
MINUTE 27 OF THE EXPERT PANEL

Applicant's response to comments on draft conditions
Fast-track Approvals Act
Ashbourne [FTAA-2507-1087]

(26 March 2026)

1. On Monday 23 March 2026 the Commenters and the Applicant provided comments on the draft conditions under section 70 of the FTAA. The Applicant also provided its response to the draft decision under section 69 of the FTAA. All responses have now been uploaded to the Fast-track website. The Applicant has until Monday 30 March 2026 to respond to comments from other parties.

Applicant's response to comments on draft conditions from the Councils

2. The purpose of this Minute is to request some further clarification and advice from the Applicant and direct an approach to the manner in which the Applicant responds to the comments from the MPDC and the WRC ('the Councils').
3. Because there is such a plethora of comments requesting amendments, deletions and new conditions, the Panel requests the Applicant to address any comments it has regarding the Councils' comments against MPDC's tracked changes on the version issued with the draft decision.

Separate Land Use consents

4. The Applicant states that while Ashbourne is one master-planned application, it seeks to have a Decision providing for conditions as discrete and separate for each of the project entities, rather than conditions applying across the whole project.
5. The issue for the Panel is that there are legal constraints on how we can ensure that all LUC's for each component of the project will be given effect to. It was originally suggested by the Panel that we could impose a condition that Stage 4 of the Residential subdivision could not proceed until the consents for the Northern Solar Farm had been given effect. If the components are not integrated, we cannot require a third party to comply with a condition of consent, namely, to construct and operate a solar farm by a certain stage of a different consent. If individual components are not implemented, this may raise the question of whether this still gives effect to the reason why the application was referred as a fast-track project.
6. In response to a query from the Panel in Minute 11, Counsel for the Applicant

made the following submissions in a legal opinion dated 30 January at paragraph 7 onwards:

In paragraph 7 of Minute 11 of the Panel stated: The Panel notes the Applicant's opposition to delivery of the solar farms being conditional on any aspect of the residential subdivision or retirement village (Barker Memorandum, at pages 2 and 3). However, the Panel also understands there is a level of interdependence in any respect, with the southern solar farm not being able to be delivered until Stage 4 of the residential subdivision.

MDL appreciates the subsequent clarification that the Panel has provided. It has carefully considered how to most appropriately address the issue that the Panel has raised in that paragraph.

Reflecting that MDL is committed to implementation of the Proposal in its entirety, it volunteers on an Augier basis the following two conditions of consent: XX1. In relation to the solar farm activity on Lot 3 of SUBXXX:

- a) That prior to the issuing of s224(c) certificates for any stages beyond Stage 4 of the subdivision, the applicant confirms: i. the physical works in clause (a)(ii), as shown and approved on the 'Proposed Solar Farm Substation Connection Plan' prepared by MAVEN, Drawing C720 Rev D dated 04/2025, have been constructed with appropriate easements and access provided; and ii. that a 33KV power transmission cable connection from Lot 3 of SUBXXX to the Tower Road Sub Station be confirmed with As Built plans to the satisfaction of the General Manager Engineering MPDC.*
 - b) As alternative to compliance with sub-clause(a) of this condition: i. Should an alternative connection from Lot 3 of SUBXXX to the satisfaction of the General Manager Engineering at the Matamata-Piako District Council (or equivalent position) be made or confirmed via land free of any consent requirements to a substation with appropriate easements and access prior to Stage 5; or ii. The General Manager Engineering at the Matamata-Piako District Council (or equivalent position) certifies that the applicant has provided an alternative arrangement that provides equivalent certainty that Lot 3 of SUBXXX will be used for the solar farm activity authorised by this consent; compliance with sub-clause (a) shall not be required.*
 - c) Where sub-clause (b) of this condition is relied upon, the corresponding consent notice (refer to condition [XX2]) is also no longer required. XX2. That a consent notice be registered on Lot 3 of SUBX.*
7. The Panel requests the Applicant to provide a clear means by which the components of the Project can be approved as separate entities with separate conditions, while still ensuring that the approved aspects of the project can be integrated in terms of certainty of delivery.

Deemed Certification

8. There has been a considerable degree of opposition to the application of the concept of 'deemed certification'. In MPDC's comments, Mr Rademeyer drew our attention to the Environment Court's position by reference to the case law supporting his view that deemed certification in the present circumstances would

not be appropriate. We are aware that such case law exists. The Panel records that it is mindful to review and possibly amend conditions to remove reference to 'deemed certification' in accordance with current case law. The Applicant is invited to comment.

Expert Conferencing on Conditions of Consent

9. The Applicant has suggested expert conferencing between the Applicant and the Councils following receipt of all comments on conditions. The Panel is supportive of that proposal and would encourage such a course of action. The conferencing would be required to include the Panel's planning expert Susannah Tait.

Proposed modification to Development Controls

10. The Panel observes that the comments in the Urban Design response on behalf of the Applicant seek to modify the conditions addressing Development Controls and the Residential Design Guide to reduce the 4m wide landscape buffer to 3m and remove the 6 metre/single storey height control for part of the residential subdivision on the basis that it is no longer necessary. The Panel will consider this amendment along with other comments.

Dewatering - Groundwater Take and Drilling Below the Water Table – Solar Farms

11. The Panel also observes that the Applicant has proposed consent conditions for temporary dewatering - groundwater take and drilling below the water table for the solar farms. We are not aware of any proposed activities on the solar farms which would trigger the requirement for such consent conditions. The Panel requests that the Applicant clarify and explain what activities these conditions refer to.
12. The Applicant should respond by **5pm Monday 30 March**.



Sue Simons
Expert Panel Chair