

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**

24 February 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 responds to the memorandum of counsel filed on behalf of the Matamata-Piako District Council and Waikato Regional Council (**WRC**) dated 23 February 2026 (**Councils' Memorandum**).

Clarifications sought by the Councils

2. The Council's memorandum contends that "[d]espite multiple requests, the MPDC and WRC experts have not seen any details of the sub-soil drainage".¹
3. As a preliminary point, it is important context that the parties' experts, including those who attended expert conferencing on behalf of the MPDC and WRC (together, the **Councils**), have already participated in expert conferencing regarding stormwater and groundwater issues. The joint witness statements prepared at that conferencing do not reflect the concerns now raised in the Councils' Memorandum. In particular:
 - (a) In the groundwater expert conferencing Tony Cowbourne (on behalf of MPDC), Jon Williamson (the expert appointed by the Panel)² and Clare Houlbrooke (on behalf of MDL) were asked to consider "[w]hether [the] information provided by the Applicant is sufficient to demonstrate viability of using proposed subsoil drainage as a suitable active control on groundwater levels".³ Mr Cowbourne, Mr Williamson and Ms Houlbrooke agreed that "sub-soil drainage is a viable design for groundwater control, dependent upon confirmation of detailed design...".⁴ Although

1 Councils' Memorandum at [3.1].

2 In the 23 February 2026 memorandum of counsel on behalf of MDL, paragraph 2(b) stated that Mr Williamson did not participate in expert conferencing. That was an error. While Mr Williamson participated in the expert conferencing regarding groundwater issues on 10 and 11 December 2025, he did not participate in the separate expert conferencing regarding stormwater matters.

3 Joint Witness Statement *Groundwater & Stormwater Management – Additional Items* (16 December 2025)

<https://www.fasttrack.govt.nz/__data/assets/pdf_file/0019/17605/Ashbourne-JWS-Stormwater-management-FINAL.pdf> (**16 December JWS**).

4 16 December JWS.

Mr Cowbourne and Mr Williamson considered “it imperative that there is a detailed design certification process with the regulatory authorities prior to construction”,⁵ they did not suggest that inadequate information had been made available by MDL.

- (b) The joint witness statement of the parties’ stormwater experts (including Mr Cowbourne) recorded in relation to sub-soil drainage that, although there was some uncertainty regarding “groundwater behaviour, potential interaction with construction-phase controls and the need for site-specific hydrogeological input” that was not available at the time of expert conferencing;⁶

Following conferencing, the Applicant, WRC and MPDC met again and agreed that the remaining matters can be appropriately resolved through outcome-oriented consent conditions. The agreed pathway is that an updated Stormwater Management Plan (SMP) will be prepared as part of the consenting process and reviewed by by MPDC and WRC.

- 4. Subsequent to that expert conferencing, we have been instructed that:
 - (a) neither MDL, nor its relevant experts, have received any requests for information from either MPDC or WRC regarding “details of the sub-soil drainage”; and
 - (b) correspondence between the Councils and MDL regarding sub-soil drainage has been in the form of comments on the proposed conditions of consent.
- 5. Until receiving the Councils’ Memorandum, MDL was therefore unaware that the Councils had any concerns as to the sufficiency of the level of detail that was provided in information that has already been lodged with the Panel regarding sub-soil drainage. No request for this information has been

5 16 December JWS.

6 Joint Witness Statement *Stormwater management* (11 December 2015) <https://www.fasttrack.govt.nz/__data/assets/pdf_file/0027/17469/Ashbourne-JWS-Groundwater-response-11_12_25-D-_signed-All_Redacted.pdf>.

received from the Councils or their counsel until this memorandum. With respect, this request seems a convenient last-minute justification to delay conferencing.

6. The agenda for expert conferencing on groundwater and stormwater issues does not indicate that the Panel shares the Council’s concerns regarding the sufficiency of information regarding sub-soil drainage. That is consistent with those matters having been discussed during the previous expert conferencing, with agreement reached.
7. In terms of the information that the Councils seek be provided,⁷ MDL notes as follows:

INFORMATION SOUGHT BY THE COUNCILS	MDL’S RESPONSE
a) Clarification as to the scope of the conferencing	Issued by the Panel on 23 February 2026.
b) A draft agenda	
c) A plan showing the proposed design layout of the drains	At expert conferencing it was agreed that detailed design could be
d) Levels, including cover/depth of burial	addressed through the consent conditions and subject to final
e) Details of the types of pipe, specifications for the granular drainage materials, filter criteria, geotextiles	approval by the relevant Councils. The proposed conditions of consent that were lodged with the Panel on 13 February 2026 (Consent Conditions) provide for that approval. MDL is able to provide an update on those designs prior to expert conferencing.
f) A copy of the conditions proposed by the Applicant to resolve the issues relating to Pond A	The Consent Conditions of consent were lodged with the Panel on 13 February 2026.

⁷ Councils’ Memorandum at [3.1].

INFORMATION SOUGHT BY THE COUNCILS**MDL'S RESPONSE**

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| g) Details on how the outcomes from the Applicant's proposed conditions will integrate into the overall stormwater management plan. | At expert conferencing it was agreed that detailed design could be addressed through the consent conditions and subject to final approval by the relevant Councils. The Consent Conditions provide for that approval. |
| h) Copies of any updated documents / assessments associated with Pond A and that will form part of the conferencing. | MDL considers that any additional relevant materials can be circulated between the experts before or at expert conferencing. |

Delay in expert conferencing is not appropriate

8. The Councils' Memorandum would appear to be prepared on the basis that counsel was unaware that the Panel had issued Minute 18. MDL does not consider that the directions made by the Panel in Minute 18 should be revisited.
9. The Councils' Memorandum also seeks that expert conferencing have an independent facilitator. That again seeks to revisit the Panel's earlier directions, which were that, given the time constraints, it was appropriate for MDL's expert planner Fraser McNutt to facilitate expert conferencing.⁸ In any event:
- (a) the previous expert conferencing sessions held between the same experts were not independently facilitated. Instead, during the stormwater expert conferencing one of MDL's expert planners took notes to assist the experts participating in conferencing;

8 Refer to the email from Jessie Richardson dated 23 February 2026 at 1:37pm.

- (b) MDL does not consider that delaying expert conferencing, in order to find an available and suitable independent facilitator, is appropriate in the circumstances;
- (c) the Councils' Memorandum does not address the availability of the experts appointed on behalf of the WRC, who may have the expertise necessary to represent the interests of both Councils if expert conferencing was to occur this week; and
- (d) it is not appropriate to delay conferencing to next week to accommodate one expert (whose costs are borne by MDL), and conferencing should occur as soon as possible.

DATED at Auckland this 24th day of February 2026



W S Loutit / P Lang
Counsel for Matamata Development Limited