

BEFORE AN EXPERT PANEL

FTA-2506-1083

UNDER the Fast Track Approvals Act 2024 ("**the FTAA**")

IN THE MATTER of an application by CDL Land NZ Limited for approvals under the FTAA for a listed project, Arataki

**MEMORANDUM OF COUNSEL FOR THE APPLICANT
RESPONDING TO MINUTE 6**

23 DECEMBER 2025

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MAY IT PLEASE THE EXPERT PANEL

1. This memorandum is filed on behalf of the Applicant, CDL Land NZ Ltd (“**CDL**”), in response to Minute 6 of the Panel. Minute 6 seeks advice from CDL regarding the implications of the new and amended national direction which comes into force on 15 January 2026. Specifically, the Panel seeks:
 - (a) Advice on the extent to which any of the new or amended national direction instruments raise additional matters for assessment of resource consent approvals sought under the FTAA; and
 - (b) A brief assessment of the impact of such matters on the Arataki Application and the Panel's evaluation task.
2. These queries are addressed in turn.

The extent to which any of the new or amended national direction instruments raise additional matters for assessment of resource consent approvals sought under the FTAA

3. **Annexure 1** to this memorandum identifies the national instruments (new and amended) and their relevance to the Arataki application. Annexure 1 has been prepared with input from CDL’s planning experts. In summary:
 - (a) The Resource Management (National Environmental Standards for Detached Minor Residential Units) Regulations 2025 is very unlikely to have any practical implications for built form or infrastructure capacity on the subdivided sites.
 - (b) While the National Policy Statement for Natural Hazards 2025 introduces a new “*matrix*” model for assessing risk, it is considered that the relevant issues are all assessed comprehensively and appropriately in the material previously provided to the Panel.
 - (c) As a consequence of the amendments to it, the National Policy Statement for Highly Productive Land ceases to be relevant to the FTAA approvals and the Panel’s decision.
 - (d) It is considered that the issues raised in the National Policy Statement for Infrastructure 2025 have all been satisfactorily and appropriately addressed in the material previously provided to the Panel.

- (e) The remaining new or amended national direction instruments are either not relevant to the proposal, or the changes to them have no effect on the application or its assessment.

A brief assessment of the impact of such matters on the Arataki Application and the Panel's evaluation task

- 4. As noted above, the amendments to the NPS-HPL mean it ceases to be relevant to the FTAA approvals and the Panel's decision. Versatile soils remain a relevant matter under the Regional Policy Statement and the District Plan, however, as the definitions in those documents continue to refer to LUC1-3.
- 5. Other than that, CDL's position is that the new or amended national direction instruments do not substantively change the assessment and evaluation task for the Arataki proposal for the reasons outlined in Annexure 1 (i.e.: because the proposal is consistent with the new or amended national instruments). For completeness, if the new or amended national instruments did have implications for the application:
 - (a) The national direction would be a relevant matter to be considered in assessing a proposal under the FTAA.¹ However, the weight to be placed upon policy statements under the FTAA differs from that under the RMA – with the greatest weight being given to the purpose of the FTAA (being to facilitate the delivery of projects with significant regional benefits).²
 - (b) The FTAA provides that a panel cannot form the view that an adverse impact meets the threshold for decline solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a national policy statement.³ That is, an inconsistency with a national planning instrument cannot be the sole basis for a Panel concluding that the proposal reaches the threshold for decline.

¹ Clause 17(1), Schedule 5 FTAA.

² Clause 17(1), Schedule 5 FTAA.

³ Section 85(4) FTAA; clause 17(4), Schedule 5 FTAA.

- (c) The planning assessment submitted with the application assesses the project in accordance with the requirements of the FTAA and does not identify any adverse impacts that would be sufficiently significant to be out of proportion to the project's regional benefits. For the reasons set out above, it is submitted that any potential inconsistency with a national planning instrument would be insufficient to elevate any impacts beyond the threshold required for the Panel to consider declining the application.
6. CDL does not at this stage seek any extension to the timetable but may need to do so if the Panel requests more information following consideration of this memorandum.

DATED this 23rd day of December 2025

A handwritten signature in blue ink, consisting of two distinct parts: a cursive 'D' followed by a series of loops and a final flourish.

Douglas Allan / Alex Devine

Counsel for CDL Land NZ Ltd

ANNEXURE 1

1. **Summary of National Direction Instruments**

Table 1 provides a summary of each national direction instrument and its relevance to the Project. The table is followed by a more detailed assessment of the National Policy Statement for Natural Hazards as this element of the national direction has potential implications for the application.

Table 1: Assessment of new/amended national direction instruments on the Arataki Project

National Instrument	New or Amended	Summary of Requirements / Changes	Summary of impact on Arataki
Resource Management (National Environmental Standards for Detached Minor Residential Units) Regulations 2025	New	New regulation to reduce regulatory requirements for detached minor residential units (granny flats).	<p>The new National Environmental Standards for Detached Minor Residential Units (NES-DMRU) apply to rural zoned land. The Arataki site has an underlying rural zoning. As such, the NES-DMRU applies to the site. In that regard:</p> <ol style="list-style-type: none"> 1. While it is not relied on by the Applicant, the NES-DMRU would be relevant to the assessment of the existing environment to the extent the NES-DMRU would enable the establishment of Detached Minor Residential Units (DMRU) at the application site. 2. The NES-DMRU sets out permitted activity rules and standards for detached minor residential units of up to 70 square metres. The NES-DMRU requires compliance with Reg 6-9 which, for the Arataki site: <ol style="list-style-type: none"> a. Requires building coverage to comply with the district plan standards of the rural zone (Reg 6 (b)(i)). The maximum building coverage in the Plains Production Zone is 35% (6.2.5J). b. The building setback of the DMRU must be setback 10m from the front boundary and 5m from side and rear yards (Reg 6 (d)(ii)). 3. Given the proposed lot sizes, it is unrealistic that any DMRU could establish as a permitted activity on the Arataki site due to the setback

			<p>and site coverage requirements.</p> <ol style="list-style-type: none"> 4. The Arataki project does not propose to incorporate the permitted activity standard for Supplementary Residential Units that applies within the Havelock North Residential Zone (8.2.4.1 - HNGR2). 5. In addition, the Plains Production Zone provides for one supplementary residential building as a permitted activity (PP3 6.2.4), although, within the context of the urbanised Arataki site, the constraints relating to maximum building coverage and building setbacks would be too restrictive to realistically establish a DMRU on any of the proposed allotments. 6. Ultimately this means that the conclusions relating to sufficient infrastructure capacity from the Planning Report remain unchanged. Similarly, the combination of bulk and location controls (imposed via consent notices and covenants) proposed will ensure built form remains sensitive to the surrounding existing and planned suburban character. The NES-DMRU is not considered to change this assessment.
National Policy Statement for Natural Hazards 2025	New	A consistent approach for managing natural hazard risks in new development.	The National Policy Statement for Natural Hazards (NPS-NH) applies to a range of natural hazards and activities within all zones and environments and therefore applies to the Arataki Project. The NPD-NH is assessed in more detail in Section 2 below.
National Policy Statement for Highly Productive Land Amendment 2025	Amendment	<p>Targeted amendments to:</p> <ul style="list-style-type: none"> • exempt urban rezoning and development on LUC 3 land from NPS-HPL restrictions. • extend timeframes for mapping HPL. • reduce restrictions for quarrying and mining 	<p>The National Policy Statement for Highly Productive Land (NPS-HPL) applies to “<i>highly productive land</i>”. An interim definition of “<i>highly productive land</i>” is contained at clause 3.5(7) identifying land subject to the constraints of the NPS-HPL prior to the Council undertaking a mapping exercise</p> <p>Clause 3.5(7) of the NPSHPL has been amended so that land subject to a resource consent application for subdivision, use or development on LUC 3 land for any activity other than rural lifestyle is not considered as “<i>highly productive land</i>” for the purposes of the NPSHPL.</p>

		on highly productive land.	The Arataki site contains LUC3 land and seeks resource consent (via the FTAA) for subdivision, use and development on that land that is not rural lifestyle. As such, the site is no longer considered “ <i>highly productive land</i> ” in terms of the NPS-HPL and the NPS-HPL ceases to be relevant to the FTAA approvals and the Panel’s decision.
New Zealand Coastal Policy Statement Amendment 2025	Amendment	Targeted amendments to better enable the Government’s priority activities (infrastructure, including renewable electricity generation and electricity transmission, aquaculture activities and extraction of minerals) to locate in the coastal environment including the coastal marine area.	Not relevant.
National Policy Statement for Indigenous Biodiversity Amendment 2025	Amendment	Targeted amendments to reduce restrictions for quarrying and mining activities affecting significant natural areas	Not relevant.
National Policy Statement for Freshwater Management Amendment 2025	Amendment	Targeted amendments to reduce restrictions for quarrying and mining activities in natural inland wetlands	Not relevant.
Resource Management (National Environmental Standards for Freshwater)	Amendment	Targeted amendments to reduce restrictions for quarrying and mining	Not relevant.

Amendment Regulations 2025		activities in natural inland wetlands.	
National Policy Statement for Infrastructure 2025	New	New policy to manage and enable infrastructure development.	<p>The National Policy Statement for Infrastructure (NPS-I) applies to infrastructure, including all infrastructure activities and infrastructure supporting activities except for renewable electricity generation and electricity transmission networks.</p> <p>The Arataki project is integrated with, and enables, infrastructure activities including local road upgrades, stormwater networks and connections to existing three-waters networks. Those aspects are included within the definition of infrastructure and additional infrastructure under the NPS-I.</p> <p>The Planning Report and supporting technical assessments assess the Arataki Project in terms of infrastructure provision, servicing capacity, stormwater management, roading and the interface between development and infrastructure networks. This, combined with the benefits relating to well-functioning environments, align directly with the directives of the NPS-I. As the Arataki Project is a residential subdivision which is supported by infrastructure, it is not considered that the NPS-I contains additional considerations that require separate or further analysis.</p>
National Policy Statement for Renewable Electricity Generation Amendment 2025	Amendment	Amendments to enable a significant increase in renewable electricity generation to improve security and resilience of electricity supply and to achieve emission reduction and energy targets	Not relevant.
National Policy Statement for Electricity Networks Amendment 2025	Amendment	Amendments to enable electricity networks for electrification of the economy, support	Not relevant.

		transition to renewable electricity generation.	
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2. The National Policy Statement for Natural Hazards

The single objective (2.1) of the NPS-NH is: *Natural hazard risk to people and property associated with subdivision use and development is managed using a risk-based proportionate approach.*

The policies of the NPS-NH require:

- The use of the risk matrix to consider natural hazard risk when considering subdivision, use or development (Policy 1).
- Management of natural hazard risk associated with subdivision, use and development using an approach that is proportionate to the level of natural hazard risk (Policy 2).
- Where subdivision, use or development has a very high natural hazard risk, that risk must be avoided (Policy 3).
- Where subdivision, use or development, including any associated mitigation measures, will create or increase significant natural hazard risk on other sites, that risk must be avoided or mitigated using an approach that is proportionate to the level of natural hazard risk (Policy 4).
- Natural hazard risk assessment and decisions must be based on the best available information and must be made even when that information is uncertain or incomplete (Policy 5).
- The potential impacts of climate change to at least 100 years into the future must be considered (Policy 6).

The NPS-NH requires the use of the risk matrix contained in Appendix 1 of the NPS-NH to assess natural hazard risk associated with subdivision, use or development and determine if the risk is low, medium, high or very high, in accordance with the risk matrix.

The proposal has been assessed against the natural hazards relevant to the NPS-NH, namely flooding, landslip (slope stability) and liquefaction. These matters are addressed within the Planning Report, the Geotechnical Investigation Report and the Stormwater Management Plan. Although the technical assessments were not framed using the standardised risk matrix now required by the NPS-NH, they adopt a risk-based approach consistent with its intent by identifying hazard sources, assessing likelihood and consequence, and applying proportionate mitigation to manage residual risk.

This approach is also consistent with the Regional Policy Statement provisions relating to the management of natural hazards, as assessed in Sections 13.8, 13.14 and 13.15 of the planning report, which requires subdivision and development to recognise natural hazard risk and ensure that risks to people, property and infrastructure are appropriately managed, including over the long term in response to climate change.

It is considered that the issues addressed in the NPS-NH have all been assessed in the application material previously provided to the Panel and that no more analysis is required.