

Before the Expert Panel appointed under the Fast-track
Approvals Act 2024

FTAA-2604-1207

Under	the Fast-track Approvals Act 2024
In the matter	of the substantive application for the Southern Link Inland Port
By	Southern Link Property Limited

**LEGAL SUBMISSIONS (OVERVIEW) ON BEHALF OF SOUTHERN LINK PROPERTY
LIMITED FOR PANEL BRIEFING**

7 July 2026



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MAY IT PLEASE THE PANEL

Introduction

1. The substantive application by Southern Link Property Limited (**SLPL**) is to authorise the construction, use and operation of the Southern Link Inland Port, an inland port / logistics hub,¹ at 270-292 Dukes Road North, North Taieri, Mosgiel, Dunedin (**the Project** or **SLIP**). The application seeks approvals under the Fast-track Approvals Act 2024 (**FTAA**), being resource consents that would otherwise be applied for under the Resource Management Act 1991 (**RMA**).² No other types of approvals are sought through the FTAA process.
2. The Project is a referred project.³ The version of the FTAA that applies to the Panel's decision making is the amended version as at 31 March 2026.⁴
3. Minute 1 of the Expert Panel confirms a Project overview conference will be held on 8 July, with the purpose of the conference to familiarise the Expert Panel with a number of matters including relevant legal tests. The purpose of these legal submissions is therefore to assist the Panel by providing a concise summary of the core parts of the FTAA legal tests relevant to the Panel's decision making, taking into account decisions that have been released by Panels appointed to make decisions on other FTAA projects. They are intended to be general in nature, any specific legal issues raised in s 53 comments will be responded to directly in SLPL's s 55 response to those comments.
4. FTAA panel decisionmakers are applying a three-stage approach to decision making. This was first applied in the early *Bledisloe North Wharf* and *Maitahi Village* Panel decisions, and applied more recently for example in the *Southland Windfarm* decision.⁵ This three-stage approach is as follows,

1 AEE as updated in June 2026 ([Report with Sections](#)) (**AEE**) at 22-71 contains a comprehensive description of the Project.

2 Sought under section 42(4)(a) of the FTAA.

3 Minister's decision dated 26 August 2025 ([FTAA-2505-1059 - Southern Link Inland Port - Notice of Decisions Letter](#)).

4 The application was lodged 17 April 2026.

5 *Bledisloe North Wharf and Fergusson North Berth Extension*, Panel Decision 21 August 2025, *Maitahi Village* Panel Decision, 18 September 2025; *Southland Windfarm*, Panel Decision 2 April 2026.

with the body of these legal submissions explaining in more detail the FTAA legal framework sitting behind these three steps:

- (a) First, the Panel considers the RMA and other listed statutory matters on their own terms, including effects (section 104), the relevant instruments (NES/NPS,⁶ RPS, regional and district plans, and iwi planning documents), and Part 2 (sections 5–7 only). The Panel identifies the project’s adverse effects and whether (and to what extent) they can be avoided, remedied or mitigated (or offset or compensated if offered by the Applicant);
- (b) Then, the Panel gives the greatest weight to the FTAA purpose by assessing the extent of the project’s regional or national benefits; and
- (c) Finally, the Panel applies a proportionality test: it may decline an approval only if there are adverse impacts that are sufficiently significant to be out of proportion to those benefits after taking into account conditions set in relation to those adverse impacts and any applicant agreed modifications to the proposal that could address the effects (including offsetting or compensation).

5. The only potentially relevant mandatory reason to decline the application, is if the Panel considers that granting the approvals would breach s 7 of the FTAA. The Project does not seek approval for an ineligible activity, and no other mandatory reason in s 85 of the FTAA to decline apply to the Approvals sought.

Project description

6. The Project⁷ is an inland port / logistics hub intended to support Port Otago and Dynes Transport (the joint venture partners in SLPL) in servicing and future-proofing the Otago Region’s supply chains. Putting to one side the significant economic benefits that will be delivered by the Project, the overarching objective for the Inland Port is to enhance the capacity, efficiency, and resilience of the Dunedin and wider Otago Region freight network. The Project is strategically positioned alongside existing rail

6 The NZCPS is not listed as it is not relevant to the Project.

7 AEE at 22-71 contains a comprehensive description of the Project.

infrastructure in Mosgiel, in order to shift a significant proportion of road-to-port freight onto rail, reducing pressure on the wider transport network.

7. Big picture, the Project includes:

- (a) A new rail siding off the Taieri Branch Rail Line to enable loading, unloading and operation of a rail freight shuttle service to Port Chalmers and the wider rail network and linking in with the recently completed \$13 mill railpad upgrade at Port Otago;
- (b) Approximately 80,000 m² of high stud warehousing (chilled and ambient);
- (c) Truck canopy and unloading areas;
- (d) A 5 hectares container depot facility enabling the inspection, cleaning, upgrading and repair of containers including for food grade repacking;
- (e) Up to 5 hectares of container terminal for storage and movement of empty and full containers including refrigerated container charging ports;
- (f) Break bulk storage facilities;
- (g) Road widening;
- (h) Ancillary activities to support the above including earthworks, construction of the rail siding, site access, internal roadways and parking, hardstand areas, truck waiting areas, onsite road network, three waters infrastructure, flood mitigation, landscaping, buildings for storage, administration and maintenance facilities, and associated infrastructure and works including measures necessary to manage stormwater and stabilise the site.

Approvals required

- 8.** Only resource consent approvals that would otherwise be applied for under the RMA for the Project are sought through the substantive application.⁸ The activity status for the land use consents required from DCC is non-complying, and discretionary for the consents required from ORC. The gate-

⁸ Pages 124-125 of the AEE set out the additional approvals also required for the Project, with these having been, or to be, obtained outside of the FTAA.

way test normally applicable to a non-complying activity under the RMA is not relevant under the FTAA.⁹

9. The consents required include (in summary, and referring to the updated section lodged on 17 June 2026):¹⁰
- (a) Land use consents under the Dunedin City Second Generation District Plan;
 - (b) Land use consents, discharge permits, and water permits under the Regional Plan: Water for Otago;
 - (c) Discharge permit under the Regional Plan: Waste for Otago;
 - (d) Consents required under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Significant benefits of the Project

10. Port Otago is recognised as nationally important infrastructure¹¹ and is a critical economic driver for the Otago Region. Port Otago has recently obtained requiring authority status, although that is not being used for the purposes of the SLIP approvals. The Project provides a strategic solution to logistics issues within the region, through to Port Chalmers. The mode shift from road to rail enabled by the Project will deliver immediate and measurable benefits: reductions in road congestion, travel time, and road maintenance costs, a step change in operational efficiency, alongside lower greenhouse gas emissions, improved fuel efficiency, and enhanced air quality.¹²
11. Further benefits include:¹³
- (a) Consolidation of multiple dispersed Dynes/ICON freight operations into a single integrated logistics hub improves coordination, productivity, and asset utilisation;

9 FTAA, Schedule 5, Clause 17(1)(b), where s 104D of the RMA is specifically excluded.

10 AEE, pages 125-131 and Part G Updated Rule Assessment ([Part-G.01-Updated-Rules-Assessment-Clean-Version.pdf](#)).

11 For example, recognised within the Otago RPS and NPS-UD.

12 AEE, page 26-27.

13 AEE, pages 27-28.

- (b) Reduced duplication across sites (handling, storage, transport legs) leads to lower operating costs and faster turnaround times;
- (c) Co-location of container depot, warehousing, and rail interface enables end-to-end servicing of the logistics chain.

12. The economic assessment¹⁴ robustly demonstrates that the Project will generate significant regional benefits, including:¹⁵

- (a) Approximately \$191.3 million in GDP over the 10 years of construction and \$147.8-\$178.6 million in capital investment;
- (b) Sustain 1,489 FTE jobs nationally during the 10-year construction period;
- (c) Create 21 transferred positions and add 104 net high-value permanent jobs during operation;
- (d) Enable growth in export volumes and market share beyond current facility capacity while supporting primary sector exports in Otago, Southland and South Canterbury;
- (e) Increase utilisation of existing rolling stock and track assets, with an initial uplift of 15,000 (30,000 TEU) and projected growth up to 40,000 wagons per annum expected;
- (f) Reduce heavy vehicle movements on urban Dunedin roads and State Highways (approximately 29,860 per annum) as the SLIP rail operations increase, which will lead to significant road maintenance cost savings and improved transport efficiency;
- (g) Reduce greenhouse gas emissions, in the order of 1,050-1,100 tonnes per annum, and generate associated improvements to air quality; and
- (h) Improve supply chain resilience through multi-modal accessibility and reduced reliance on vulnerable road transport routes delivering an enhanced competitiveness for Port Otago.

¹⁴ Natalie Hampson (Savvy Consulting, 2026), Part B to the Application.

¹⁵ Summary taken from AEE, page 347.

FTAA decision making framework

13. The key decision-making provisions under the FTAA are found in ss 81 to 85. The key relevant considerations¹⁶ for the Panel's decision in s 81(2) of the FTAA include:

- (a) The Minister's reasons for accepting the referral application. For the SLIP those reasons are:¹⁷
 - (i) the significant regional benefits of the Project, noting that the Project was a priority project in a local government strategy, and as well as the significant economic benefits the Project would support the primary sector, provide infrastructure that could aid in recovery from natural hazards/climate change, and reduce greenhouse gas emissions;
 - (ii) use of the FTAA would facilitate the project, including by enabling it to be processed in a more timely and cost effective way than under normal processes (as otherwise a plan change to progress the project under standard RMA processes would be required, which is typically a detailed and resource-intensive process);
 - (iii) use of the FTAA would be unlikely to materially affect the efficient operation of the fast-track approvals process because the project is neither novel in the New Zealand context nor beyond the scope of what a panel would typically assess under the RMA;
- (b) The substantive application itself, and any advice, report, comment or other information received under ss 51, 52, 53, 55, 58, 67-70, 72 or 90 (some sections may be irrelevant depending on the Panel's process, for example s 58 is about a hearing); and
- (c) As the substantive application is for an approval described in s 42(4)(a) (resource consent), the provisions in clauses 17 to 22 of Schedule 5.

¹⁶ As well as compliance with sections 82-85.

¹⁷ Minister's decision dated 26 August 2025 ([FTAA-2505-1059 - Southern Link Inland Port - Notice of Decisions Letter](#)).

14. Clause 17(1) of Schedule 5 requires that the panel must *take into account*, giving the greatest weight to paragraph (a):
- (a) the purpose of the FTAA;
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the RMA that direct decision making on an application for a resource consent (but relevantly excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the RMA.
15. As observed by the Panel in the *Waihi North* decision, the phrase “take into account” requires the Panel to directly consider the identified matters and give them genuine consideration, rather than mere lip service.¹⁸
16. While normally weight is a matter for the decision-maker, under the FTAA the weighting exercise is influenced by the statutory direction that “the greatest weight” is to be given to the purpose of the FTAA. The balancing exercise is therefore not an even one. One of the ways in which the FTAA implements this statutory weighting is through the limited bases for declining an application in s 85.
17. While the application of the test in clause 17(5) of Schedule 1 does mean that the purpose of the FTAA being given the most weight might displace the usual importance of some RMA matters, this is the intention of the FTAA. In *Ngāti Kuku Hapū Trust v Environmental Protection Agency*¹⁹ the High Court recorded:

[66] In enacting the FTA, Parliament made a deliberate decision to de emphasise factors which might militate against approval. For example, the cabinet minute which approved the inclusion of the 149 listed projects noted it was the Government's intention to establish a consenting and permitting process that “makes it substantially easier for projects to be approved than the status

18 Record of Decisions of the Expert Panel, 18 December 2025. Part G1, paragraph 4, endorsed in *Southland Windfarm* Panel Decision 2 April 2026. Citing *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26 at [169] and [224]. Note the Panel acknowledges in a footnote that “While the Supreme Court’s decision was in the context of a requirement to “have regard to” a relevant consideration, we consider that an equivalent obligation should apply to the phrase “take into account” in clause 17, Schedule 5 FTAA.”

19 [2025] NZHC 2453.

quo, with a high bar needing to be reached for a panel to decline a project". ...

18. The structure of clause 17(5) of Schedule 1 means that the RMA factors are to be taken into account individually, then fit into the FTAA framework for weighting/analysis. These matters must be considered on an individual basis, prior to an overall weighting of the various factors.²⁰

Conditions

19. Importantly, in setting the conditions of consent, s 83 requires that conditions are no more onerous than necessary to address the reason they were set.
20. Without losing sight of the s 83 no more onerous than necessary direction, the standard RMA legal requirements for conditions in s 108, 108AA and case law²¹ will apply, meaning a resource consent condition must:
- (a) be for a resource management purpose, not an ulterior one;
 - (b) fairly and reasonably relate to the development authorised by the resource consent or designation; and
 - (c) not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.
21. The Panel for the *Maitahi Village* project applied the following approach when setting conditions, combining the features of the RMA and FTAA condition setting framework:²²
- (a) identify a link between the adverse impacts and the conditions which it has imposed; and
 - (b) satisfy itself that the conditions are permitted by s 108 RMA; and
 - (c) satisfy itself under s 83 of the FTAA that the condition is no more onerous than necessary to address the reason it is set.

22. In addition:

20 Panel Decision Wellington International Airport Southern Seawall Renewal, [89].

21 *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

22 At [99].

- (a) S 84: for the purposes of s 7 of the FTAA, the panel may set conditions to recognise or protect a relevant Treaty settlement; and
- (b) S 84A has subsequently been inserted into the FTAA, meaning that the panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support the project.

23. The Applicant does not expect these two sections to be relevant to the Project, but will address them in its s 55 response if necessary.

Application of FTAA considerations to the Inland Port

Step 1: RMA and other listed statutory matters on their own terms

24. The AEE comprehensively addresses all the relevant RMA provisions that are required to be taken into account for this application, finding that (at a high level):
- (a) All of the environmental effects are considered to be minor or less than minor, with the exception of landscape and visual effects, which are identified as moderate, not significant;²³
 - (b) Mitigation measures are included in the Application and conditions of consent to address and manage any adverse effects resulting from the SLIP;²⁴
 - (c) The Project is generally consistent with the applicable statutory planning provisions. While there is tension between the Project and the Rural Zone chapter of the District Plan, there are clear locational benefits, and also constraints on the land that impact the profits associated with farming activities (assessed via NPS-HPL) and the Future Development Strategy clearly signals this location as being appropriate for an inland port;²⁵ and

23 AEE, page 348, further saying "While the landscape and visual effects are identified as moderate, the Site is not located within a section 6 landscape and has limited amenity value under section 7 of the RMA. The overall effect, which does not result in a significant effect status under Te Tangi a Te Manu, largely relates to the Site changing from its existing rural character to an industrial character. Conditions are proposed in Part C to manage this effect."

24 AEE, page 348.

25 AEE, page 294-295 and 334.

- (d) the Project will promote the sustainable management of natural and physical resources in accordance with Sections 5, 6 and 7 of the RMA.²⁶

25. SLPL will address matters raised in written comments through its s 53 comments. This includes the endorsed TIA that has recently been lodged with the Panel by Te Rūnanga o Ōtākou. This will ensure SLPL are responding to comments from Ōtākou that have fully considered the updated material and condition set filed by SLPL on 17 June 2026, which is understood to not have fully happened for the purposes of the endorsed TIA.
26. The updated conditions proposed by SLPL robustly address its technical advice and initial comments from both local authorities in order to deliver a condition set that appropriately avoids, remedies and mitigates adverse effects.²⁷ SLPL consider that the conditions will ensure that the Project results in the delivery of a project with significant national and regional benefits, while appropriately addressing potential impacts in a manner consistent with the RMA and FTAA.

Step 2: Purpose of the FTAA

27. Ultimately, it is the purpose of the FTAA that must be given the most weight. The purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.²⁸ The Application is supported by robust economic evidence demonstrating the delivery of significant regional and national benefits in the short, medium and long term.²⁹
28. Importantly, taking into account the purpose of the Act requires consideration of the extent of the Projects' national or regional benefits, as directed by s 81(4).³⁰

26 AEE, page 239-240.

27 AEE, page 213-225, Part C of the Application.

28 FTAA s 3.

29 Natalie Hampson (Savvy Consulting, 2026), Part B to the Application, AEE at pages 161-165.

30 At [118].

29. The prioritisation of, or greater weighting to be given to, the FTAA's purpose when making decisions is similar to the hierarchy of considerations that was provided in s 34(1) of the Housing Accords and Special Housing Areas Act 2013 (HASHAA). That provision required the decision maker to have regard to a list of matters, giving weight to them (greater to lesser) in the order listed, with the purpose of that Act being the first listed matter.³¹ Some Panels have drawn on that case law, while others have distinguished it in a FTAA context.³²
30. The Court of Appeal in *Enterprise Miramar Peninsula Inc v Wellington City Council* found that s 34(1) of HASHAA required the decision maker to consider the various matters listed "uninfluenced" by the purpose of the Act, before conducting an overall balancing in accordance with the hierarchy.³³
31. Consistent with that approach under HASHAA, the Panel is required to separately consider the criteria in cl 17(1) and then weigh the considerations in accordance with the requirement to give the purpose of the Act the greatest weight.³⁴
32. The weighting required by the FTAA provides for applications to be granted where in an RMA decision making context, they may not achieve compliance with the planning policy framework.³⁵ While there are no directive (eg, avoid) type policies that require specific consideration by the Panel, this is relevant to the current rural zoning of the site.³⁶

31 The *Maitahi Village* Expert Panel Decision at [119] to [121] notes the differences between that Act and the FTAA. However, the emphasis on purpose is analogous and the case law under the Act has been used in subsequent decisions to develop a test for weighting under the FTAA.

32 Record of Decision of the Expert Consenting Panel, Maitahi Village, 18 September 2025 at [49]–[79].

33 *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541, [2019] 2 NZLR 501 at [52]–[53].

34 *Enterprise Miramar*, at [52]–[53]; *Bledisloe North Wharf and Fergusson North Berth Extension* Panel Decision dated 21 August 2025 at [121] and *Milldale – Stages 4C and 10 to 13* Panel Decision dated 3 October 2025 at [59].

35 FTAA, Section 85(4), *Waihi North* Panel Decision dated 18 December 2025, held that directive policies that would typically require an application to be declined under the RMA consenting process do not require the Panel to decline an application under the FTAA, albeit that decision is under appeal.

36 We do acknowledge Policy 16.2.1.8 which seeks to avoid (among other things) industrial activities, unless otherwise provided for, in the rural zone. However, we pointed to the FDS which signals the use of the site for an inland port, albeit by way of a plan change.

Step 3: Proportionality test

33. Section 85 sets out the limited circumstances in which approvals must or may be declined.³⁷ It is submitted that there are no mandatory reasons to decline present in respect of the SLIP.³⁸
34. In contrast to the RMA,³⁹ the FTAA clearly envisages an overall judgment or balancing approach to decision making. The Panel must balance any adverse impacts against the regional or national benefits of the project.⁴⁰
35. In respect of the discretionary reason to decline, section 85(3) reads:
- (3) *A panel may decline an approval if, in complying with 81(2), the panel forms the view that-*
 - (a) *there are 1 or more adverse impacts in relation to the approval sought; and*
 - (b) *those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account –*
 - (i) *any conditions that the panel may set in relation to those adverse impacts; and*
 - (ii) *any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.*
 - (4) *To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).*
 - (5) *In subsections (3) and (4), adverse impact means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.*

37 Noting that no RMA section can require the Application to be declined albeit it can be taken into account (cl 13(4), Schedule 5)

38 S 85(1)(a)-(b): the Application would not breach s 7 and is not for an ineligible activity (see AEE page 233-236); s 85(1)(c)-(f) are not relevant as the Application is for a resource consent; s 85(2) / cl 17(5) of Schedule 5: The application is not for an application for a coastal permit for aquaculture activities.

39 *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38.

40 *Wellington International Airport Southern Seawall Renewal*, Panel Decision dated 15 May 2026 at [673].

36. It is submitted that there are no significant adverse impacts of the Project that are incapable of appropriate management through the proposed conditions.⁴¹ It is only residual adverse effects not dealt with by conditions that can be relevant to the Panel's proportionality analysis under s 85.
37. As such, there are no adverse impacts significant enough to come close to outweighing the Project's benefits in this case. The technical evidence demonstrates that the adverse impacts of the Project can be appropriately managed and that the economic benefits of the Project clearly outweigh any potential adverse impacts.

Dated: 7 July 2026

A handwritten signature in black ink that reads "Sarah Scott". The signature is written in a cursive, flowing style.

S J Scott / K Parker
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41 AEE, page 348.