

29 January 2026

ECONOMIC MEMORANDUM

To: Minister of Justice
c/- Alisa Neal
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RE: RESPONSE TO AUCKLAND COUNCIL ECONOMIC REVIEW

INTRODUCTION

Auckland Council's economist (Mr Stewart) provided a review of the Ministry of Justice's Substantive Application as part of Auckland Council's comments on the Waitākere District Court Fast-Track Project.

While Mr Stewart's review ultimately accepted that it is plausible the proposed development would generate a net benefit to society, he considered a formal cost-benefit analysis (CBA) of the project prepared by an independent expert economist would represent a more suitable assessment to determine net economic benefits under the Fast Track Approvals Act (FTAA).

In our view, such an assessment is neither appropriate, nor required under the FTAA. This memorandum addresses this recommendation and the associated statements made by the Council's economist.

Additionally, the Expert Panel received a letter from the Minister for Economic Growth, which we also respond to.

RESPONSE TO AUCKLAND COUNCIL

The FTAA requires identification of significant regional or national benefits (refer sections 3 and 81) and consideration of whether the adverse impacts of the project are "sufficiently significant to be out of proportion to the project's regional or national benefits" (section 85).

In Property Economics' view, the proportionality test on whether the benefits outweigh the costs is a planning judgment that will ultimately be determined by the panel, not an economist. This is because the proportionality test requires value judgments as to the relative importance (or value) of the adverse impacts. While there are ways of ascribing monetary values to adverse effects, none of those methodologies remove the inherently subjective nature of such judgments and the assumption laden approach required.

While all modelling approaches have limitations, the EIA undertaken for the Waitakere Court illustrates the level of economic activity that this development would result in. This is a key component designed to assist the relevant decision makers in determining the relative regional

significance of the project (a key requirement of the FTAA) and is considered an economic benefit against which any adverse impacts should be considered.

The approach recommended through the review by Mr Stewart, proposing a cost–benefit analysis applying the Treasury’s CBA principles, reflects a fundamental misunderstanding of the purpose of the FTAA. It appears that Mr Stewart’s approach effectively seeks to assess whether the project is an appropriate or efficient use of government funding. This is highlighted by paragraph 14 where he suggests consideration for the deadweight cost of taxation. Not only is acceptance of this project unlikely to alter Government taxation decisions, but consideration of taxation as a cost would unduly penalise public infrastructure projects under the FTAA compared to private projects. Essentially, while this may be an appropriate consideration under the CBA framework for assessing government projects, it is not an appropriate planning consideration under the FTAA, nor would it be considered under a normal RMA process.

In a similar vein, the review argues against economic activity being considered as an economic benefit, preferring instead the CBA approach of accounting for it as a cost. Mr Stewart argues that considering economic activity as a benefit leads to *“bizarre outcomes e.g. the transaction of digging a hole and filling it back in again leads to economic benefits”* (para 6).

It is assumed the Ministry has undertaken the appropriate due diligence and that they consider the project to be an appropriate investment within their budgetary constraints. If the reviewer believes the project costs have been artificially inflated, that is a different issue.

Putting that aside, the purpose of the act is to *“facilitate the delivery of infrastructure and development projects with significant regional or national benefits.”*¹ In this context, the economic activity generated by the project is a fundamental consideration in assessing both its relative economic significance and the benefits it will deliver to the economy in terms of jobs and wages.

Moreover, the assessment should be focused on the merits of the project itself within the regulatory context of the relevant planning documents. Within this context, we do not need to consider other (theoretical) projects available to the Ministry, nor is it reasonable to assume that in the absence of this project, another courthouse elsewhere in the region will go ahead. This may be the case, but such a project is likely to also require consent and, therefore, not part of the existing environment.

Accordingly, the appropriate counterfactual against which benefits should be assessed is one in which no new courthouse is constructed. Within that framework, the gross economic activity generated by the project represents an appropriate measure of its economic benefits.

The review goes on to again rely upon the Treasury’s guidance in arguing that employment should not be considered a benefit under the CBA framework because employment often represents displacement. However, it would appear the Treasury’s primary argument against the inclusion of multiplier effects and employment is that the analysis assumes significant unemployment of people with the requisite skills.

¹ *Fast-track Approvals Act 2024, s3 (Purpose).*

Auckland's unemployment rate of 6.1% is reportedly the highest in the country and the region's construction sector lost over 7,500 jobs (10%) between 2024 and 2025. Therefore, we would argue that there is a sufficient basis to consider the additional construction employment as an addition to the economy.

I also note that Mr Stewart's own example in this matter fails to take the logic to its conclusion. Specifically, at paragraph 19 he claims that a solicitor becoming a judge in the new courthouse would represent a displacement. However, Mr Stewart fails to consider the likelihood that this scenario, and larger courthouse, would likely create job opportunities for additional solicitors.

MINISTER'S LETTER

The Minister's letter provides support to the application, noting the economic activity as assessed in the substantive application. The Minister concludes that the project is expected to have economic impacts on GDP, support regional justice infrastructure capacity and reduce operational costs.

The Minister does raise a question that the ongoing employment opportunities available after construction is unclear. Property Economics acknowledges that additional ongoing job opportunities post-development will likely be generated (and that these would be additive to the employment benefits identified in the application's economic impact assessment), but notes that the total additional ongoing jobs supported by the courthouse expansion is likely to be nominally small (e.g. single digit) and non-consequential to the conclusions reached in the economic impact assessment.

SUMMARY

We do not consider a cost-benefit analysis to be required and note that the framework proposed by Mr Stewart is more appropriate for the evaluation of projects by the government when determining the allocation of government spending, not an evaluation of a consent application under the FTAA. In our view, it is not the role of economists under the FTAA to determine the best use of public funds relative to other Government projects.

After considering the points raised in the review, Property Economics stands by the approach taken and considers that this provides the most appropriate information to evaluate the economic benefits of the Project under the FTAA.

Kind Regards

Tim Heath / Phil Osborne

Directors