

BEFORE AN EXPERT CONSENTING PANEL

IN THE MATTER of the Fast-track Approvals Act 2024 (the **FTAA**)

AND

IN THE MATTER of Ashbourne (FTAA-2507-1087)

**STATEMENT OF EVIDENCE OF DUNCAN BRETT WALKER ON BEHALF OF
THE MATAMATA-PIAKO DISTRICT COUNCIL**

HIGHLY PRODUCTIVE LAND

10th November 2025

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LAWYERS**

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LAWYERS

1. SUMMARY OF EVIDENCE

- 1.1 The sole objective of the National Policy Statement for Highly Productive Land (“National Policy Statement”) is to protect highly productive land (“HPL”) for use in land based primary production both now and for future generations.
- 1.2 Perrin Ag was engaged by Matamata-Piako District Council to review the National Policy Statement for Highly Productive Land (NPS-HPL) assessment contained within the Ashbourne Project application (FTAA 2507-1087). The purpose of this review is to determine whether the application adequately demonstrates consistency with the provisions of the NPS-HPL.
- 1.3 The Ashbourne Project proposes a mixed-use development on approximately 125 ha of land located at Station Road, Matamata. Around 83.5 ha of the site is zoned General Rural and therefore subject to the provisions of the NPS-HPL. The supporting assessment of the land’s productive potential is provided in the Land Use Capability (“LUC”) classification report prepared by Landsystems.
- 1.4 The Landsystems report presents a detailed paddock-scale assessment of the site’s land use capability. While a detailed site inspection has not been undertaken by Perrin Ag, I consider the methodology and analysis in the report to be sound. The property-scale assessment identifies a greater level of variability in soil drainage and productive potential than indicated by regional-scale mapping. Much of the site comprises highly productive LUC Class 2 soils, with soil wetness being the primary limitation in some areas.
- 1.5 In relation to the key NPS-HPL provisions:
 - (a) Clause 3.8 (subdivision): While the proposed vacant lot subdivision may, in isolation, be capable of retaining the productive capacity of the land, it forms part of a broader development that would render much of the site’s highly productive land inaccessible to primary production. Accordingly, Clause 3.8 of the NPS-HPL is unlikely to be fully satisfied.
 - (b) Clause 3.9 (use and development): The proposed solar farm could be consistent with Clause 3.9, provided a functional or operational need for its location is confirmed and an agrivoltaic arrangement enabling continued productive use is implemented.

(c) Clause 3.10 (constraints): The evidence does not demonstrate that the site is subject to permanent or long-term constraints that would render land-based primary production economically unviable for at least 30 years. For the purposes of the NPS-HPL, economic viability is interpreted as a positive operating profit (EBITR or EFS) sufficient to cover the cost of capital employed or deployed in the operation of the land, excluding the cost of capital associated with the land itself. The land remains suitable and economically viable for ongoing productive use, including at a reduced scale.

1.6 Overall, I consider that the Ashbourne project does not fully satisfy the relevant provisions of the NPS-HPL as they relate to subdivision and development of highly productive land. While the proposed solar farm component may align with the intent of Clause 3.9, the remainder of the proposed development does not demonstrate compliance with Clauses 3.8, 3.9 or 3.10.

2. INTRODUCTION

2.1 My full name is Duncan Brett Walker.

2.2 I am a Principal Consultant and Director of Perrin Ag Consultants Limited (“Perrin Ag”), an advisory and consultancy business providing a range of services to the agricultural and horticultural sectors. I was first employed with Perrin Ag as an agribusiness consultant in June 2011. I have been a shareholder and director of the company since 2014.

2.3 As an agribusiness consultant, I work with a range of farming and horticultural businesses providing operational advisory at management level through to strategic advisory at governance level. I have extensive experience with executive management of these businesses across the Bay of Plenty and Waikato regions including land development into horticulture.

2.4 I have the following qualifications: Bachelor of Applied Science (Agriculture and Agribusiness) and an Advanced Certificate in Sustainable Nutrient Management in New Zealand Agriculture from Massey University. I am a Registered Member of the New Zealand Institute of Rural Professionals (“NZIRP”).

2.5 Prior to working at Perrin Ag I was employed by Walker Dairies Limited from 2008 to 2011, a dairy farming business of which I was a shareholder and

director. I was employed to manage the conversion of the property from a sheep and beef farm to a dairy farm and the business operations thereafter. I remain a shareholder and advisor to this business.

2.6 In preparing this evidence, I have reviewed the relevant sections of:

- (a) Volume 1 (Ashbourne overview report), section 17.2
- (b) Volume 2 (Assessment of Environmental Effects – Vacant Lot Subdivision), sections 5.5 and 6.2.1.
- (c) Volume 3 (Assessment of Environmental Effects – Solar Farm), sections 6.2.4 and 6.7.
- (d) Volume 4 (Assessment of Environmental Effects – Retirement Village), sections 6.2.3 and 6.7.
- (e) Volume 5 (Assessment of Environmental Effects – Residential and Greenway), sections 6.2.3 and 6.6.
- (f) Appendix 3K (Solar Farm Objectives and Policies Assessment), section 2.4 and sections 3–5.
- (g) Appendix 4K (Retirement Village Objectives and Policies Assessment), section 2.3 and sections 3–5.
- (h) Appendix 5N (Residential and Greenway Objectives and Policies Assessment), section 2.2 and sections 3–5.
- (i) Appendix 1L (Land Use Capability Classification Assessment).

2.7 I inspected the site on the 5th November 2025.

3. CODE OF CONDUCT

3.1 Although this matter is not before the Environment Court, I confirm that I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Practice Note (2023) (**Code**) and have complied with it in preparing this statement of evidence. If a hearing is held, I also agree to follow the Code when presenting evidence to the Panel.

3.2 I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I rely upon the evidence of other

expert witnesses. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

4. EVIDENCE

4.1 Please refer to my report in **Appendix 1**, which addresses the following matters:

(a) Review of the Land Use Capability (“LUC”) assessment completed by LandSystems.

(b) Review of NPS-HPL assessment completed by Barker & Associates.

5. CONCLUSION

5.1 I consider that the Land Use Capability (LUC) classification assessment prepared by Landsystems provides a detailed and methodologically sound evaluation of the site’s productive characteristics. While a detailed site inspection has not been undertaken by Perrin Ag, the Landsystems assessment appears robust in methodology and comprehensive in scope.

5.2 The assessment confirms that the majority of the rural-zoned portion of the Ashbourne site (the 83.5 hectare “assessment area”) comprises highly productive land, including areas of LUC 1s1 and 2s1 soils that are versatile and capable of supporting a range of productive land uses.

5.3 The Landsystems report identifies some areas with wetness limitations (LUC 2w2 and 2w3), however, I do not consider these to represent permanent or long-term constraints in the context of the NPS-HPL, given these wetness limitations can typically be managed through appropriate land management and drainage practices.

5.4 I note that property-scale LUC mapping cannot be used to exclude land from the application of the NPS-HPL unless accepted by council. Irrespective of this, the use of the property-scale LUC assessment has minimal influence on this property's classification under the NPS-HPL, as the report identifies that the majority of the rural-zoned area remains classified as LUC 2 (HPL).

5.5 In our view, Clause 3.8 (Subdivision) of the NPS-HPL is applicable to the proposed vacant lot subdivision. While the subdivision may, when considered in isolation, be capable of retaining the productive capacity of the land, it forms part of a broader development that would substantially limit the

availability of highly productive land for primary production. If assessed in this wider context, the proposal appears unlikely to fully satisfy the requirements of Clause 3.8 of the NPS-HPL.

- 5.6 I consider that Clause 3.9 (use and development) is relevant to the proposed solar farm. Subject to confirmation of a functional or operational need for the location, and the implementation of an agrivoltaic configuration that enables ongoing productive use, the solar farm proposal could be consistent with the requirements of Subclauses 3.9(2) and 3.9(3).
- 5.7 Clause 3.10 does not appear to be satisfied. In our opinion, the evidence provided does not demonstrate that the land is subject to permanent or long-term constraints that would render land-based primary production economically unviable for at least 30 years. For the purposes of this review, economic viability is interpreted as a positive operating profit (EBITR or EFS) sufficient to cover the cost of capital employed or deployed in the operation of the land, excluding the cost of capital associated with the land itself. On that basis, the site's characteristics, soil types, and historical land use, indicate that it remains economically viable for continued productive use, including at a reduced scale.
- 5.8 On balance, I consider that the Ashbourne project does not fully satisfy the relevant provisions of the NPS-HPL as they relate to subdivision and development of highly productive land. While the proposed solar farm component may align with the intent of Clause 3.9, the remainder of the proposed development does not demonstrate compliance with Clauses 3.8, 3.9 or 3.10.

DUNCAN BRETT WALKER

10th November 2025

APPENDIX 1

Review of NPS-HPL
assessment for
Ashbourne Project (FTAA
2507-1087)

Matamata-Piako District
Council

Report prepared by
Perrin Ag Consultants Ltd
10th November 2025



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Document Quality Assurance

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Status:	FINAL	

Bibliographic reference for citation:

Gray, S., & Walker, D. NPS-HPL Assessment Review for Ashbourne Project (FTAA 2507-1087).
November 2025.

1 Executive summary

- 1.1 Perrin Ag was engaged by Matamata-Piako District Council to review the National Policy Statement for Highly Productive Land (NPS-HPL) assessment contained within the Ashbourne Project application (FTAA 2507-1087). The purpose of this review is to determine whether the application adequately demonstrates consistency with the provisions of the NPS-HPL.
- 1.2 The Ashbourne Project proposes a mixed-use development on approximately 125 ha of land located at Station Road, Matamata. Around 83.5 ha of the site is zoned General Rural and therefore subject to the provisions of the NPS-HPL. The supporting assessment of the land's productive potential is provided in the Land Use Capability ("LUC") classification report prepared by Landsystems.
- 1.3 The Landsystems report presents a detailed paddock-scale assessment of the site's land use capability. While a detailed site inspection has not been undertaken by Perrin Ag, we consider the methodology and analysis in the report to be sound. The property-scale assessment identifies a greater level of variability in soil drainage and productive potential than indicated by regional-scale mapping. Much of the site comprises highly productive LUC Class 2 soils, with soil wetness being the primary limitation in some areas.
- 1.4 It is noted that property-scale LUC assessments cannot be used to exclude land from consideration under the NPS-HPL unless accepted by a regional council. No such acceptance was identified for this site, and we therefore consider that the transitional definition of HPL under Clause 3.5(7) continues to apply with respect to the assessment area.
- 1.5 In relation to the key NPS-HPL provisions:
- **Clause 3.8 (subdivision):** Clause 3.8 (subdivision): While the proposed vacant lot subdivision may, in isolation, be capable of retaining the productive capacity of the land, it forms part of a broader development that would render much of the site's highly productive land inaccessible to primary production. Accordingly, Clause 3.8 of the NPS-HPL is unlikely to be fully satisfied.
 - **Clause 3.9 (use and development):** The proposed solar farm could be consistent with Clause 3.9, provided a functional or operational need for its location is confirmed and an agrivoltaic arrangement enabling continued productive use is implemented.
 - **Clause 3.10 (constraints):** The evidence does not demonstrate that the site is subject to permanent or long-term constraints that would render land-based primary production economically unviable for at least 30 years. For the purposes of this review, *economic viability* is interpreted as a positive operating profit (EBITR or EFS) sufficient to cover the cost of capital employed or deployed in the operation of the land, excluding the cost of capital associated with the land itself. The land remains suitable and economically viable for ongoing productive use, including at a reduced scale.
- 1.6 Overall, we consider that the Ashbourne project does not fully satisfy the relevant provisions of the NPS-HPL as they relate to subdivision and development of highly productive land. While the proposed solar farm component may align with the intent of Clause 3.9, the remainder of the proposed development does not demonstrate compliance with Clauses 3.8, 3.9 or 3.10.

2 Introduction

2.1 Scope of review

- 2.1.1 Perrin Ag was engaged by Matamata-Piako District Council to review the substantive application documents and appendices for the Ashbourne project (FTAA 2507-1087) and to assess whether the proposal demonstrates consistency with the provisions of the National Policy Statement for Highly Productive Land (“NPS-HPL”) (2022).
- 2.1.2 The Memorandum¹ prepared by Barker and Associates, dated 22 October 2025, states that “*an assessment and detailed consideration of the NPS-HPL was completed*”. It identifies the specific sections and supporting documents within the substantive application where this assessment is located. These include:
- i. Volume 1 (Ashbourne overview report), section 17.2
 - ii. Volume 2 (Assessment of Environmental Effects – Vacant Lot Subdivision), sections 5.5 and 6.2.1
 - iii. Volume 3 (Assessment of Environmental Effects – Solar Farm), sections 6.2.4 and 6.7
 - iv. Volume 4 (Assessment of Environmental Effects – Retirement Village), sections 6.2.3 and 6.7
 - v. Volume 5 (Assessment of Environmental Effects – Residential and Greenway), sections 6.2.3 and 6.6
 - vi. Appendix 3K (Solar Farm Objectives and Policies Assessment), section 2.4 and sections 3–5
 - vii. Appendix 4K (Retirement Village Objectives and Policies Assessment), section 2.3 and sections 3–5
 - viii. Appendix 5N (Residential and Greenway Objectives and Policies Assessment), section 2.2 and sections 3–5
 - ix. Appendix 1L (Land Use Capability Classification Assessment)
- 2.1.3 These documents have been reviewed to determine whether they adequately demonstrate that the Ashbourne project satisfies the relevant provisions of the NPS-HPL. In addition to the documentation outlined above, Appendix 1Q (Urban Design Assessment) has also been referred to in assessing the planning context, specifically zoning, of the site.
- 2.1.4 This review is based on the information contained within the documentation outlined above, and our own professional judgement.

2.2 Proposed development and regulatory context

- 2.2.1 The Ashbourne project is a mixed-use development proposed on approximately 125 hectares of predominantly rural and rural-residential land on Station Rd, Matamata. The proposal includes approximately 530 residential lots, a 218-unit retirement village, two solar farms, a neighbourhood centre, and an integrated greenway and open-space network.
- 2.2.2 Until a regional policy statement incorporating maps of highly productive land becomes operative, the transitional definition of HPL applies to rural-zoned land identified as LUC class 1, 2 or 3, that is not identified for future development, in accordance with Clause 3.5(7) of the NPS-HPL:

¹ Re: Response to Minute 2, paragraphs 2(a), (b), (c), 2(a) NPS:HPL

- 3.5(7) *Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:*

(a) is

(i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) is not

(i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle

2.2.3 We understand that part of the residential and greenway site, while zoned Rural Lifestyle, lies within the Eldonwood South Structure Plan (“ESSP”) and is therefore not considered to be HPL under the NPS-HPL.

2.2.4 Of the 125 ha development site, about 83.5 ha (67%) is zoned General Rural and lies outside the ESSP. This area, subject to the NPS-HPL, is referred to as the “assessment area” in the LandSystems Land Use Capability assessment (see Figure 1).

3 Review of Land Use Capability (“LUC”) assessment

- 3.1 The NPS-HPL assessment presented in the relevant sections of the substantive application documents is primarily informed by the LUC assessment of the site prepared by Landsystems (“the report”).
- 3.2 The report provides a detailed paddock-scale assessment of LUC across the site. While on-site verification would be required to confirm the accuracy of the findings, the methodology appears robust and the analysis comprehensive.
- 3.3 The currently assigned LUC units of the site from available regional-scale New Zealand Land Resource Inventory (“NZLRI”) maps are shown in Figure 2.

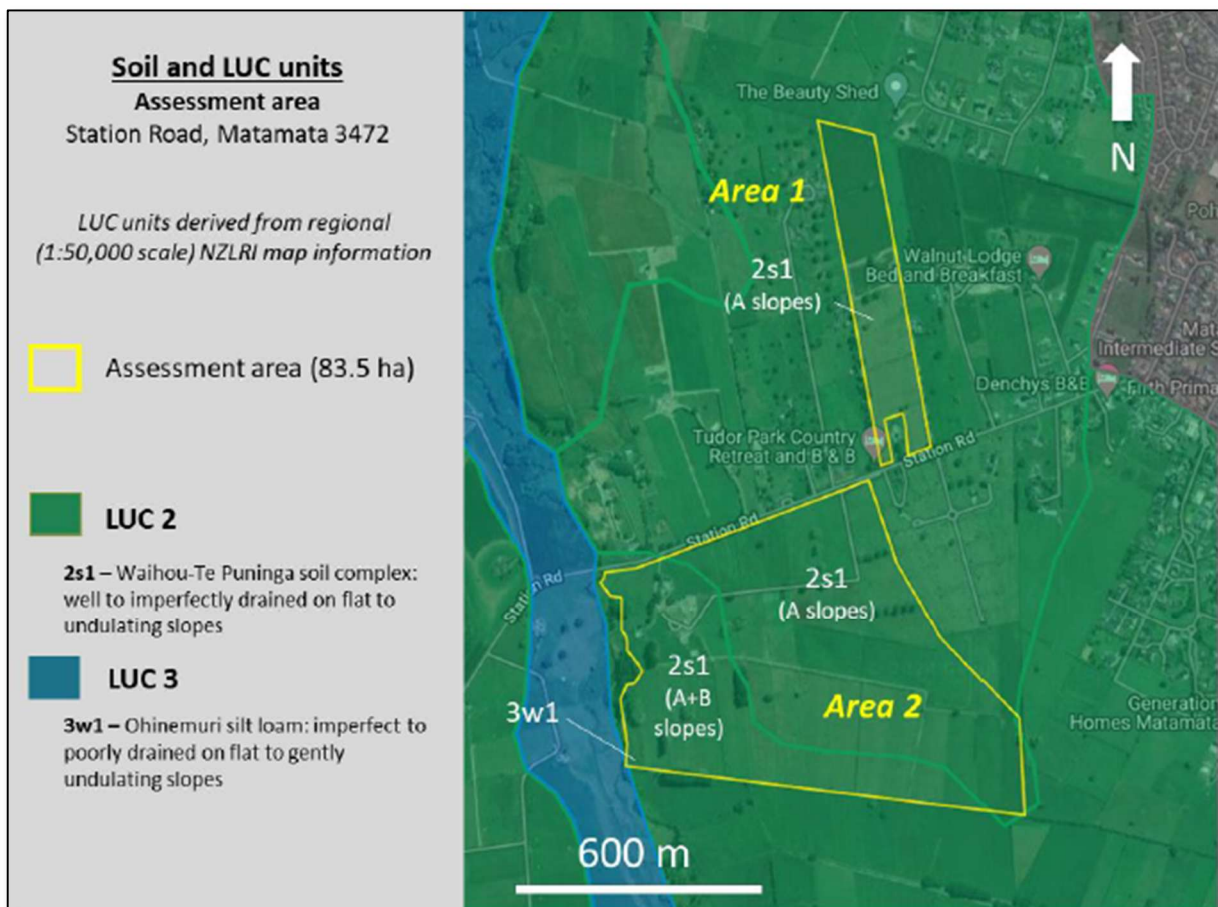


Figure 2: LUC units of the site, derived from regional-scale NZLRI maps (source: Landsystems report)

- 3.4 The report acknowledges the limitations of regional-scale LUC mapping (Section 6 of report), noting that such mapping is generally produced at a 1:50,000 scale with limited field verification. As a result, regional-scale information may not accurately represent local variations in soil and land characteristics at the property level. We agree with this interpretation.

3.5 The paddock-scale assessment undertaken by Landsystems sought to validate the existing regional-scale LUC classification of the site through detailed on-site investigation and mapping, and provides a more accurate basis for understanding its potential land use options. The results of this assessment, showing the dominant soils, LUC classes and units for the entire assessment area are shown in Figure 3.

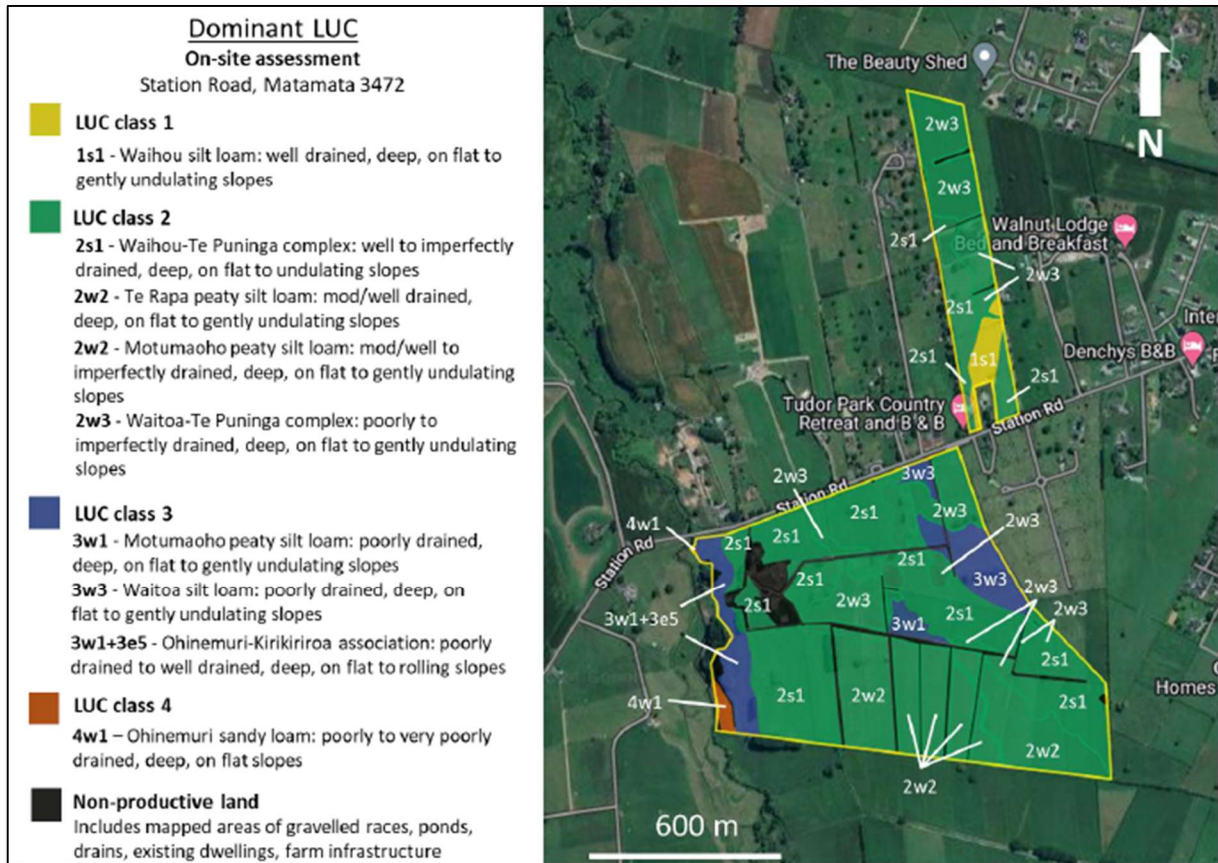


Figure 3: Distribution of LUC classes and soils across assessment area (source: Landsystems report)

3.6 Overall, the property-scale LUC mapping identified discrepancies in the extent of LUC class 2 and 3 land compared to the regional-scale maps, as well as in the drainage characteristics across the assessment area. Key observations included the following:

- Approximately 2 percent of the assessment area was LUC Class 1 land, which does not appear in the regional-scale maps.
- Of the LUC Class 2 land mapped at the regional level, there was a greater proportion of imperfectly to poorly drained 2w3 land and only 38 percent was imperfectly to well drained LUC 2s1.
- Around 20 percent of the assessment area was moderately well to imperfectly drained LUC 2w2.
- Approximately 10 percent of the assessment area was LUC Class 3 land (regionally mapped as less than 1 percent).
- Around 1 percent of the assessment area comprises LUC Class 4 land, which is not considered to be HPL.
- Around 7 percent of the entire assessment area comprises non-productive/modified land that is not available for primary production.

- 3.7 It is our interpretation that property-scale LUC assessments cannot be relied upon to exclude land from consideration under the NPS-HPL unless the more detailed mapping has been accepted by the relevant regional council (NPS-HPL Clause 3.4(5)(a)). We found no evidence in the application documents provided that the Waikato Regional Council has accepted the Landsystems LUC assessment for this site. Irrespective of this, the use of the property-scale LUC assessment has minimal influence on this property's classification under the NPS-HPL, as the report identifies that the majority of the rural-zoned area remains classified as LUC 2. Such assessments are nevertheless valuable for understanding site-specific characteristics and informing the range of potential land use options for HPL.
- 3.8 The report concludes that, as all soils within the assessment area are deep (greater than 1m) and experience a mild climate, the primary limitations for productive use are soil drainage (wetness) and slope class (erosion). We agree with this interpretation.
- 3.9 The report further identifies the suitability of individual LUC units (shown in Figure 3) for a range of productive uses. Considering the drainage and slope characteristics of the assessment area, the report concludes that the following productive uses would be suitable for each LUC unit:
- **LUC 1s1 and 2s1** (well-drained to imperfectly drained on flat to undulating contour): Suitable for year-round cropping, some horticulture, moderate intensity pastoral use, tree crops, and dual-use or agrovoltaic solar farming.
 - **LUC 2w3, 3w1 and 3w3** (imperfectly to poorly drained on flat to undulating contour): Soil wetness limitations on these areas will restrict year-round cropping and horticulture. Suitable for summer cropping and pastoral use.
 - **LUC 2w2** (moderately well to imperfectly drained on flat to undulating contour): Land use restricted by workability of organic soil in wetter months. Best suited for pastoral use.
- 3.10 The report identifies the LUC units from the property-scale assessment that exist where the proposed solar farms are to be developed. These areas are shown in Figure 4.



Figure 4: Proposed locations for solar farms (source: Landsystems report)

- 3.11 The LUC units identified in the property-scale assessment that exist where the solar farms are to be developed are reported as follows:
- i. Stage 1 solar farm: LUC 2w3 (53%), LUC 2s1 (30%), LUC 1s1 (13%), non-productive (4%)
 - ii. Stage 2 and 3 solar farm: LUC 2s1 (32%), LUC 2w2 (62%), LUC 2w3 (<1%), LUC 3w1 + 3e5 (3%), non-productive (3%)
- 3.12 We agree with the agronomic conclusions presented in the LUC classification assessment prepared by Landsystems, including the evaluation of the suitability of different LUC units for the identified range of land uses, and consider the overall conclusions to be well-founded.

4 Review of NPS-HPL assessment

- 4.1.1 Volume 1 (Ashbourne Evaluation and Overview Report) states in Section 17.2 that *“the proposal is considered to be consistent with the relevant objectives and policies of the NPSHPL”*. Detailed NPS-HPL assessments for each project component (vacant lot subdivision, solar farm, retirement village and residential subdivision) are given in Volumes 2–5 of the application documents.
- 4.1.2 The approximate location of the proposed development precincts, as indicated in the Overall Masterplan in the Urban Design Assessment from Barker and Associates (Appendix 1Q) is displayed in Figure 5.

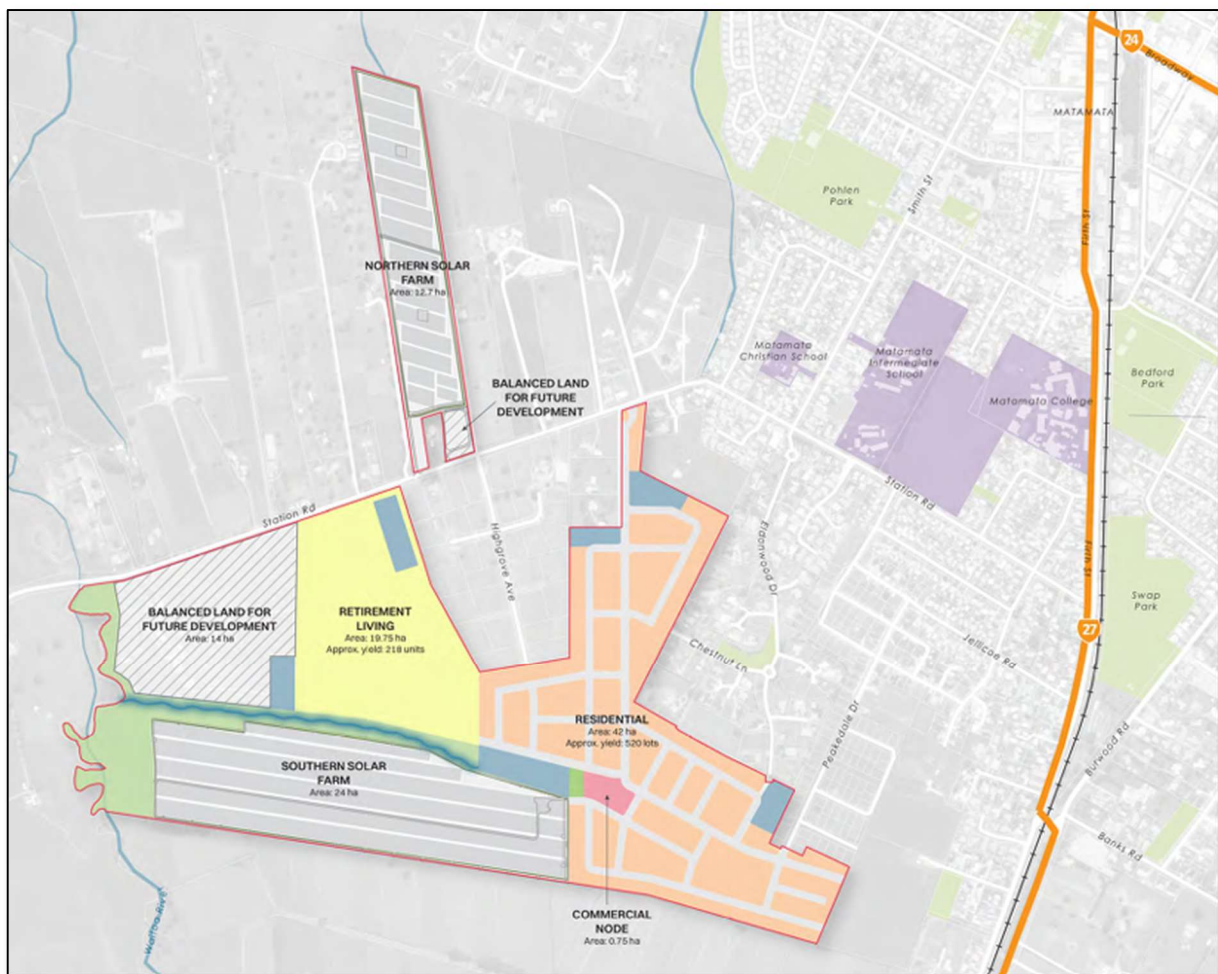


Figure 5: Location of development precincts in proposed Ashbourne project (source: Urban Design Assessment from Barker and Associates)

- 4.1.3 Three clauses within the NPS-HPL are potentially relevant when assessing subdivision or development on HPL. Clause 3.8 relates to the subdivision of HPL, Clause 3.9 addresses the development or use of HPL for non-land-based primary production (“LBPP”), and Clause 3.10 applies where permanent or long-term constraints affect the long-term economic viability of LBPP.
- 4.1.4 This review will interpret the conclusions reached in Volumes 2–5, in light of the relevant provisions of the NPS-HPL. Each of these are discussed in detail below.

4.2 Clause 3.8 of the NPS-HPL

4.2.1 Clause 3.8 of the NPS-HPL concerns the avoidance of subdivision of highly productive land. Subclause (1) provides that:

- 3.8(1) Territorial authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause (2) are applied:
 - (a) the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term;
 - (b) the subdivision is on specified Māori land;
 - (c) the subdivision is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.

4.2.2 The scheme plan for the proposed subdivision layout, as part of the Ashbourne project, is shown in Figure 6.

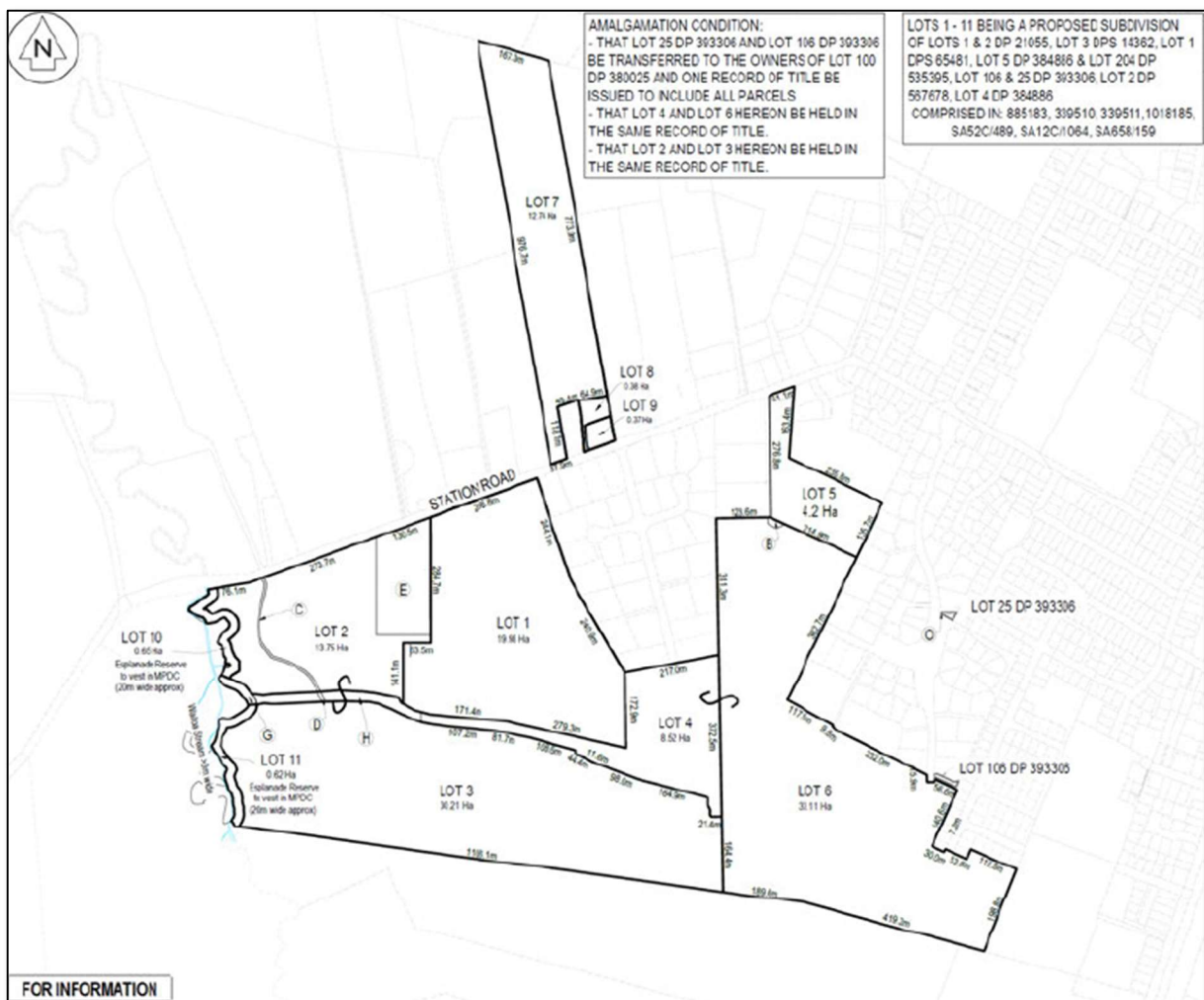


Figure 6: Scheme plan showing proposed subdivision lot layout (source: Volume 2 – AEE Vacant Lot Subdivision)

4.2.3 Volume 2, Section 6.2.1 acknowledges that *"the proposed subdivision to create lots 8 and 9 is not consistent with the NPS-HPL,"* but notes that *"the proposed subdivision design retains an appropriately sized balance lot (Lot 7) to support low-intensity uses."* However, it is not clear on what basis the conclusion regarding Lots 8 and 9 has been reached, or whether this assessment relates specifically to Clause 3.8, or instead reflects a broader non-compliance with the NPS-HPL.

4.2.4 In relation to the vacant lot subdivision, Section 6.2.1 of Volume 2 states that *"Clause 3.8 of the NPS-HPL is not applicable as the matters identified in 3.8(1)(a)–(c) do not apply to the proposed subdivision"*. In our view, Clause 3.8 is applicable to the proposed vacant lot subdivision. While the subdivision itself may, if considered in isolation, be capable of retaining the productive capacity of the land over the long term, it forms part of a wider development proposal that would render a significant proportion of the site's HPL inaccessible to land-based primary production. When considered in this broader context, it is unlikely that Clause 3.8 of the NPS-HPL can be fully satisfied.

4.3 **Clause 3.9 of the NPS-HPL**

4.3.1 Clause 3.9 of the NPS-HPL addresses the development of HPL for activities other than LBPP. Subclause 3.9(2) identifies specific circumstances where such development may be appropriate, including where it involves specified infrastructure with a demonstrated functional or operational need to be located on HPL.

- *3.9(2) A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:*

(j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land: (i) the development, operation, or decommissioning of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal:

4.3.2 If Subclause 3.9(2) is satisfied, the development must also satisfy Subclause (3)

- *3.9(3) Territorial authorities must take measures to ensure that any use or development on highly productive land: (a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and (b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.*

4.3.3 Volume 3, Section 6.2.4 assesses the development of the solar farm under the NPS-HPL, and states that the NPS-HPL seeks to *"avoid non-land-based primary production activities and subdivision, except where this is provided for under Clauses 3.8 and 3.10"*. As outlined above, we consider Clause 3.9 to be relevant in assessing whether the solar farm development is appropriate under the NPS-HPL.

4.3.4 Whether a functional or operational need exists for a solar farm at this location is primarily a planning or engineering consideration (e.g., proximity to power grid infrastructure, land availability and suitability for solar development, and alignment with regional energy policies). If such a need exists, we consider that the solar farms, as specified infrastructure, would satisfy Subclause 3.9 (2).

4.3.5 Volume 3, Section 6.2.4 states that the proposed solar farms will “support grazing of livestock beneath the solar arrays” and that they are “temporary in nature, with a lifespan of approximately 35 years.” It further notes that “the ongoing productive use of the land beneath the panels will ensure the ability for this land to be maintained in productive use long term, including beyond the lifespan of the solar farms if sought.” We agree that an agrivoltaic approach, combined with the temporary and reversible nature of the infrastructure, would be consistent with Subclause 3.9(3)(a). In our experience, the potential for reverse sensitivity effects associated with solar farms is low, and an agrivoltaic arrangement would present a lower risk than many alternative uses, including cropping or higher-intensity pastoral systems. Accordingly, the solar farm proposal is likely consistent with Subclause 3.9(3)(b).

4.3.6 We consider that the other development components proposed on the site’s HPL, including the proposed residential lots and retirement village, would not satisfy the requirements of Clause 3.9 of the NPS-HPL.

4.4 **Clause 3.10 of the NPS-HPL**

4.4.1 Clause 3.10 of the NPS-HPL describes exemption criteria where subdivision or development not otherwise enabled under Clause 3.8 and 3.9 may be permitted. Clause 3.10(1) states:

- *3.10(1) Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 if satisfied that:*
 - (a) there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years; and*
 - (b) the subdivision, use or development:*
 - i. avoids any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and*
 - ii. avoids the fragmentation of large and geographically cohesive areas of highly productive land; and*
 - iii. avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-based primary production from the subdivision, use, or development; and*
 - (c) the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*

4.4.2 Volumes 2–5 of the substantive application documents reference Clause 3.10 in relation to all aspects of the application, including the vacant lot subdivision, retirement village, solar farms and residential development. With respect to the retirement village, Volume 4, Section 6.2.3 refers to the Landsystem report and states that:

- *With respect to clause 3.10 and land that is subject to the NPS-HPL, the Land Use Capability Classification Assessment identifies that finds that while the Ashbourne site is predominantly underlain by LUC2 soils, detailed mapping confirms that significant areas of the overall site are subject to drainage and topography limitations which restrict productive potential. These limitations affect the viability of the land for intensive land-based primary production activities and limit the extent to which this land would meet the mapping criteria for an area of highly productive land that is within a large and geographically cohesive area as required under clause 3.4.*

- 4.4.3 As outlined above, the Landsystems report findings showed that approximately 40 percent of the assessment area comprises LUC 1s1 or 2s1 land at the property scale. This land is highly versatile and suitable for year-round cropping, some horticulture, moderate intensity pastoral use, tree crops, or dual-use agrovoltaic solar farming.
- 4.4.4 The remainder of the site comprises predominantly moderately well to imperfectly drained LUC 2w2 (approximately 20 percent of assessment area) and imperfectly to poorly drained LUC 2w3 (approximately 21 percent). While the wetness limitation and drainage characteristics of these LUC units somewhat restricts versatility, the Landsystems report concludes that these areas remain suitable for pastoral use and seasonal cropping, particularly during summer months.
- 4.4.5 In relation to topographic limitations, approximately 4 percent of the assessment area comprises LUC 3w1 and 3e5 land, with slopes up to 13 degrees. In our experience, this level of slope does not materially impact a wide range of LBPP activities and remains suitable for grazing, mowing and cultivating under appropriate management conditions.
- 4.4.6 While the application documents suggest that drainage and topography limitations restrict the productive potential of parts of the site, we do not consider these factors preclude the land's continued productive use, as they can be addressed through appropriate drainage, grazing and cropping practices.
- 4.4.7 We also do not consider that the individual LUC units identified within the Landsystems report, and their drainage or topography limitations, limit the extent to which the land meets the mapping requirements in clause 3.4. The HPL policy addresses LUC Classes 1, 2, and 3 land, rather than the individual units within them. In our interpretation of Clause 3.4(5)(b)–(d), the intent is to enable a pragmatic approach to mapping HPL areas, ensuring the policy is applied efficiently and practically. The class 4 land mapped in the report may impact the clause 3.4 mapping; however, given the scale of the LUC 4 area (1 percent of assessment area), this is unlikely to materially affect how the entire site is evaluated under the HPL policy.
- 4.4.8 Furthermore, the site remains within a much larger and geographically cohesive area of highly productive land extending from south of Matamata through to the Hauraki Plains (see Figure 7).

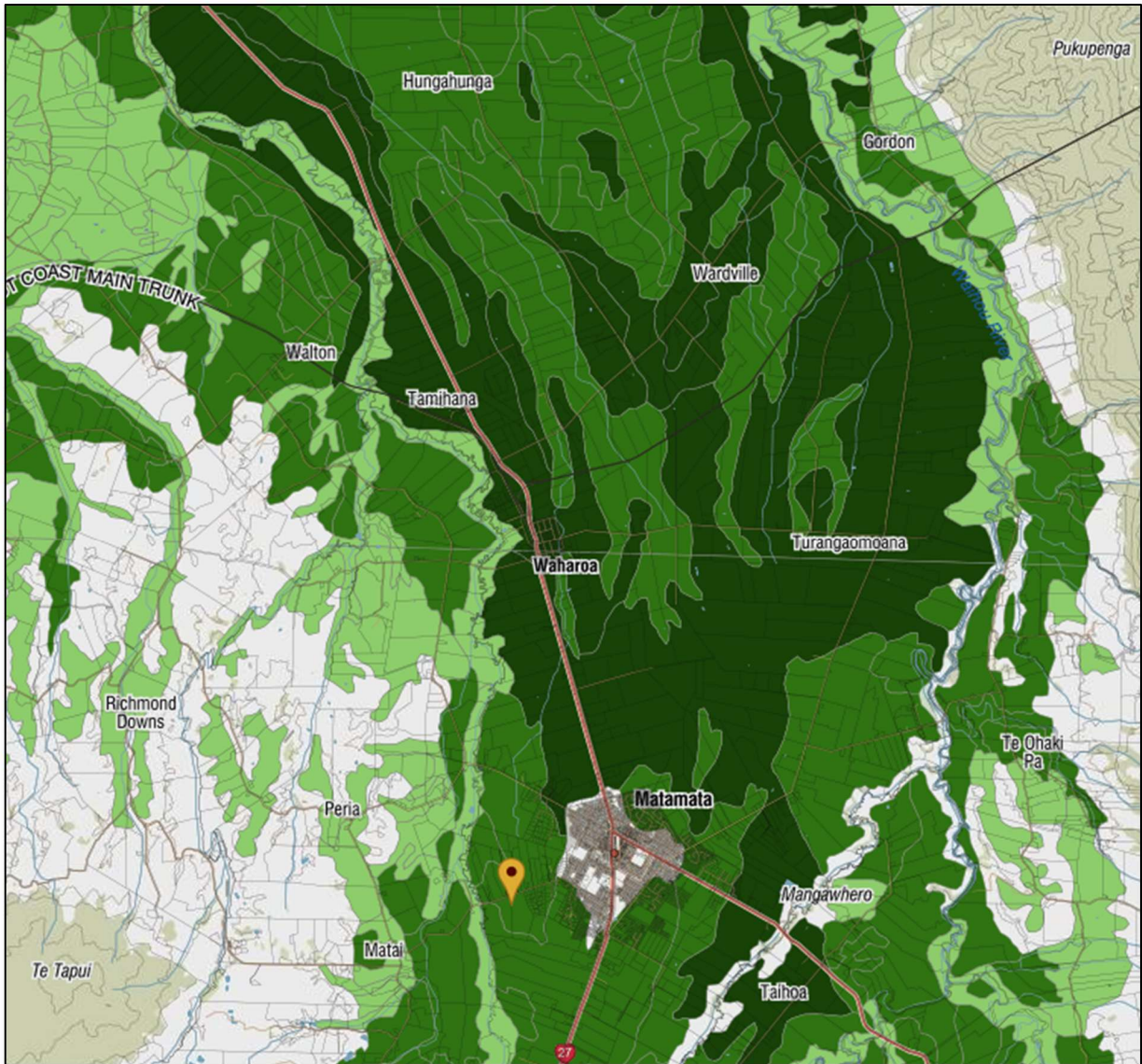


Figure 7: Approximate location of site (yellow marker) within a larger, contiguous area comprising LUC 1 (dark green), LUC 2 (green) and LUC 3 (light green) land. Source: Our Environment².

4.4.9 The Memorandum prepared by Barker and Associates, dated 22 October 2025, provides additional analysis and concludes that the Ashbourne development is considered to meet the exemption criteria set out in Clause 3.10 of the NPS-HPL, stating that:

- *“...the site is subject to a combination of permanent and long-term constraints that significantly limit its viability for productive use. These include the sites soil and hydrological characteristics, soil wetness, areas of non-productive land and existing fragmentation, which cumulatively reduce the site’s practical productive potential.”, and*
- *“The land is subject to permanent or long-term constraints that make primary production economically unviable;”*

² https://ourevironment.scinfo.org.nz/maps-and-tools/app/Land%20Capability/lri_luc_main

- 4.4.10 In relation to the reference to "*areas of non-productive land and existing fragmentation*" as potential permanent or long-term constraints, the Landsystems report notes that most non-productive areas comprise farm infrastructure such as raceways, drains, silage storage areas, and sheds. These features are integral to the efficient operation of the dairy farm and are not considered to constrain its productive potential. Likewise, as discussed above, any existing degree of HPL fragmentation does not appear to materially limit the site's ongoing productive use.
- 4.4.11 On balance, the site comprises versatile land suitable for multiple productive uses. Historical and recent aerial imagery, along with site observations, indicate that the area has been used for dairy farming and seasonal cropping (likely maize). There are no apparent constraints that would prevent the continuation of these or similar land uses. As noted in the Landsystems report, approximately 40 percent of the site may also be suitable for horticulture or tree crops.
- 4.4.12 Our interpretation of the most appropriate definition of economic viability under Clause 3.10 of the NPS-HPL is:
- A positive operating profit (EBITR) or economic farm surplus (EFS) sufficient to cover the cost of capital employed or deployed in the operation of the land, excluding the cost of capital associated with the land itself.
- 4.4.13 This definition considers all income and expenditure relevant to the productive capacity of the land, other than land value, as land value is often influenced by factors other than land-based primary production.
- 4.4.14 The primary purpose of the NPS-HPL is to protect HPL from conversion to non-productive uses, recognising that primary production activities typically cannot compete with urban or commercial development in terms of economic returns. Allowing comparative financial returns from residential or retirement village developments to be used as a basis for exemption under Clause 3.10 would undermine this purpose and be inconsistent with the intent of the NPS-HPL.
- 4.4.15 Regarding the economic viability of the site's ongoing use for productive purposes, in our opinion the site possesses the physical characteristics and scale typical of viable pastoral or mixed farming operations in the area, and there is no clear evidence to suggest that its continued productive use would be economically unviable (i.e., not return a positive economic farm surplus). In the subject area we consider that the following land uses would reasonably be expected to achieve indicative operating profit (EBITR) ranges outlined below (per hectare):
- Dairy farming: \$2,000 to \$4,000 per hectare
 - Dairy support: \$500 to \$1,000 per hectare
 - Arable (e.g. maize cropping): \$1,200 to \$2,500 per hectare
- 4.4.16 All of the above land uses are expected to cover the cost of the required capital employed/deployed on the land. Operating (or leasing out) the bare land as arable would have a very low or negligible capital requirement on the land particularly where contractors' machinery is used for cropping practices.

4.4.17 Even if the assessment area, or parts of it, were considered to be subject to permanent or long-term constraints, Clause 3.10 establishes a broader test that requires all elements of Subclause (1) to be met. In particular, the applicant must also demonstrate that the proposal would avoid significant loss of productive capacity, avoid fragmentation of HPL, and that any loss is outweighed by its wider environmental, social, cultural and economic benefits. We have not seen sufficient evidence to suggest the project would satisfy all of these criteria.

4.4.18 Clause 3.10(2) further requires that all reasonably practicable options to retain productive capacity be evaluated before concluding that the land is economically unviable:

- *3.9(2) In order to satisfy a territorial authority as required by subclause (1)(a), an applicant must demonstrate that the permanent or long-term constraints on economic viability cannot be addressed through any reasonably practicable options that would retain the productive capacity of the highly productive land, by evaluating options such as (without limitation):*

(a) alternate forms of land-based primary production:

(b) improved land-management strategies:

(c) alternative production strategies:

(d) water efficiency or storage methods:

(e) reallocation or transfer of water and nutrient allocations:

(f) boundary adjustments (including amalgamations):

(g) lease arrangements.

4.4.19 In the event that the current land use (i.e., dairy farming) were to become economically unviable due to reduced scale or fragmentation (i.e., if solar farms were developed), the land would nevertheless remain available for a range of land-based primary production activities as outlined above. Given the site's physical characteristics and versatility, it is difficult to envisage a scenario where no productive use could achieve a positive economic farm surplus once the range of alternative options identified in Clause 3.10(2) are considered.

4.4.20 Clauses 3.10(3)(a)–(c) specify that, when evaluating reasonably practicable options under Subclause (2), assessments must not take into account the potential economic benefits of using highly productive land for purposes other than land-based primary production. They must also consider the effects of any proposed loss of HPL on the wider landholding and the future productive potential of the land, not limited by its current or past uses. There is no indication that these matters have been satisfactorily addressed within the application material. Furthermore, Clause 3.10(4) clarifies that the size of the landholding alone is not a determinant of a permanent or long-term constraint and therefore cannot be relied upon as justification for exemption.

4.4.21 Overall, we do not consider that sufficient evidence has been presented in the application documents to demonstrate that the Ashbourne project satisfies Clause 3.10 of the NPS-HPL.

5 Conclusions

- 5.1 Based on our review of the application documents, supporting appendices, and relevant provisions of the National Policy Statement for Highly Productive Land (NPS-HPL), the following conclusions are drawn:
- 5.2 We consider that the Land Use Capability (LUC) classification assessment prepared by Landsystems provides a detailed and methodologically sound evaluation of the site's productive characteristics. While a detailed site inspection has not been undertaken by Perrin Ag, the Landsystems assessment appears robust in methodology and comprehensive in scope.
- 5.3 The assessment confirms that the majority of the rural-zoned portion of the Ashbourne site (the 83.5 hectare "assessment area") comprises highly productive land, including areas of LUC 1s1 and 2s1 soils that are versatile and capable of supporting a range of productive land uses.
- 5.4 The Landsystems report identifies some areas with wetness limitations (LUC 2w2 and 2w3), however, we do not consider these to represent permanent or long-term constraints in the context of the NPS-HPL, given these wetness limitations can typically be managed through appropriate land management and drainage practices.
- 5.5 We note that property-scale LUC mapping cannot be used to exclude land from the application of the NPS-HPL unless approved by regional council. Accordingly, reference to Clause 3.4 mapping criteria in the application documents does not alter the site's status under the transitional definition of highly productive land in Clause 3.5(7).
- 5.6 In our view, Clause 3.8 (Subdivision) of the NPS-HPL is applicable to the proposed vacant lot subdivision. While the subdivision may, when considered in isolation, be capable of retaining the productive capacity of the land, it forms part of a broader development that would substantially limit the availability of highly productive land for primary production. If assessed in this wider context, the proposal appears unlikely to fully satisfy the requirements of Clause 3.8 of the NPS-HPL.
- 5.7 We consider that Clause 3.9 (use and development) is relevant to the proposed solar farm. Subject to confirmation of a functional or operational need for the location, and the implementation of an agrivoltaic configuration that enables ongoing productive use, the solar farm proposal could be consistent with the requirements of Subclauses 3.9(2) and 3.9(3).
- 5.8 Clause 3.10 does not appear to be satisfied. In our opinion, the evidence provided does not demonstrate that the land is subject to permanent or long-term constraints that would render land-based primary production economically unviable for at least 30 years. For the purposes of this review, *economic viability* is interpreted as a positive operating profit (EBITR or EFS) sufficient to cover the cost of capital employed or deployed in the operation of the land, excluding the cost of capital associated with the land itself. On that basis, the site's characteristics, soil types, and historical land use, indicate that it remains economically viable for continued productive use, including at a reduced scale.
- 5.9 On balance, we consider that the Ashbourne project does not fully satisfy the relevant provisions of the NPS-HPL as they relate to subdivision and development of highly productive land. While the proposed solar farm component may align with the intent of Clause 3.9, the remainder of the proposed development does not demonstrate compliance with Clauses 3.8, 3.9 or 3.10.