant the full range of stormwater issues that the experts should confer on.
23. The proposal that the Panel and all the parties confer together to discuss all of the Panel’s concerns with the project prior to the release of the draft decision, as suggested by the Applicant, is not a course of action that accords with the provisions of the FTAA. The opportunity to receive and review a draft decision is the process for giving air to the issues that a panel may have with a project.
24. A further memorandum from the Applicant was received later on 24 February in response to the Memorandum from Counsel for MPDC and WRC. The memorandum challenges the claim that the Applicant has not responded to requests for information from the Councils because most of the information requested has been made available to the Panel or is to be addressed through conditions.
25. The Councils’ involvement in conferencing is considered unnecessary by the Applicant. If they were to attend, it would, by virtue of expert unavailability, cause unnecessary delays. Similarly, the appointment of an independent facilitator is also opposed due to the foreseeable delays while an appointment is made.
26. The Panel takes the view that because stormwater/groundwater issues have been contentious from the outset and the outcome of conferencing might be pivotal in the exercise of weighing the evidence the Panel has to consider, the

engagement of the Councils in joint expert conferencing would be beneficial.

27. While we acknowledge the Applicant's real concern with delays, the Panel perceives that an independent facilitator appointed by the EPA would hopefully enable the conferencing to be conducted in an effective and efficient manner allowing for a satisfactory outcome for all parties.
28. As it will not be possible for joint expert conferencing to occur this week, there appears no reason for the continuing suspension of processing of the Application.
29. The Panel suggests the Applicant requests that suspension be discontinued. That would enable the draft decision to issue this week in advance of expert conferencing next week, as the Panel maintains its position that the release of the draft decision would be an advantage in advance of conferencing. If the suspension is discontinued, the draft decision will be issued on Thursday, 26 February 2026.
30. The Panel directs:
 - The expert conferencing be rescheduled to a date suitable for all the participating parties as soon as possible after the draft decision is issued;
 - That the EPA appoint an independent facilitator to assist with expert conferencing;
 - That the current agenda issued by the Panel on 23 February and attached to this Minute be considered and confirmed by MPDC and WRC experts;
 - That the Applicant make available all information and clarifications, not otherwise available of the fast track website, to all parties in advance of any rescheduled conferencing.



Sue Simons
Expert Panel Chair

Attachment 1: Agenda items for expert conferencing

Basin A

1. What is appropriate method for prediction of ground water levels to be used for mounding assessment for the 10 year and 100 year ARI event (allowing for climate change) including an appropriate factor of safety?
2. What is the basis of runoff volume for input to mounding assessment for the 10 year and 100 year ARI (CC) event, including description and quantification of the contributing area including area outside proposed residential area and summary calculations for assessing runoff volume to Basin A or 10 year and 100 year ARI (CC) event? Does this include an allowance for disposal of up to the 10 year ARI event by way of proposed soakage to be provided within the lots and roads in Catchment A?
3. If disposal of up to the 10 year ARI event is proposed by way of proposed soakage to be provided within the lots and roads in Catchment A, are subsoil drains proposed/ required within Catchment A to prevent groundwater levels rising to an extent that would compromise soakage disposal ?
4. Can a revised mounding exercise based on items 1 and 2 above be completed with methods and assumptions agreed to as part of this conferencing by COB 26 February?
5. If Item 4 is achievable, please develop consent conditions appropriate to ensure stormwater management from Catchment A for up to a 100 year ARI (CC) event can be achieved in the long term. If these include by way of requirements in a management plan, please list the matters which need to be addressed in a management plan.
6. If Item 4 is not achievable can consent conditions be crafted which provide a pathway that disposal of stormwater from Catchment A for up to a 100 year ARI (CC) event can be achieved in the long term. If these include by way of requirements in a management plan please list the matters which need to be addressed in a management plan.

Subsoil drains

7. Are subsoil drains required within parts of the proposed residential development and retirement village to prevent groundwater levels rising to an extent that would compromise the proposed road foundations or otherwise result in unacceptable effect e.g. risk of liquefaction.
8. If Item 1 is affirmed, please provide a plan showing the extent of such subsoil drains.
9. Are subsoil drains required within parts of the proposed residential development to prevent groundwater levels rising to an extent that would compromise the disposal of up to the 10 year ARI event by way of proposed

soakage to be provided within the lots and roads.

10. If Item 3 is affirmed, please provide a plan showing the extent of such subsoil drains, and noting drain invert level at key junctures, and outlets of such drains.
11. If subsoil drains are required at any locations to limit the extent of groundwater level raising, please develop conditions for the installation monitoring and maintenance of these including provision for dealing with biofouling. If these include by way of requirements in a management plan please list the matters which need to be addressed in a management plan.