
MINUTE 5 OF THE EXPERT PANEL
Request for further information
Auckland Surf Park – Stage 2 [FTAA-2606-1246]
23 October 2026

[1] The Panel requests from the Applicant, under section 67 of the FTAA, the following information.

[2] By way of Minute 2 the Panel asked the Applicant and the Council whether or not the reference to regional or national benefits in ss81 and 85 should be read as a reference to net benefits.

[3] The Council in their response to this question referred to previous FTAA decisions and concluded that an appropriate framework would consider the economic benefits and costs against a counterfactual. Specifically it was noted:

“Mr Yeoman’s [Council’s economist] further recommends that the application would be more complete if the Applicant quantified the costs and compared them to the benefits of the proposal through a cost-benefit analysis enabling decision-makers to have greater confidence that all relevant impacts have been systematically identified and assessed, and that the proposal would deliver a positive outcome for the region” (Memorandum of Planning Matters for Auckland Council, dated 16 October 2026, p.29)

[4] The Applicant has also stated in relation to this question that the degree to which the benefit should be assessed on a net basis is more complex, and that some assessment of disbenefit may be required and, in that context, a net position may be reached.

[5] Whilst under different legislation, namely the Exclusive Economic Zone and

Continental Shelf (Environmental Effects) Act 2012, the Court of Appeal and Supreme Court have held, in relation to the meaning of economic benefit, that:

- (a) ‘Economic benefits’ in the context of the EEZ Act required consideration of the net economic benefit of a proposal, noting that it would be artificial and inappropriate to focus on gross benefits, disregarding economic costs;
- (b) That it was for the decision-maker to decide how best to approach the assessment of economic benefits on a ‘net’ basis, but that did not necessitate a cost-benefit analysis. That a cost-benefit analysis may well be the appropriate approach to adopt, in particular where economic benefit is a critical factor – but it is not mandated by the EEZ Act; and
- (c) It was open for the decision-maker to consider such costs on a qualitative basis.¹

[6] The Panel has only undertaken preliminary consideration of the matter at this stage, but given both parties seem to be in agreement that some consideration of disbenefits is required, would be interested in their assessment of the relevance of the above case law to this question.

[7] Further, the economic report currently provides a quantitative assessment of potential economic impacts (benefits) and qualitative assessment of potential economic costs. The Panel would like the Applicant and Council to consider, in light of the respective responses to the above question, the guidance that should be taken by this Panel from the Trans-Tasman decisions. For the Applicant the Panel asks if the information relating to the net benefits of the Project could be

¹ (*Trans-Tasman Resources Ltd v Taranaki-Wāhanganui Conservation Board* [2021] NZSC 127, [2021] 1 NZLR 801 and *Trans-Tasman Resources Ltd v Taranaki-Wāhanganui Conservation Board* [202] NZCA 86, [2020] NZRMA 248).

presented in a manner that better allows for a determination by the Panel that there will be an overall positive net benefit.

[8] We note, for completeness, that the Council anticipates that the Project is unlikely to result in any adverse effects being out of proportion to the Project's benefits (noting their economist's request for further information) (Memorandum of Planning Matters for Auckland Council, dated 16 October 2026, p.29). In making this request, the Panel is mindful of Council's position in this regard.

[9] A second matter on which the Panel would appreciate further consideration by the Applicant relates to the Question 15(b) in Minute 2 and the ability for the Panel to consider all of the benefits of Stage 1 of the Project in its assessment of potential regional and national benefits.

[10] The issue arises as the AEE and attendant economic reports have sought to combine the benefits of Stage 1 and Stage 2 for the purposes of establishing whether or not the benefits of the Project are regionally or nationally significant, and the extent of those benefits. For example, in relation to the benefits of the Project the AEE states:

"To this effect, the full realisation of the Stage 1 benefits is dependent on Stage 2. For this reason, while the economic assessment focusses on the benefits that are derived from the Stage 2 proposal, benefits derived from Stage 1 have also been considered" (p.105)

[11] The Peer Review undertaken by Insight Economics further notes:

"For the purposes of PE's ELA, Stage 1 and Stage 2 are presented as an integrated project on the basis that the mixed-use master plan is intended to function as a single, interdependent, and synergistic development" (p.2)

[12] But goes on to state:

"A minor presentational improvement that may assist readability would be slightly clearer

signposting in places where Stage 2-only figures and whole-project figures are both discussed”
(p.3)

[13] By way of Minute, the Panel asked the Applicant and Council their views on the ability of the Panel to consider the regional or national benefits of any stages of the Project that have already received consent, given that section 81(5) states that a panel may consider the benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed.

[14] We agree with the parties that s81(5) is of no assistance in this case as only some variations to the Stage 1 consent form part of the Project for the purposes of the FTAA. In that regard, the Panel agrees with the Council’s economist that further information is required to establish the incremental benefits of Stage 1 attributable specifically to the Project (i.e.: resulting from the variations to Stage 1 that form part of the Project) in order for it to undertake its assessment under ss81 and 85.

[15] As such the Panel requests the Applicant to clearly identify the variations to the Stage 1 consent that form part of the Project and the net benefits attributable to those variations sought, and if necessary updated any relevant reports supporting the Application. That is, the Panel will only be focusing on the net benefits of the Project (i.e.: excluding those aspects of the ASPC project that have been consented and are not subject to the FTAA process).

[16] Please provide the further information to the EPA at info@fasttrack.govt.nz on the date the application resumes following its suspension.

[17] If the information requested is not received, the Panel must proceed as if the request for further information has been declined.

[18] Please note, the information will be provided to the Panel, the applicant and every person who provided comments on the application. The information will also be made available on the Fast-track website.



Claire Kirman

Auckland Surf Park Expert Panel Chair