

BEFORE THE ASHBOURNE EXPERT PANEL

In the matter of

of the Fast-Track Approvals Act 2024 (the *FTAA*) and the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the *FTAA* to:

- (a) Undertake a stage 0 vacant-lot subdivision in Matamata;
- (b) Authorise a mixed-use residential and retirement development project comprising a 500 vacant-lot subdivision and 250 retirement units and aged-care facility; and,
- (c) Approve associated commercial development, infrastructure and two solar farms.

Expert Panel

Sue Simons (*Chair*)

John [Name] (*Member*)

Nigel [Name]-Brown (*Member*)

Comments received under Section 53 of the FTAA:

17 November 2025

SUPERSEDED

Record of Decision of the Expert Consenting Panel under Section 87 of the Fast-Track Approvals Act 2024

Dated 21 April 2026

Decision: Approval is partially granted, subject to conditions.

Date of Decision:

21 April 2026

Date of Issue:

21 April 2026

SUPERSEDED

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APPENDIX C: STORMWATER BASIN CATCHMENT OVERVIEW PLAN

SUPERSEDED

DECISION MADE BY THE PANEL: ASHBOURNE

PART A: EXECUTIVE SUMMARY

1. This is an application by Unity Developments (**Applicant**) for multiple resource consents under the RMA to authorise the proposed Ashbourne mixed-use development, which will provide capacity for approximately 520 dwellings, 218 retirement living units, a 70-bed aged-care hospital, greenway and two solar farms at Station Road, Matamata (**Application**).
2. The Application proposes a development (**Project** or **Proposal**) comprised of four discrete but connected parts (**Project Parts**), which are best described as:
 - a. 518 vacant freehold lots within a residential subdivision and neighbourhood superlot supporting a superette, childcare, café and commercial tenancy node;
 - b. 218 villa retirement village and supporting facilities, including a 70-bed aged care hospital and two four-bedroom staff accommodation units ("**RV**");
 - c. Two solar farms, consisting of approximately 50,000 solar panels, with the proposed ability to power approximately 7,000 homes within the community; and
 - d. An open space network which includes a neighbourhood park and 'Greenway', incorporating stormwater conveyance and a shared pathway.
3. Details of each Project Part are set out across five volumes of Assessment of Environmental Effects (**AEE**), which are each included in the Application, titled:
 - a. Volume 1 – Ashbourne Overview Report;
 - b. Volume 2 – Stage 0 Vacant Lot Subdivision;
 - c. Volume 3 – Solar Farms;
 - d. Volume 4 – Retirement Village; and
 - e. Volume 5 – Residential Subdivision and Greenway.

4. The site comprises various parcels of land at Station Road, Matamata, combined to form a proposed development of 125 hectares (**Site**),¹ bound to the west by the Waitoa River.
5. The Application is not a listed project in Schedule 2 of the Fast-track Approvals Act 2024 (**FTAA**), notwithstanding the Applicant's initial assertion to that effect. The referral application was accepted by the Minister for Infrastructure under section 21(1)(c) and referred under section 26(2)(a) on 13 May 2025.
6. The Environmental Protection Authority (**EPA**) assessed the Application under section 46(2) and found it met the completeness and scope requirements of the FTAA. The application was then forwarded to Associate Panel Convener Jennifer Caldwell (**Panel Convener**), who established the panel under section 50.
7. This expert panel was appointed to determine the Application on 19 September 2025 (**Panel**).
8. The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA. The purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.²
9. On 13 October 2025, the Panel invited comments under section 53 of the FTAA, and received responses from 17 parties on 11 November 2025, including the Waikato Regional Council (**WRC**), Matamata-Piako District Council (**MPDC**), and landowners and other parties the Panel considered relevant to comment on the Application. The Applicant then responded to these comments on 18 November 2025. The comments received, and the Applicant's response, raised several matters for the Panel's consideration, including amenity effects, effects on water and hydrology, economic benefits, servicing capacity and traffic.
10. Subsequently, the Panel issued several Minutes requesting further information on these matters, as empowered by section 67 of the FTAA, and directed expert issues conferencing on hydrology and economics. The relevant parties responded as directed. The Panel has carefully reviewed all of this information in evaluating the Application.

1 Lot 2 DP 567678, Lot 2 DP 21055, Lot 1 DP 65481, Lot 4 DP 384886, Lot 4 DP 384886, Lot 5 DP 384886, Lot 204 DP 535395, Lot 25, 106 DP 393306, Lot 3 DP (South Auckland) 14362, Part Lot 1 DP 21055.

2 Fast-track Approvals Act 2024, s 3.

11. Schedule 5, clause 17 of the FTAA sets out the criteria and other matters for assessment of resource consent applications. These include:
 - a. The purpose of the FTAA (*to be given the greatest weight to*);
 - b. The provisions of Parts 2, 3 and 6 of the RMA that direct decision making on an application for a resource consent (excluding section 104D);
 - c. The relevant provisions of any other legislation that directs decision making under the RMA.
12. The Panel considers that, having considered all relevant matters, the Project meets the purpose of the FTAA in some respects but not all.
13. The retirement village (**RV**) is declined. The adverse impacts include:
 - a. There is no lawful pathway for locating the RV on highly productive land (**HPL**).
 - b. There is no demonstrated short or medium-term demand for retirement villages that would justify locating the RV on HPL as shown in the evidence accepted by the Panel.
 - c. Alternative, serviced sites are available in Matamata on which the RV could be located, as also shown in the evidence accepted by the Panel.
 - d. The proposed location of the RV is inconsistent with both the WRPS and the MPDP.
14. The residential subdivision is declined where it is located on HPL and any subdivision redesign to address external boundaries and setbacks have been concluded. The Applicant has reconfigured the residential subdivision to take account of the external boundary and setback requirements the Panel has imposed, as well as the HPL.
15. The balance of the application, being the solar farms and the greenway are approved subject to the conditions set out in **Appendix A**.
16. The draft decision was issued on 11 March 2026, in accordance with section 69 and section 70 of the FTAA (**Draft Decision**) and was prepared in accordance with s 87 of the FTAA. Under section 87(2), this decision document must state the Panel's decision, the reasons for that decision, the principal issues in contention, and the Panel's main findings on those issues. This decision covers all approvals sought under the substantive application under the RMA.
17. This document includes:

- a. The decision – throughout and summarised in Part N;
 - b. The reason for the decision – throughout and summarised in Part N;
 - c. A statement of the principal issues in contention – Part I and summarised in Part N; and,
 - d. The main findings of the principal issues in contention – Part I and summarised in Part N.
18. The Panel issues this final decision in accordance with the timing requirements of section 79 of the FTAA.

PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

Application

19. For ease of reference, all information regarding the Application is publicly available on its Fast-track approvals website page.³

Applicant

20. Unity Developments (also referred to as Matamata Development Limited) is the authorised person for Ashbourne as set out in section 42 of the FTAA (hereafter, **the Applicant**). Unity Developments is a group of land developers and investors.

Site and surrounding environment

21. The Site comprises seven lots, containing nine land parcels at Station Road, Matamata, that together form a total site area of 125.5 hectares. The Applicant purchased these parcels from individual landowners and became the owner of all title upon settlement on 7 February 2026.
22. The Applicant provides a detailed description of the Site,⁴ which is irregularly shaped, broken into four key areas, each related to a Project Part based on the initial 'Stage 0' subdivision, which are the northern solar farm, the southern solar farm, the RV and residential subdivision and greenway. Station Road runs east to west through the centre of the site, creating the Site's "Northern Area" and "Southern Area". Both the Northern and Southern Areas of the Site are accessed via Station Road.

3 Fast-track Approvals, "Ashbourne" <<https://www.fasttrack.govt.nz/projects/ashbourne>>.

4 AEE Volume 1, Evaluation and Overview Report, at 7.0.

23. The following is a summary of the features and characteristics of the Site and surrounding area as described in the Application:⁵
- a. The western boundary of the Site is defined by the Waitoa River, with its topography generally sloping gently in that direction. Areas within the flood plain of the river are observable at this end. The riparian margin, along with established vegetation, contributes ecological value to the Site.
 - b. The northern portion of the Site is characterised by existing rural living and general residential areas, whilst the southern portion is predominantly general rural. The RV Project Area was being used as a working farm at the time the Application was lodged. Existing rural structures along Station Road reflect historic patterns of agricultural use.
24. The Site is zoned as primarily General Rural and Rural Lifestyle under the Matamata-Piako Operative District Plan (**MPDP**), with a part of the Site captured by the Eldonwood South Structure Plan (**ESSP**). The zoning of each Project Zone is:
- a. Solar farms – General Rural Zone.
 - b. RV – General Rural Zone.
 - c. Residential and greenway – Rural Lifestyle Zone and General Rural Zone (small portion).

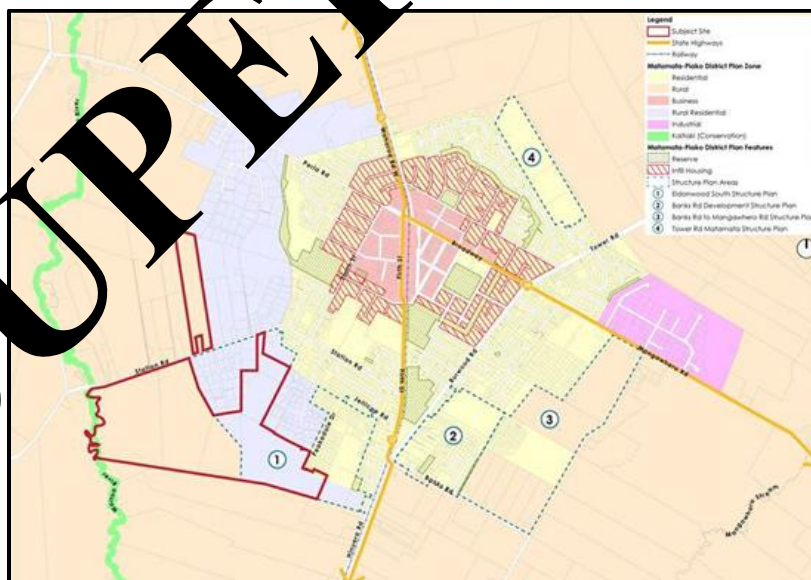


Figure 1 – Zoning Map – (AEE Volume 1: Overview Report – Figure 1)

25. There are no MPDP or WRP overlays or controls that are located on or affect the Site. Under clause 3.5(7) of the National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**), some of the land on the Site is classified as HPL.⁶ It is predominantly comprised of Land Use Capability (**LUC**) Class 2, with smaller portions falling under LUC Class 3.⁷

Overview of the application

26. Volume 1 of the AEE describes the Project as a residential and retirement development in Matamata, comprising a 518 vacant-lot residential subdivision and 250 retirement units and aged-care facility. The Project also includes a commercial development, associated infrastructure, and two solar farms.
27. Specifically, the Application sought consent for the following components:
- a. A Stage 0 superlot subdivision⁸ which creates 11 new lots including seven large superlots (Lots 1–7) intended for future residential, solar, and retirement developments; two rural residential lots (Lots 8 and 9), each approximately 3,500m² in size;⁹ and two esplanade reserve lots (Lots 10 and 11) located adjacent to the Waitoa River. No physical works are associated with this component.
 - b. A residential subdivision¹⁰ comprising approximately 518 lots, associated earthworks, subdivision, public open space, and a neighbourhood centre with commercial activities.
 - c. A multi-functional gateway¹¹ incorporating active transport connections, development infrastructure, and stormwater management systems.

6 Highly productive land means land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land). National Policy Statement on Highly Productive Land 2022 as amended December 2025.

7 Landsystems, Land Use Capability Classification Assessment – Lot 2 DP 567678; Part 1 Lot 1 DP 21055; Lot 2 DP 21-55; Part Lot 3 DPS 14362, Station Road, Matamata 3472 (21 August 2024).

8 AEE Volume 2, Stage 0 Vacant Lot Subdivision.

9 Subsequently deleted, as discussed elsewhere in this decision.

10 AEE Volume 5, Residential Subdivision and Greenway.

11 AEE Volume 5, Residential Subdivision and Greenway.

- d. A retirement village¹² comprising approximately 250 units, associated earthworks, a hospital facility, and supporting amenities.
- e. Two solar farms¹³ covering approximately 13 hectares and 25 hectares respectively, including vegetation planting, earthworks, and infrastructure. These are expected to generate up to 52,000 megawatt hours annually.
28. Each Project Part has its own set of stages, following the Stage 0 subdivision. A summary of these stages is as follows:
- a. Solar farms to be delivered in two stages:
- i. Stage 1: Northern Solar Farm (13.5 ha) comprising ~14,700 solar panel and 2 power transformers (11kV); and
 - ii. Stage 2: Southern Solar Farm (30+ ha) comprising ~34,000 solar panels and 3 power transformers (33kV).
- b. RV to be delivered in ten stages:
- i. Stage 1: 25 villas and facilities phase one;
 - ii. Stage 2: 27 villas;
 - iii. Stage 3: 28 villas and facilities phase two;
 - iv. Stage 4: 27 villas;
 - v. Stage 5: 26 villas;
 - vi. Stage 6: 25 villas;
 - vii. Stage 7: 24 villas and facilities phase three;
 - viii. Stage 8: 25 villas;
 - ix. Stage 9: 11 villas; and
 - x. Stage 10: hospital and nurses accommodation.
- c. Residential subdivision and greenway to be delivered in eight stages:

12 AEE Volume 4, Retirement Village.

13 AEE Volume 3, Solar Farms.

- i. Stage 1 (Sub-stages 1A–1C): residential lots 1 – 68;
- ii. Stage 2 (Sub-stages 2A–2C): residential lots 69 – 145;
- iii. Stage 3: residential lots 146–217;
- iv. Stage 4: residential lots 218–277;
- v. Stage 5: residential lots 278–337;
- vi. Stage 6: residential lots 338 – 389;
- vii. Stage 7: residential lots 390 – 455; and
- viii. Stage 8: residential lots 456 – 518.

Resource consents

29. The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants and summarised the necessary resource consent triggers for the Project at **Appendix B**. In summary, the Panel agrees that the overall consent status for each part of the Application is as follows:¹⁴
 - a. Stage 0 subdivision: a Controlled activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**) and a Non-complying activity under the MPDP.
 - b. Solar farms: a Controlled activity under the NES-CS, a Controlled activity under the Waikato Regional Plan (**WRP**) and a Restricted Discretionary activity under the MPDP.
 - c. RV: a Controlled activity under the NES-CS, a Discretionary activity under the WRP, and a Non-complying activity under the MPDP.
 - d. Residential subdivision: a Controlled activity under the NES-CS, a Discretionary activity under the WRP, and a Non-complying activity under the MPDP.
30. There were no matters of contention in respect of the status of each part of the Application. However, we take note of the comments of the planner for MPDC, Marius Rademeyer, who was of the view that:¹⁵

14 As amended to reflect the matters for which consents are granted by this decision.

15 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council, Planning (11 November 2025) at 1.

While the application includes three distinct components (residential development, retirement living and solar farms) it is understood that an integrated approval is sought for the whole "package" with the individual components being inseverable.

Were the proposal (overall) to be considered under the RMA, it would be assessed "in the round" as a non-complying activity.

31. The Panel agrees, noting that the Application has been submitted as a singular overall proposal, albeit of four component parts (three of which are non-complying activities), and would require consent as a non-complying activity overall, and of the well-understood 'bundling' approach to establishing an overall consent status an application.
32. Practically speaking, and given our finding set out later in the decision that the residential development and the solar farms individually, do not stand alone in terms of regional significance, this decision issues singular consents for each individual activity.

Procedure

33. The following matters of procedure are relevant for this decision.

Meetings and site visits

34. The Panel held its first meeting with the Panel Convenor on 29 September 2025 and visited the Site on 8 October 2025. This Site visit was assisted by representatives of the Applicant, who presented a summary to the Panel. The Site visit was undertaken both on foot and by car, and the Site's surrounds, including the land directly adjacent to the Project area, were viewed by vehicle from surrounding roads.
35. The Panel held regular meetings via Microsoft Teams to deliberate and discuss contentious issues and other decision-making matters, which were supplemented by frequent email correspondence. The Panel held video meetings on the following occasions:
 - a. 3 October 2025;
 - b. 10, 14 and 20 November 2025;
 - c. 1, 8, 9, 15, 18 and 22 December 2025;
 - d. 21 and 28 January 2026;
 - e. 2, 4, 5, 9, 16, 20, 23 and 24 February 2026;

- f. 5, 16, 17, 25 and 31 March 2026; and,
- g. 8, 14 and 20 April 2026.

Invitations to comment

36. The Panel invited comments on the Application via Minute 1 dated 13 October 2025, with responses to this invitation due on 11 November 2025. Comments were received on time from the following:

- a. Waikato Regional Council;
- b. Matamata-Piako District Council;
- c. The Minister for Infrastructure;
- d. The Minister for Regional Development;
- e. The Minister for Seniors;
- f. The Minister for the Environment;
- g. The Director General of Conservation;
- h. The New Zealand Transport Agency;
- i. Multiple owners (or occupiers under section 53(2)(j) of the FTAA) of land to which the substantive application relates:
 - i. Lots 127 and 1247, Station Road.
 - ii. Lots 3, 5 and 5 Station Road.
 - iii. Lots 204 and 25, Eldonwood Drive.
- j. Multiple owners and occupiers of the properties of land adjacent, or land that should be considered adjacent, to the land to which the substantive application relates;¹⁶ and
- k. Other parties the Panel considered appropriate to invite comment from.¹⁷

16 Refer to Minute 1 of the Expert Panel for identified owners and occupiers.

17 Refer to Minute 1 of the Expert Panel for list of other parties the Panel invited comments from.

37. The Panel would like to thank all 47 parties that commented for their contributions.

Comments received in support

38. The following commentators support the Application:

- a. Eldonwood Limited, Gareth Hemmings, Craig Hemmings, Jessica Crowe, Meghan Brown and Robin Ma & Steve Li.
- b. The Panel notes that these individual landowners¹⁸ have sold all or part of their land to the Applicant, which now forms the Site.

Comments received in support, subject to conditions

39. The following parties support, or made submissions that did not oppose, the Application, subject to the inclusion or amendment of conditions:
- a. The Department of Conservation, subject to amendments to the conditions to ensure they effectively manage potential effects on terrestrial ecology.
 - b. Maurice and Beth Vosper, Jason Kranenburg and Clare Vosper, subject to conditions addressing:
 - i. Reverse sensitivity on surrounding farming operations;
 - ii. Planting of a landscape buffer (at least 1m) on their properties;
 - iii. A 6m setback from any farm boundary; and
 - iv. Measures to ensure the development does not compromise water bore quality or supply.
 - c. Minister for Seniors, subject to the provision of communal transport for RV residents to wider Matamata.
 - d. Donald John Vosper, provided a 40m buffer zone is provided between the project and the Vosper Farms.

Comments in opposition

40. The following commentators opposed the Application:

¹⁸ With the exception of Eldonwood Limited.

- a. Angela Jones, Corinne Bagur & Ian Hammond, David Webb, Dionne & Hayley Caulfield, Eldonwood Residents' Association, Fiona Stoffer, Gemma & Brogan Connor, Hayden & Alesha Begovich, Highgrove, Ian and Cheri Hayes, Graeme and Jenny Purches, Jessica Wilson, Ian & Joanne Morgan, John & Maria van Heuven, John Lee, Kathleen and John Day, Kelly and Jacob Henerson, Mark and Tracey Cresswell, Martin Althuizen, Michael Freegard, Nigel and Kat Ross, P and M Equipment Hire, Peakdale Drive Residents Group, Penny Vuglar & Brad Peterson, Perpetual Trust Limited, Peter & Julie Hyde, Pippins Development Limited Partnership, Robin and Lynley Jobe, Roger Coutts, Roger Slab, Wayne and Adrienne Tobeck. We also received a comment from [redacted] who, for personal reasons, sought not to have their name published, which we agreed to.
- b. The reasons for opposition vary, however, the most common raised themes can be summarised as follows:
- i. Effect on rural character and amenity.
 - ii. Unsuitability of the proposed land, including:
 - Groundwater, soakaway and water table issues; and
 - Liquefaction and flooding risks.
 - iii. Lack of economic significance, regional or national benefit, and insufficient demand for retirement or residential housing.
 - iv. Landscape change and fragmentation, including:
 - Loss of highly productive land; and
 - Reverse sensitivity effects on surrounding agricultural land and farming operations.
- v. Infrastructure sequencing, servicing and capacity constraints, particularly regarding:
- Wastewater;
 - Stormwater;
 - Bore/potable water quality concerns; and,
 - Out-of-sequence development effects.

- vi. Construction effects including noise, traffic, dust and vibration.
- vii. Traffic effects.
- viii. Adverse environmental effects on the Waitoa River.
- ix. Lack of communication and consultation from Applicant.
- x. Potential adverse effects caused by the proximity of solar farms to residential dwellings, including:
 - Visual amenity;
 - Glint and glare; and,
 - Potential fire risk.

41. A comprehensive comment was received from the MPDC which comprised detailed legal submissions and expert evidence from 12 witnesses to support the request that the Application be declined. A summary of the statements of evidence is included in the letter from the Chief Executive¹⁹ accompanying the MPDC comments, as follows:
- a. Development suitability (Tony Cowbourne) – there are significant remaining concerns regarding the suitability of the site for residential and retirement living, adverse impacts such as the dewatering of the site that have not yet been assessed, and potential unmitigated hazard risks.
 - b. Economic impact assessment (Tim Heath) – the Council has provided sufficient zoned residential capacity to meet expected demand. The Proposal is unlikely to create new residential demand and will primarily result in a redistribution/dispersal of growth already planned for in Matamata.
 - c. Stormwater disposal (Bronwyn Rhynd) – there are remaining concerns regarding the resilience of the proposed stormwater system and the outlet to the Waitoa River.
 - d. National Policy Statement for Highly Productive Land (Duncan Walker) – 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 the NPS-HPL,

19 MPDC, comments received (11 November 2025).

the remainder of the proposed development does not demonstrate compliance with clauses 3.8, 3.9 or 3.10.

- e. Transportation (Alastair Black) – outlines the need for better integration of Ashbourne with the wider road network, need to improve connectivity, potential traffic increase on nearby local roads, and mitigation measures required to manage adverse transportation effects.
 - f. Private servicing of the RV component (John Sternberg) – given groundwater conditions, the applicant has not demonstrated that the proposed private onsite wastewater disposal system is feasible. There are remaining questions regarding the adequacy of the private bore water supply and the potential for contamination of the water supply from the onsite wastewater disposal system.
 - g. Public water and wastewater to the residential component (Sally Agas) – outlines significant unplanned reticulation upgrades required to service Ashbourne.
 - h. Infrastructure funding (Susanne Kamps) – outlines the high-level principles that will need to guide the terms of the Private Developer Agreement (**PDA**) and that are currently under negotiation with the Applicant.
 - i. Acoustics (Neil Savory) – recommends changes to the proposed consent conditions, including reference to the updated noise standards (NZS6801:2008, NZS6802:2008 and NZS6803:1999) which will change the L_{A10} descriptor to a L_{Aeq} descriptor.
 - j. Urban design (Ian Minto) – insufficient reflection of urban design outcomes relating to connectivity and compatible density interface, and adverse impacts on rural and rural residential zoned land.
 - k. Planning (Marius Rademeyer) – provides an overall assessment under the FTA, with the conclusion reached that the proposal's adverse impacts substantially outweigh any regional or national benefits (even accounting for proposed mitigation measures).
42. Notwithstanding the above, the MPDC was committed to working alongside the Applicant to find a pathway to consent. The Chief Executive in the same letter states, *"The Council wishes to encourage the Ashbourne team to continue to work towards resolving the issues outlined by its experts"*.
 43. The Panel also received a petition opposing the application with 186 signatures. Those signatories included several individuals who had already been invited to comment and

had provided their own comments, as well as many residents from the surrounding neighbourhood who fell outside the scope of section 53 invitees.

44. Petitions are not generally accepted as reliable, particularly in the context of resource consenting processes under the RMA, which require the decision-makers to assess appropriate legal, technical, and expert evidence. The FTAA has a narrower scope for public involvement than under the RMA. Accordingly, the Panel does not give any evidential weight to the petition. However, the Panel does acknowledge that the petition reflects a broad lack of support for the Proposal within the wider community.

Applicant's response to invited persons' comments

45. On 18 November 2025 the Applicant responded to the comments received on the application from those persons who were invited to comment under section 53 of the FTAA. This included the following:
- a. A Covering Letter;
 - b. Appendix A - C - Tracking Tables – Comment and Response Summaries;
 - c. Attachment 1 - Legal-Memorandum;
 - d. Attachment 2 – Planning Response;
 - e. Attachment 3 – NPS-HPB Memorandum;
 - f. Attachment 4 – Groundwater Memorandum;
 - g. Attachment 5 - 5C – Geotechnical Reports;
 - h. Attachment 5A - 6K – Ashbourne Residential Landscape Package;
 - i. Attachment 8 – Economic Response Memorandum;
 - j. Attachment 8A - 8C – Buffer Planting Plans;
 - k. Attachment 9 – Maven Technical Response Memorandum;
 - l. Attachment 10-10J – Infrastructure Reports & Plans;
 - m. Attachment 11A-11D – Engineering Drawings;
 - n. Attachment 12 – Stormwater Management Plan;
 - o. Attachment 13 & 14 – Scheme Plan;

- p. Attachment 15-17 – Construction Management Plan;
 - q. Attachment 18 – Stormwater Operation and Maintenance Plan;
 - r. Attachment 19 - Operation and Maintenance Plan;
 - s. Attachment 20 & 21 – Supplementary Memorandum regarding Greenway and Drawing;
 - t. Attachment 22-22C – Urban Design Memorandum and Appendices;
 - u. Attachment 23A-23E – Solar Farms Landscape Package;
 - v. Attachment 24 – Traffic Memorandum;
 - w. Attachment 25A-25C – Ecological Memorandum & Responses, and
 - x. Attachment 26-26C – Updated Conditions of Consent.
46. The Panel acknowledges the detailed nature of the Applicant's response to the comments received. This has been of assistance in our consideration of matters of contention, particularly in understanding where those issues of contention arose between the expert advisers for the various parties.

Appointment of technical advisors

47. On 21 November, as noted in Minutes 9, the Panel appointed Tim Denne of Resource Economics as a technical advisor to provide the Panel with a review of the economic aspects of the Application. Mr Denne provided his advice on 28 November and addressed the following considerations:
- a. the approach to the economic analysis adopted by the advisors for the Applicant and the MPDC;
 - b. whether there is a sufficient housing supply shortfall to justify the size of the development, particularly when the proposal is for a development outside of the land currently anticipated or zoned for development in the MPDP;
 - c. the costs of displacing agricultural use of HPL surrounding Matamata, and whether there should be physical limits on its use; and,
 - d. the costs and funding of infrastructure to service the development, and whether it poses a financial risk to the MPDC.

48. On 24 November, as noted in Minute 4, the Panel appointed barrister Jeremy Brabant as a technical advisor to provide the Panel with legal advice regarding NPS-HPL applicability, among other issues. Mr Brabant provided a legal opinion dated 28 November that addressed four questions relating to:
- a. the relevance of productivity assessments associated with HPL in light of the Environment Court's decision in *Blue Grass Limited v Dunedin City Council* [2024] NZEnvC 83;
 - b. whether the Panel can grant a decision 'in part' (and associated implications in respect of 'regional significance');
 - c. the weight to be given to implications associated with out-of-sequence development; and,
 - d. the relevance of whether private development agreements are to be completed prior to a decision being made on the Application.
49. At the request of the Panel, and as proposed by the Applicant's counsel in their memorandum dated 17 December 2025, Mr Brabant provided a further legal opinion on 27 January 2026. This opinion addressed the Panel's questions regarding:
- a. the issue of regional significance, particularly in relation to the potential 'disbenefits' or 'displacement' of residential development; and,
 - b. whether displacement effects should be considered when assessing the significant regional or national benefits of the Proposal.
50. On 1 December, as noted in Minute 4, the Panel appointed Jon Williamson of Williamson Water and Land Advisory to:
- a. Provide advice on the effectiveness of stormwater management proposals and groundwater effects. Mr Williamson was subsequently involved in expert witness conferencing held in relation to groundwater issues on 11 December.
 - b. Undertake a stormwater disposal hydrogeological assessment, which was received by the Panel on 18 February 2026.
51. As noted in Minute 12 the Panel appointed Susannah Tait of Planz Consultants to assist in determining whether the matters in contention could be resolved through the imposition of conditions (including any amendments to those proposed by the Applicant), and to advise on the appropriate form and structure of those conditions should the Panel conclude that approvals could be granted. Ms Tait also furnished planning advice in a memorandum dated 21 January 2026.

52. These appointments were made under clause 10(2) of Schedule 3 of the FTAA.

Further information – section 67 Requests and Minutes

53. On 13 October 2025, the Panel requested information from the Applicant under section 67 of the FTAA via Minute 2. The request sought legal advice on the implications of the NPS-HPL for subdivision within the project area; confirmation regarding the proposed commercial areas and pedestrian access/connectivity; further technical assessment of stormwater management (particularly via ground soakage) and wastewater systems; clarification of landscape and infrastructure details; assessment of environmental connectivity effects relating to the Oxbow flows following drain diversion to the Waitoa River; justification for roading and safety design; and clarification of construction management measures.
54. After reviewing the information provided, on 21 November 2025 the Panel made a subsequent request via Minute 3 for further information under section 67 to the WRC, MPDC and the Applicant.
- a. From the WRC, the Panel requested confirmation of whether solar farm runoff infiltration assumptions were reasonable, and whether further investigation was required; a review of the stormwater runoff calculations for the residential and RV areas; an assessment of the adequacy of the detention measures proposed; and confirmation of the existing stormwater channel capacity to accept post-development flows.
 - b. From the MPDC, the Panel requested their response to economic issues such as demand/likely use of HPL, along with confirmation of the outcome of the Station road pathway discussions and compliance with active transport policies. The Panel also requested that MPDC work with the Applicant to resolve the discrepancy on the extent of land captured by the NPS-HPL and report back with an agreed position.
 - c. From the Applicant, the Panel requested clarification of the intent for the “balance lot”; updated landscape plans; further discussion of earthworks and wetland design; confirmation of residential layout details including as to the size of lots adjacent to rural-residential properties and provision of an updated Residential Design Guide; further information on remaining traffic concerns; confirmation of subdivision access; and wastewater information regarding compliance with clearance above groundwater (including minimum RL’s for the wastewater field), and planting compliance.

55. After receiving and reviewing the responses to Minute 3, the Panel identified key matters that remain in contention. On 3 December, the Panel issued Minute 4, which:
- a. Identified the independent legal, economic and hydrology experts engaged by the Panel.
 - b. Set out further requests for information to be answered by the Applicant under section 67 regarding stormwater, wastewater, geotechnical seismicity, transport, and planning/landscape/urban design.
 - c. Directed expert conferencing and the production of joint witness statements
 - i. Of stormwater experts to address unresolved concerns regarding stormwater, groundwater, sediment control, and drainage capacity, and to advise whether additional investigations or design reviews are needed or whether current information was sufficient for consent conditions; and,
 - ii. Of the relevant economics experts to clarify the regional significance of the Ashbourne development, including whether it generates new demand or redistributes growth, and to address key questions on assessment methods, housing capacity relevance, economic multipliers, viability, and infrastructure cost considerations.
56. Joint witness statements were provided on 11 December in respect of the above matters. Additional matters relating to groundwater and stormwater management were addressed by way of a further statement provided on 16 December.
57. The Applicant responded to Minute 4 on 11 December, with that response incorporating:
- a. Updated engineering drawings;
 - b. Geotechnical seismicity / active faulting JWS;
 - c. Traffic response; and,
 - d. Updated landscape drawings (residential subdivision).
58. Minute 5 was issued on 8 December, confirming the dates for the Applicant's response to Minute 4 regarding stormwater matters (to 11 December). Minute 6, issued on 9 December, confirmed the Applicant's request for a suspension of the Application from 11 December to 17 December. This suspension was further extended until 19 January 2026 via Minute 10 issued on 22 December.

59. Minute 7 was issued on 15 December, seeking further information from the MPDC under s 67 of the FTAA regarding infrastructure costs, residential capacity analysis, and the expected completion date of the private developer agreement between the Applicant and the MPDC relating to infrastructure.
60. On 17 December, the Panel received memoranda from counsel for the Applicant and the MPDC as follows:
- a. The Applicant's memorandum addressed:
 - i. the legal advice provided to the Panel by Mr Brabant regarding the NPS-HPL;
 - ii. changes to the Application, including the deletion of proposed lots 8 and 9 and their incorporation into the Northern Settlement Farm proposal, as well as the inclusion of a consent notice requiring the lot to be used only for permitted activities under the MPDC;
 - iii. the relevance of regional benefits to the Panel's overall assessment and the quantification of those benefits for the purposes of the FTAA; and,
 - iv. recommendations for further legal steps.
 - b. The MPDC's memorandum also addressed the manner by which regional significance should be assessed, citing a number of findings of expert panels in recent decisions under the FTAA.
61. Minute 8 was issued on 17 December requesting further information from the Applicant to support and quantify the regional benefits of the two solar farms by reference to local and/or New Zealand-based analyses/data.
62. On 18 December, the MPDC provided its response to Minute 7, which included a response prepared on its behalf by Property Economics. This addressed the issues of infrastructure costs, residential capacity analysis, and the expected timing for completion of private developer agreements.
63. Minute 9 was issued on 19 December requesting further commentary in respect of Policy 1 of the National Policy Statement on Urban Development (**NPS-UD**), and in particular clauses (a), (c), (e), and (f). It also confirmed that further legal advice was being sought in respect of the question of 'displacement' regarding the significance of regional benefits.

64. Minute 10 was issued on 22 December advising, in response to a request from the Applicant, that the Application was suspended from 19 December to 19 January 2026.
65. The Applicant's response to Minutes 8 - 10 was received on 19 January 2026. It addressed:
- a. Information to support and quantify the regional benefits of the two solar farms by reference to local and/or New Zealand based analyses or data, and to address Mr Denne's comments in his economic review dated 28 November 2025. This incorporated a review by Lawrence McIlrath of Market Economics.
 - b. Analysis to demonstrate how the Proposal would contribute to a "well-functioning urban environment" in terms of Policy 1 of the NPS-UD, prepared by Barker & Associates.
 - c. A review of the effect of the Fast-track Approval Amendment Act 2025.
 - d. The regional significance of the Project.
66. Minutes 11 and 13 were issued on 22 and 29 January respectively,²⁰ and requested the Applicant to comment on any implications arising from the new National Policy Statements that came into effect on 15 January and sought further comment regarding the implementation of the solar farms being tied to a stage of the residential subdivision. It also sought clarification regarding shared paths and conditions related to stormwater management and wastewater.
67. Minute 11 was responded to on 19 January, and incorporated the advice as sought in respect to the National Policy Statement for Natural Hazards 2025 (**NPS-NH**) and the National Policy Statement for Infrastructure 2025 (**NPS-I**) in particular, alongside a proffered condition relating to the implementation of the solar farms, the response also addressed the matters raised in Minute 11 through the Applicant's specialists.
68. Minute 13 sought clarification in respect to the Stormwater Management Plan and the WGA Groundwater memo provided on 18 November. The response was by way of an updated SMP and a Hydrogeology Memorandum from WGA. The Applicant advised that it would provide updated conditions on 12 February to reflect the outcomes of further conferencing between it and the Council's experts.
69. The Panel's Minute 14 issued on 4 February sought clarification in respect of the soakage basin details incorporated in the Hydrogeology Memorandum, and in respect

20 Minute 12 of the Expert Panel (28 January 2026).

of the Applicant's response on the NPS-NH, specifically Policies 5 and 6, and included the planning advice provided to the Panel by Ms Tait.

70. Minute 14 also indicated the likelihood that the Panel would be declining approval to any development on highly productive land (other than the solar farms and the greenway), and if confirmed, it would need to issue its Draft Decision as soon as possible. A request for suspension to enable the Panel adequate time for consideration of the further information sought by the minute was suggested.
71. The Applicant responded on 13 February, incorporating a memorandum of counsel that addressed its interpretation of the approach to be taken when considering the NPS-HPL, including with respect to clause 3.10 and in the context of the FTA and the application of the NPS-UD; a further description of the regional benefits of the Proposal; and the reasons why a partial decline of the consents sought would not be appropriate. It made the concluding submission that *"even if the Panel was to find that the Proposal had adverse effects arising from any inconsistency with the NPS-HPL or NPS-UD, the Panel could not reasonably [conclude] that those adverse effects were so significant that they are out of proportion to the Proposal's regional and national benefits"*.²¹
72. The Applicant's response to Minute 14 also included memoranda addressing hydrogeology issues, engineering, planning, geotechnical matters, economics and HPL, as well as updated conditions.
73. Minute 16 was issued on 20 February,²² advising of the receipt of advice from Mr Williamson regarding groundwater mounding issues associated with Basin A within the proposed residential subdivision, and that this would impact on whether that part of the Proposal was capable of being approved. This was responded to by the Applicant on the same day, seeking that expert conferencing be arranged for the following week, and seeking a further suspension to enable this to occur. The Panel's subsequent Minute 17, also issued on 20 February, indicated that while it would agree to a suspension, the Panel considered that the release of the Draft Decision on 23 February, as scheduled, would provide an understanding of the broader issues for the residential component, as set out in this decision and which may also benefit from expert conferencing, and that this should also involve relevant Council experts. On 22 February, the Applicant confirmed the offer from the Panel to suspend the Application and the issuance of the Draft Decision.

21 Memorandum of Counsel on Behalf of the Applicant (13 February 2026) at [6.3].

22 Minute 15 of the Expert Panel (5 February 2026) agreed to a suspension of processing to 20 February.

74. The Panel then issued Minute 18 on 23 February, confirming that the Application was to be suspended until 27 February, and granting the Applicant's request to undergo expert conferencing to resolve the issues identified in Mr Williamson's advice in relation to Basin A and the absence of appropriate conditions, together with issues related to location and operation and maintenance of proposed subsoil drains required to limit the elevation of groundwater levels within the proposed residential subdivision. This conferencing was to involve the Applicant, Mr Williamson, the WRC and MPDC, in accordance with the draft agenda prepared and provided by the Panel. The Minute also addressed correspondence from the owners of Lot 5 DP 3657160 (Odlum Drive) regarding the incorrect inclusion of this property in the January 2024 version of the SMP and requested clarification on this matter from the Applicant.
75. Counsel for the Applicant filed a memorandum responding to Minute 18 on the same day, commenting on Mr Williamson's involvement in earlier stormwater conferencing and disputing aspects of his technical memorandum. The Applicant's counsel also requested that the Panel set out all outstanding issues (beyond the agenda previously provided) through a conference involving the Panel, the Applicant, WRC, and MPDC, followed by any further expert conferencing as required, with processing suspended until the resulting expert witness statements were filed. Counsel for the Applicant also devoted part of its memorandum to setting out the principles of natural justice and expressing concern about the Panel's consistency with those principles.
76. The MPDC and WRC also filed a memorandum of counsel in response, requesting that expert conferencing be postponed as their key expert regarding geotechnics was unavailable on the appointed dates, and noted that they required further clarifications and technical information regarding sub-soil drain details, scope of conferencing, updated assumptions, and the Applicant's proposed conditions, without which their experts could not meaningfully participate. The memorandum also requested that an independent facilitator be appointed and commented that it would be more efficient to hold conferencing after the Draft Decision was released.
77. In response to this memorandum, the Applicant provided a further memorandum of the same date, stating that the Councils' request for further information and delay of conferencing was unexpected, and in their view, unnecessary as relevant technical matters had already been addressed in earlier conferencing or could be managed through the detailed-design processes proposed in the consent conditions.
78. The Panel subsequently issued Minute 19, also on 24 February. This Minute set out the history of the unresolved stormwater issues and the procedural steps taken to date, including prior Minutes, suspensions, and expert input, noting that the continued uncertainty had placed the residential subdivision Project Part at risk of

being declined. The Panel did not accept the Applicant's criticisms of its decision-making process, observing that every effort had been made to utilise its powers under section 67 to request further information and to keep the Applicant advised of outstanding issues requiring attention. As expert conferencing could not proceed that week, the Panel indicated that the Applicant should lift the suspension of processing to allow the Draft Decision to be issued on 26 February, before conferencing is rescheduled. The Panel also directed that an independent facilitator be appointed by the EPA, and that all necessary stormwater information and the existing agenda be provided to, and confirmed by, the parties.

79. In response to Minute 19, the Applicant's legal memorandum, also dated 22 February, recorded that the Applicant had begun arranging expert conferencing with Mr Williamson's experts, and raised its concerns about the Panel's proposal to issue a Draft Decision declining certain approvals before this conferencing had occurred. The memorandum also set out the Applicant's interpretation of sections 69 and 70 of the Act, suggesting that a draft declining decision would limit its ability to provide further input, and sought clarification from the Panel on the process that would follow.
80. The Panel's response to this came in the form of Minute 20, dated 26 February. The Minute respectfully explained that the Applicant had misunderstood the operation of sections 69 and 70 of the FTAA. Section 69 applies where a Draft Decision proposes to decline approvals and allows only for proposed conditions, modifications, or withdrawal and does not provide any right to comment, file further evidence, or seek additional conferencing or hearing. Section 70 applies only to proposed grants and requires circulation of draft conditions for comment; it has no relevance to any part of a draft declining decision, even in a mixed draft. The Panel therefore rejected the Applicant's concern about the post-draft process and confirmed that issuing the Draft Decision before expert conferencing remained lawful and appropriate.
81. On 22 February the Applicant filed a further memorandum requesting an extension of the suspension of processing until 6 March 2026, stating that this would allow stormwater and groundwater expert conferencing to proceed in accordance with the agenda attached to Minute 19 and for the Panel to consider the outcomes. The memorandum also recorded that the Applicant had prepared and circulated initial technical material responding to Mr Williamson's concerns (received by the Panel on 2 March), with further groundwater information to follow, and that it was liaising with MPDC and WRC to ensure all experts were prepared for independently facilitated conferencing in the week of 2 March 2026. The Panel granted this suspension via Minute 21 on 2 March.

82. Expert conferencing between the Applicant MPDC and WRC's experts, Mr Williamson, facilitated by Chancery Green, occurred on 4 March, with the resulting JWS received by the Panel dated the same. The scope of conferencing was confined to those questions posed by the Panel in Minute 19.
83. On March 6, the Applicant submitted a memorandum noting the outcome of the JWS. It also provided an additional memorandum prepared by Mr McNutt, which summarised the material that was before the Panel. It proposed that a further suspension of up to two days be applied to provide sufficient time for the Panel to consider the JWS, and the additional information contained in that memorandum. The Panel determined that a two day suspension, until 11 March was sufficient and noted the same in its Minute 22, issued on 9 March.
84. In Minute 23, the Panel directed the EPA to invite comments under section 69 of the FTAA on the parts of the Application it was minded to decline, and under section 70 on the parts it was minded to approve, with comments due by 5pm on 18 March. The specified Ministers were directed to provide comments under section 72 by 5pm on 25 March, and the Applicant was likewise directed to respond to comments under section 70(4) by that date. The Draft Decision and conditions were then released.
85. On 16 March, the Applicant submitted a memorandum of counsel to the Panel, requesting that expert conferencing be held between the relevant agribusiness experts to address potential pathways through the NPS-HPL, and the predicted adverse impacts of the loss of HPL if the proposal were to proceed in full. The Applicant also sought a suspension of processing for five working days.
86. As set out in Minute 24, before considering the suspension, the Panel requested clarification on questions regarding whether, under section 69 of the FTAA, it had jurisdiction to address issues raised through joint witness statements, HPL matters, the admission of new evidence after a Draft Decision, and the relevance of the Applicant's site specific LUC assessment and NPS-HPL amendments to land productivity evidence.
87. A further legal memorandum filed by the Applicant on 17 March answered the questions posed in Minute 24. After setting out the Panel's ability to regulate its own procedure under (Schedule 1) section 10, it affirmed that the Panel retained jurisdiction after issuing its Draft Decision to direct further expert conferencing, relying on its procedural powers under sections 67 and 69 of the FTAA. It suggested that such conferencing would assist the Panel in understanding and weighing the evidence already before it.

88. The Panel responded in Minute 25 on 18 March. It did not agree that further expert evidence was required, stating that it had already received and understood the extensive multidisciplinary advice on the NPS-HPL issues, which presented a largely binary assessment, not readily able to be addressed via conditions or modifications to the Proposal. The Panel invited submissions from the Councils on whether the Applicant's proposal was supported under the FTAA, and indicated that any further conferencing would need to be tightly framed, independently facilitated, and may affect the timing of the final decision.
89. MPDC and WRC filed a joint memorandum of counsel dated 18 March 2016 agreeing with the Panel's position that expert conferencing on NPS-HPL issues was inappropriate at the deliberations stage; would be inconsistent with paragraph 15.1 of the Panel Conveners' Practice and Procedure Guidance ("the Guidance"); was unsupported by any compelling justification; and that any necessary clarification can be addressed through narrowly scoped questions under section 69.
90. The Applicant filed a memorandum seeking a suspension of processing until 23 March, whilst the Panel considered the appropriateness of expert conferencing on HPL issues and to allow it to respond to the Draft Decision and proposed conditions. The Applicant maintained that expert conferencing remained appropriate notwithstanding paragraph 15.1 of the Guidance, and argued that the issuing of the Draft Decision did not represent the commencement of the Panel's formal deliberations.
91. Minute 26 recorded that the Panel considered the Council's joint memorandum and the Applicant's memorandum and agreed that expert conferencing on NPS-HPL issues was neither appropriate nor justified at the deliberations stage. The Panel rejected the Applicant's interpretation of "formal deliberations" and its claims of procedural unfairness and reminded the Panel that there had been numerous opportunities for the Applicant to provide more expert evidence or request further conferencing before the Draft Decision was issued. The Applicant was also reminded that it was Minute 14 (dated 1 February) in which the Panel indicated it was likely to decline approvals on HPL. The Panel emphasised that it had received, from various sources and experts, an abundance of evidence regarding the Clause 3.10 NPS-HPL pathway and therefore did not require a hearing or a conference to address those issues. The Panel rejected the suggestion that we did not approve the RV because we did not have enough evidence or that we did not understand it.
92. The Panel declined the requests for expert conferencing and for suspension to enable conferencing, and confirmed a limited suspension solely for comments on conditions and proposed modifications under sections 69 and 70 of the FTAA.

93. Minute 27 of the Panel dated 26 March noted that comments on the Draft Decision and draft conditions had been received on 23 March, and that the Panel sought further clarification from the Applicant on how it proposed to respond to the Councils' tracked changes to the conditions; address the approval of project components as separate consents while ensuring integrated delivery; respond to concerns regarding deemed certification; clarification on proposed dewatering conditions for the solar farms; and directed expert conferencing on conditions.
94. Minute 28 responded to a memorandum from MPDC dated 27 March seeking clarification of Minute 27. The Panel confirmed MPDC's interpretation of paragraph 448 of the Draft Decision – i.e., that the larger lot size requirement applied to all boundaries adjoining Rural or Rural-Residential zoned land, regardless of ownership, that the only exclusion was for the residentially zoned lots at the end of Peakedale Drive, and that other zone interface treatments continue to apply to the Applicant-controlled rural land except for the 4m planted buffer.
95. The Panel then received the Applicant's response to comments on the draft conditions on 30 March. A memorandum of counsel submitted alongside these comments requested a suspension of processing of up to two days to allow for expert conferencing with the Panel's, MPDC and WPC planning experts. This suspension was granted in Minute 29.
96. The Minister of Māori Crown Relations and Māori Development provided their comments on 31 March, offering support of the draft conditions, encouraging the Applicant to give due regard to the matters raised by Te Whakakitenga o Waikato Incorporated, and noting their concern on the precedent set for economic development including in respect of Māori development, with regard to the Draft Decision on HPA. The Panel acknowledged and accepted this as a late comment via Minute 30.
97. Minute 30 issued on 9 April, confirmed receipt of the joint witness statement regarding conditions, and advised that, taking into account the suspension granted via Minute 29, its final decision would be issued by 21 April 2026.

Conditions

98. The Application included four sets of draft conditions²³ for the Day 0 Superlot Subdivision, Solar Farms, RV and Residential and Greenway Project Parts.

23 AEE, Appendices 2D, 3L, 4L and 50.

99. In response to these conditions, the WRC stated that it was unable to provide suitable conditions of consent regarding stormwater management without further site information and investigation.
100. The following invited parties commented on the draft conditions provided with the Application:
- a. Corinne Bagur Imbert & Ian Hammond – Enforceable conditions ensuring the mental, social and environmental wellbeing and amenity of Eldonwood residents are protected, and requirement for the establishment of a planted green buffer.
 - b. The Department of Conservation suggested a number of amendments to the proposed conditions, as set out in the table in Attachment 1 of their comment;
 - c. The Eldonwood Residents Association sought conditions including formal surrender of rights-of-way, parking easements, and assigned rights; removal of connectivity with Eldonwood; restrictions on material storage; and the establishment of a 10m landscaped buffer with ongoing maintenance obligations.
 - d. Kelly and Jacob Henderson and Mark and Tracy Creswell sought a fully landscaped 8m native buffer zone maintained in perpetuity, and conditions on the storage of construction materials away from shared boundaries.
 - e. Maurice and Beth Vosper, Jason Kranenburge, and Clare Vosper, sought conditions on reverse sensitivity, a 1m landscape buffer, a 6m farm boundary setback, and measures to protect water bore quality and supply.
 - f. Paul and Amanda Thomasesen, sought that a road connection to Firth Street be constructed as a pre-condition to civil works, and that developers provide reimbursement of expenses associated with the alteration or replacement of boundary fences of affected properties.
 - g. Pippins Development Limited sought conditions to ensure no works on Pippins land without consent, maintain independent road access, restrict utilities until roads are finalised, require design coordination and capacity protection, manage cumulative effects, and provide reinstatement, indemnity, and relocation at the Applicant's cost if conflicts arise.
 - h. Ken & Chris Johnson sought that the developer commit to re-designing the build plots beyond their rear fence to reduce the number of lots from four to two or even none to provide greater distance from new houses.

101. As noted above, the Panel sought assistance from Ms Tait in preparing draft conditions (based on those provided by the Applicant and incorporating changes arising from the section 67 responses and JWS's).
102. As part of its 13 February response to Minute 14, the Applicant provided updated condition schedules for the Panel's consideration, some of which were noted to be 'Updated with Council comments', although we were not advised if those comments arose from the Councils' original comments, or through further dialogue during the JWS process or later.
103. In accordance with section 70 FTAA the Panel reviewed and amended the conditions, based on those prepared on its behalf by Ms Tait. These reflected the findings reached by the Panel through the Draft Decision. Of significance, it issued the conditions with those related to the RV and residential subdivision in outline text only, to reflect those draft findings, but providing an opportunity for the parties to comment on those conditions notwithstanding, if any substantive changes would arise in terms of its final decision and following the receipt of comments in respect of them. For clarity, the outline (greyed) text relates to the RV provisions, being the conditions the Panel would have imposed if it had found that consent could have been granted for that Project Part.
104. The draft conditions were provided to the Applicant and persons invited to comment on 11 March (in accordance with sections 69 and 70), and the more confined timeframes advised to it by the LDC that are imposed in respect of a partial approval/decline. It required responses by 18 March. The Panel received responses on the draft conditions from
- a. Jason Hoenberg and Clare Vosper and Beth and Maurice Vosper;
 - b. Station 143 Limited and Highgrove;
 - c. Peter Coutts;
 - d. Angela Jones;
 - e. John and Maria van Heuven
 - f. David Francis Webb;
 - g. R A Hemmings Ltd;
 - h. Department of Conservation;
 - i. Ian Hayes;

- j. Roger Slattery;
- k. Eldonwood Residents Association;
- l. MPDC;
- m. WRC;
- n. Joanne and Ian Morgan; and
- o. Corinne Bagur Imbert and Ian Hammond.

105. The comments are summarised and addressed in the Applicant's response to comments dated 30 March.

106. The Panel has considered all comments received on the draft conditions as is required under section 70 FTAA and amended the conditions where appropriate, and those changes agreed through expert conferencing undertaken on 1 and 2 April in accordance with Minute 27. The Panel has addressed these comments throughout this decision report, and in Part K: Conditions below.

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

107. Under section 72 FTAA the Panel has received comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on 11 March 2026. These comments were received by the Panel on 31 March 2026. The comments noted:

- a. Support for the draft conditions;
- b. Encourage the Applicant to give due regard to the matters raised by Te Whakakitenga o Waikato Incorporated; and,
- c. Express concern in respect of the decision on HPL regarding the "*precedent this sets for Economic Development, including Māori Development in the region*".

Comments received on the Draft Decision and conditions

108. On 11 March 2026, the Panel requested that the EPA direct:
- a. Comments on the Draft Decision to decline the resource consent in part from the Applicant under section 69;

- b. Comments on the draft conditions from specified parties for the aspects of the resource consent the Panel was minded to approve under section 70; and,
- c. Comments on the draft conditions from specified parties for the aspects of the resource consent the Panel was minded to approve under section 70.

109. The Panel received these comments on 23 March. The comments of the individual landowners and occupiers have been considered and responded to at Part J of this decision.. The Council's and DOC's comments are summarised in the Applicant's summary of comments, received on 30 March. The Applicant also provided its comments on the Draft Decision and conditions on the same date. These comments along with the summaries, are available in full via the Fast Track website.

110. The Applicant subsequently provided its response to comments on draft conditions on 30 March.

Procedure and timing

111. The Panel has exercised its discretion not to require a hearing on any issue under section 56 of the FTAA. In general, the Panel was able to adequately consider all issues based on the information available, including the application, comments received, responses to comments, and the further information provided by the Applicant, the MPDC, the WRC, and invited persons. Most of the material issues were addressed through the Applicant's responses to the various requests for further information in the Minutes issued by the Panel, the independent advice and reports instructed and reviewed by the Panel and the joint witness conferencing held on both economics and hydrology, although not everything was always clear and transparent.

112. Notwithstanding the technical expert's differences of opinion, the Panel was able to assess and weigh the residual issues based on the evidence it had received.

113. The Panel is also mindful of the emphasis on time-limited decision-making in the present process, the purpose of the FTAA, and the procedural principles in section 10 FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the Panel's functions, duties or powers.

Timing of the Panel decision

114. In accordance with the Panel Convenor Minute 2 dated 19 September 2025, the time frame for the Panel to issue its final decision documents under sections 79 and 88 was prescribed as 25 February 2026. However, as a result of the aforementioned

suspensions requested by the Applicant, this has subsequently been amended to 21 April 2026.²⁴

PART C: LEGAL CONTEXT

Legal context for a listed project under the FTAA

115. In accordance with section 42 an authorised person²⁵ for a referred project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44. The Applicant lodged the substantive application on 11 February 2025.
116. The EPA decided that the Application was complete and within scope²⁶ on 13 August 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 27 August 2025.²⁷ The EPA then provided the Application to the Panel Convenor, and at the same time requested a report from the Ministry responsible agency²⁸ under section 18 FTAA, and a report was received on 12 May 2025.

Decisions on approvals

117. Section 81 FTAA states:

81 Decisions on approval sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
- (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
- (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:

24 As noted above, the Draft Decision was required to be issued by 11 March.

25 Fast-track Approvals Act 2024, ss 4 and 42.

26 Fast-track Approvals Act 2024, s 43.

27 Fast-track Approvals Act 2024, s 47.

28 Ministry for the Environment, responsible agency for Fast-track Approvals Act 2024, s 18.

- (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
- (c) must comply with section 82, if applicable:
- (d) must comply with section 83 in setting conditions:
- (e) may impose conditions under section 84:
- (f) may decline the approval only in accordance with section 85.

(3) For the purposes of subsection (2)(b), the clauses are as follows:

- (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:
- (b) for an approval described in section 42(4)(b) (change or cancellation of resource consent condition), in relation to a condition of a coastal permit specified under section 186H(3) of the Fisheries Act 1996, clauses 20 to 22 of Schedule 5:
- (c) for any other approval described in section 42(4)(b) (change or cancellation of resource consent condition), clause 23 of Schedule 5:
- (d) for an approval described in section 42(4)(c) (certificate of compliance), clause 27 of Schedule 5:
- (e) for an approval described in section 42(4)(d) (designation), clauses 24 and 25 of Schedule 5:
- (f) for an approval described in section 42(4)(e) (concession), clauses 7 to 9 of Schedule 5:
- (g) for an approval described in section 42(4)(f) (land exchange), clauses 29 to 33 of Schedule 6:
- (h) for an approval described in section 42(4)(g) (conservation covenant), clauses 45 and 46 of Schedule 6:
- (i) for an approval described in section 42(4)(h) (wildlife approval), clauses 5 and 6 of Schedule 7:
- (j) for an approval described in section 42(4)(i) (archaeological authority), clauses 4 and 5 of Schedule 8:
- (k) for an approval described in section 42(4)(j) (complex freshwater fisheries activity approval), clauses 5 and 6 of Schedule 9:
- (l) for an approval described in section 42(4)(k) (marine consent), clauses 6 and 7 of Schedule 10:

- (m) for an approval described in section 42(4)(l) (access arrangement), clauses 7, 9, and 10 of Schedule 11:
 - (n) for an approval described in section 42(4)(m) (access arrangement), clauses 8, 9, and 10 of Schedule 11:
 - (o) for an approval described in section 42(4)(n) (mining permit), clauses 19 to 21 of Schedule 11.
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.
- (5) For the purposes of subsection (4), if the substantive application was made under section 42(1)(b), the panel—
- (a) must treat the stage of the project to which the application relates as constituting the project; but
 - (b) may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed.
- (6) Despite subsection (2)(a), the panel—
- (a) is not required to consider evidence, report, comment, or other information it receives under section 51, 53, 55, 57, 69, 70, or 72 after the applicable time frame; but
 - (b) may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.
- (7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

Ability to decline consent

118. Section 84(1) of the EIA Act sets out the limited circumstances when approvals must or may be declined.

119. Section 85(1) and (2) sets out the matters that apply to a mandatory decline decision. Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought should be declined:

Approval may be declined if adverse impacts out of proportion to regional or national benefits

- (3) A panel may decline an approval if, in complying with section 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.

120. In relation to section 85(3)(a), there were several key potential adverse impacts in contention upon which the Panel was required to make findings. These related to effects on HPL, stormwater and hydrogeological impacts, economic effects, and amenity effects. Further, in respect of section 85(4), while effects on HPL were directly relevant to an assessment under the NPS-HPL, they were also relevant to an assessment under the WRPS and MFS (which also address effects on HPL).

Partial approval

121. Having referred to the Panel provisions that enable the Panel to either approve or decline the application, it became apparent that the Panel needed to consider if a component, or even a part of a component, of the Proposal could be declined approval.

122. Fishboon is a distinctive application in that each activity or component is physically and operationally independent. The Applicant has presented the application as four separate activities and assessed the effects of each separately.

123. The FTAA does not directly address circumstances relating to a partial approval. Specifically, section 81 requires that the Panel either grant the approval and set any conditions to be imposed or decline the approval.

124. Our view is that the setting of conditions to be imposed could have the effect of declining the approval in part.

125. Similarly, through the pathway contained in section 69, we considered that if a Panel intends to decline an approval, then it provides a Draft Decision and invites the Applicant to propose conditions or modifications or withdraw part of the substantive application. This indicates that there are parts of the application that might prevent approval from being granted. If an Applicant offers conditions, modifications or a partial withdrawal, the application may then be approved.
126. As a result, the Panel sought advice from its independent legal advisor on the question of whether we could lawfully issue a partial approval. Mr Brabant's advice included the following:²⁹

Commencing with the first point, s69 is engaged if a panel proposes to decline an approval under s 81. The term "approval" is defined by the FTAA as having the same meaning as in s 42(4) which expressly includes a resource consent that would otherwise be applied for under the RMA. Therefore, if a panel decides to decline an "approval" that does not necessarily result in an outcome where the entire project must be declined.'

A panel has a mandatory obligation, if it proposes to decline an approval, to direct the EPA to provide the applicant with a copy of the Draft Decision document and invite them to "propose conditions on, or modifications to, any of the approvals sought" or to withdraw the part of the substantive application that seeks any of the approvals sought. In layman's terms, the FTAA takes an opportunity for an applicant to make changes to the proposal with a view to resolving concerns the Panel have identified in its Draft Decision, thereby navigating a route to consent.

The ability to make amendments is subject to some limitations set out in subsection (3). There is an express opportunity for an applicant to amend a proposal to address any shortcomings noted and the

(a) Any modifications to an approval are for the purpose of addressing the reasons the panel recommends decline; and

(b) Any modifications are within the scope of the substantive application.

127. Putting aside the fact that we consider there may be other adverse impacts that arise in relation to the RV, the Panel considers that in the case of HPL, there can be no opportunity to 'amend' or 'modify' conditions of the approvals to resolve this issue, unless, of course, the Applicant withdrew those parts of the Application that are proposed to be located on HPL.

29 J Brabant, Legal Advice to the Panel (28 November 2025) at 25-27.

128. If we were to adopt the Applicant's original position that the Panel can only approve or decline the entire suite of Project Parts, then granting consent for the whole project would effectively render the NPS-HPL irrelevant under the FTAA in circumstances where the exemption provisions do not apply (as assessed in Part G, NPS-HPL). The Panel also notes that it was persuaded by the Applicant itself that issuing separate consents, for separate activities, was appropriate.
129. We have been assisted in this regard by Counsel for MPDC in their legal submissions dated 11 November 2025:

3.57 It is well established that, when determining applications for resource consent, the decision-maker has "the power to grant consent to something less than what is actually being sought".

3.58 In the decision of the expert consenting panel concerning an application for a comprehensive care retirement village at Kohimarama, Auckland under the FTAA, the Panel considered the following comments from RMA case law.

The Resource Management Act provides procedures for applications for resource consent that are designed to enable all persons who wish to take part to do so. ... In practice, the lodging of submissions and the presentation of opponents' cases frequently leads to applicants or consent authorities modifying proposals to meet objections that are found to be sound. ... must surely be part of the statutory intent in providing for making submissions.³⁰

130. The Panel in *Kohimarama*³¹ said that it saw:

... no reason why this approach should not be equally applicable to resource consenting under the FTAA. ... the purpose of the FTAA is not neglected in the process. For example, there may be instances where s 108 conditions of consent would be unavailable or inappropriate to restrict certain effects that can be remedied by a partial consent which still enables an effective project

131. The Application bundles together several separate approvals, including the RV. Section 4(1)(a) of the FTAA defines an "approval" as a resource consent that would otherwise be sought under the RMA. On this basis, each component of the bundle is an approval to be evaluated against section 85(3), which requires the Panel to weigh any adverse impacts against a project's regional or national benefits, taking into account any conditions or modifications.

30 *Collins v Northland RC [2013] NZHC 3039* at [26] referred to in Amended decision of the *Kohimarama Comprehensive Care Retirement Village* expert consenting panel, released on 8 June 2021.

31 Amended decision of the *Kohimarama Comprehensive Care Retirement Village* expert consenting panel, released 8 June 2021 at [54].

132. It is the Panel's position that assessing each approval within the bundle under section 85(3), whilst also evaluating the project as a whole, provides a pathway for a partial approval where it is found that only some components satisfy the FTAA's criteria.
133. Section 4(2)(a) directs that where the FTAA does not define a term, it is to have the meaning as defined in the RMA.
134. The FTAA is silent on partial approvals. The Panel, however, considers that while the RMA does not specifically define 'partial consent' or 'consent in part' (but such consents can clearly be granted), it is appropriate for the Panel to draw on the established principles reflected in RMA case law.
135. The Panel therefore prefers the approach described by the MPD and that which was established via *Kohimarama*³² and considers that a decision in accordance with section 85 of the FTAA, which provides for a partial consent, which still retains regional benefits in regard to those activities approved, is to be preferred to the unsatisfactory outcomes of declining an otherwise acceptable consent in whole or rendering the strong directives of a National Policy Statement irrelevant.

Approvals relating to the Resource Management Act 1991

136. The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies rather than the standard RMA consent application process. Clause 17 provides:

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
- (a) the purpose of this Act; and
- (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
- (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—

32 Amended decision of the *Kohimarama Comprehensive Care Retirement Village* expert consenting panel, released on 8 June 2021 at [51]-[55].

- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
 - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
 - (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
- (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other provision referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
 - (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.
 - ...(6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
 - (7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.

137. The Panel has considered this schedule in the decision, and considered clauses 17, 18 and 19, and concluded that the purpose of sections 5, 6 and 7 of the RMA, which set out its purpose and principles, remained relevant throughout the entire decision-making process.

Fast-track Approvals Amendment Act 2025

138. The Panel has prepared its decision in accordance with the changes to the FTAA through the Fast-track Approvals Amendment Act 2025 (**FTAAA**) which came into

effect on 16 December 2025. In particular, and of relevance to applications lodged on or prior to 16 December 2025, new section 84A provides that:³³

- (1) 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—
 - (a) the project; or
 - (b) the stage of the project to which the application relates.
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.
- (3) To avoid doubt, a condition set under this section may impose an obligation on the applicant only.

139. Infrastructure requirements are addressed through a PDA which is to be resolved between the Applicant and the MPDC, in accordance with the conditions for the Residential Subdivision.

PART D: IWI AUTHORITIES

Section 18 Report

140. The Ministry for the Environment provided a report under section 18 in accordance with section 49. The key conclusions from that report, dated 12 May 2025, are as follows:

Some of the principles and provisions of these Treaty settlements identified in the Crown acknowledgement and apology apply broadly to the project, however there are no specific redress provisions relevant to the project area. Accordingly, we did not identify any documents that you must give the same or equivalent effect to, or procedural requirements you must comply with, under section 16.

We consider the following four groups to be the relevant iwi authorities for the project:

- a. *Ngāti Hauā Iwi Trust, representing Ngāti Hauā;*
- b. *Raukawa Settlement Trust, representing Ngāti Raukawa;*
- c. *Te Puāwaitanga o Ngāti Hinerangi Trust, representing Ngāti Hinerangi; and*
- d. *Te Whakakitenga o Waikato, representing Waikato-Tainui.*

³³ New section 81 relates to unlisted projects, and the obligation to consider a relevant Government Policy Statement (GPS). The only GPS in place is that relating to Grocery Competition and is not considered to be relevant to the Application.

We have identified the following relevant Treaty settlement entities for this project area:

- a. Ngāti Hauā Iwi Trust, representing Ngāti Hauā, as PSGE for the Ngāti Hauā Claims Settlement Act 2014;
- b. Raukawa Settlement Trust, representing Ngāti Raukawa, as PSGE for the Raukawa Claims Settlement Act 2014;
- c. Te Puāwaitanga o Ngāti Hinerangi Trust, representing Ngāti Hinerangi, as PSGE for the Ngāti Hinerangi Claims Settlement Act 2021; and
- d. Te Whakakitenga o Waikato, representing Waikato-Tainui, as PSGE for the Waikato Raupatu Claims Settlement Act 1995 (also for the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, which does not apply to the project area).

The following group has a recognised mandate to negotiate a Treaty settlement over an area which may include the project area:

- a. Te Whakakitenga o Waikato Incorporated, PSGE, representing Waikato-Tainui in negotiating settlement of their remaining claims.

The project area does not include the common marine and coastal area, and accordingly there are no relevant applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), and no court orders or agreements that recognise protected customary rights or customary marine title in the project area.

...

Pursuant to section 17(1)(d) and (e) of the Act, on 4 March 2025 you invited written comments from the Māori groups identified above in paragraphs 14-17, (from a list previously provided you) these groups were provided access to the application material and had 20 working days from receipt of the copy of the application to respond.

...

Minister Potara, as Minister for Māori Development and Minister for Māori Crown Relations: Te Arawhiti, has advised he has no comments or concerns with this application.

...

We do not consider there are any matters raised in this report which make it more appropriate for the proposed approvals to be authorised under another Act or Acts.
Substantive application information

141. The AEE outlines the engagement and consultation with relevant iwi authorities undertaken before lodgement of the Application. It advises that:³⁴

2.0 Ongoing consultation has occurred with Mana Whenua, through a series of in-person hui and workshops..... This consultation and engagement has been facilitated by Norm Hill at Te Hira Consultant Limited..... Consultation has occurred with Ngāti Hauā, Ngāti Hinerangi and Raukawa. Waikato Tainui as the relevant iwi were also consulted.

2.1 A in-person hui was held with Ngāti Hauā, Ngāti Hinerangi and Raukawa on the 23 July 2024. The purpose of this hui was to:

Provide an introduction of the project and the Fast-Track process;

Undertake a site walkover with hapū to discuss the application and gain an early understanding of cultural values associated with the subject site;

Gain an understanding of Mana Whenua's vision and objectives for the Ashbourne;

Present to Mana Whenua the consultation package (refer to Appendix 4 for a copy) and discuss initial feedback;

Identify the scope of works and any initial concerns of hapū; and

Establish a strong relationship with Mana Whenua to continue throughout the course of the project and beyond.

142. The AEE (Volume 1) concludes in relation to consultation that:

The Applicant is committed to working with the iwi authorities constructively and will continue to meet with their representatives to discuss the lodged application and recommended conditions. In addition, the hapū have all provided letters of support for the substantive application.

In addition to the above, the Applicant has also engaged with Waikato Tainui as the key iwi for the application.

143. The Panel invited comments from the Ngāti Hauā Iwi Trust, the Raukawa Settlement Trust, the Te Puāwaitanga o Ngāti Hinerangi Trust and Te Whakakitenga o Waikato under section 53(2)(b) – (g) of the FTAA.

2.1 Following the July 2024 hui, feedback from Mana Whenua was used to make refinements to the Ashbourne Masterplan and application. The Applicant received an email on 24 July 2024 from Norm Hill on behalf of Mana Whenua to acknowledge and provide positive feedback on the hui and the ability to shape the masterplan and application.

34 Volume 1 AEE, Appendix 1D, Engagement and Consultation Report.

2.2 ...Norm Hill via email advised that all hapū were generally supportive of the Ashbourne proposal and application. Letters of support were provided from each hapū.

Comments

144. No comments were received.

Statutory requirements

Treaty settlements and recognised customary rights

145. Section 7 requires all persons performing functions and exercising powers under the FTCA to act in a manner that is consistent with the obligations arising under existing Treaty settlements.
146. Section 7 also relates to customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. Those Acts do not apply to this Application.
147. Section 82 provides that if a Treaty Settlement is relevant to an approval, and that settlement provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision-making as it would have under any relevant specified act. The panel must also consider whether approving would comply with section 7.
148. The Panel understands³⁵ that the following Treaty settlements relate to land, species of plants or animals, or other resources within the project area:
149. Ngāti Hauā Claims Settlement Act 2014;
- a. Raukawa Claims Settlement Act 2014;
 - b. Ngāti Hinerangi Claims Settlement Act 2021;
 - c. Waikato Raupatu Claims Settlement Act 1995; and
 - d. Pare Hauraki Collective Redress Deed signed on 2 August 2018.
- e. The Section 18 report did not identify any court orders or agreements recognising customary rights under the Marine and Coastal Area (Takutai

35 Ministry for the Environment, section 18 report under the Fast-track Approvals Act 2024.

Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and thus the Panel need not set conditions in accordance with section 84.

150. Similarly, the report advised the Panel that while the principles and provisions of the relevant Treaty settlements apply broadly to the project, no specific provisions have been identified that must be considered when assessing the Application under the FTAA. Nor have any documents been identified that the Panel must give the same or equivalent effect to under section 82, or any procedural requirements under Schedule 3, clause 5 of the FTAA.
151. As noted above, the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under section 72 FTAA. Minister Potaka, as Minister for Māori Development and Minister for Māori Crown Relations: Te Arawhiti, has advised he has no comment or concerns with this application.

PART E: EVALUATION OF EFFECTS

150. Clause 5(4), Schedule 5 of the FTAA requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

Clause 6(1)

The assessment of an activity's effects on the environment under clause 5(4) must include the following information:

- (a) an assessment of the actual or potential effects on the environment;*
- (b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use;*
- (c) if the activity includes the discharge of any contaminant, a description of—*
 - (i) the nature of the discharge and the sensitivity of the receiving environment to these effects; and*
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;*
- (d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity;*
- (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal;*

(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:

(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:

(h) an assessment of any effects of the activity on the exercise of a protected customary right.

Clause 7

The assessment of an activity's effects on the environment under clause 5(4) must consider the following matters:

(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:

(b) any physical effect on the locality, including landscape and visual effects:

(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:

(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value or special value, for present or future generations:

(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants:

(f) the unreasonable emission of noise:

(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

151. The EEs provided an assessment of these matters. Participants who commented also raised a range of actual and potential effects, as summarised earlier in this decision.

The assessment of actual and potential effects has also been the subject of further requests for information from the Applicant and the Councils under section 67, as well as the joint witness statements and associated discussions between the Applicant and the Councils, also summarised earlier in this decision. We note that the further information requests, and the Applicant's consideration of the concerns raised by the Councils and/or commenters, have resulted in the following key changes to the Application, which we summarise as follows:

- a. Deletion of proposed lots 8 and 9, and inclusion of that land within the Northern Solar Farm.

- b. Confirmation of the intent to develop a commercial centre within the residential subdivision component (and deletion of 'Option B' for this land to alternatively be used for additional residential lots).
- c. Inclusion of a consent notice limiting any future use of the Stage 0 subdivision balance lot to permitted activities within the MPDP.
- d. Inclusion of 5m yards and 2-3m planted buffers along residential subdivision lots adjoining existing rural-residential lots within Highgrove Avenue and Eldonwood Drive (with consent notices to apply to the ongoing maintenance of the planted buffers), along with fencing requirements and a limitation to the height of dwellings along the southern boundary.
- e. Changes to the design of stormwater detention ponds to constructed wetlands within the RV.
- f. Changes to the design of stormwater networks and stormwater disposal devices.
- g. Changes to the wastewater disposal field for the RV, including provision for a 50% reserve field and increased height of the field relative to existing ground and groundwater levels.
- h. Confirmation that planned landscape enhancements would be confined to the Greenway rather than within the esplanade area along the Waitoa River, with those enhancements being limited to planting approximately 28 specimen trees.
- i. Provision for shared path from the intersection of Road 1 and Station Road to a location just west of the intersection with Smith Street.
- j. Agreement to contribute financially to the MPDC's designation and construction process for a new link road from Firth Street to the residential subdivision.

15 The EAs provided an assessment of the following effects relevant to the scope of the Application, including the particular aspects of various components, the range of consents required, and the requirements of clause 7 of Schedule 5 of the FTAA. Because the Application comprises four main Project Parts, each with effects specific to that activity, we have prepared the following summary list of effects for each component.

- a. Stage 0 Subdivision
 - i. Positive effects;

- ii Effects of lot configuration;
- iii Infrastructure and servicing effects;
- iv Reverse sensitivity effects;
- v Productive capacity effects; and,
- vi Contamination effects.

b. Solar Farms

- i Visual Landscape and Amenity effects;
- ii Glint and Glare effects;
- iii Ecological effects;
- iv Contaminated land effects;
- v Traffic effects;
- vi Construction effects;
- vii Noise and Vibration effects;
- viii Infrastructure effects; and,
- ix Stormwater effects.

c. RV

- i Positive effects;
- ii Economic effects;
- iii Visual landscape and amenity effects;
- iv RV design and layout;
- v Construction effects;
- vi Contaminated land effects;
- vii Traffic effects;
- viii Infrastructure servicing effects;

SUPERSEDED

- ix Stormwater and water quality effects;
 - x Wastewater effects;
 - xi Stormwater and water quality effects;
 - xii Groundwater effects;
 - xiii Ecological effects;
 - xiv Reverse sensitivity effects; and,
 - xv Subdivision effects.
- d. Residential Subdivision and Greenway
- i Positive effects;
 - ii Economic effects;
 - iii Visual landscape and amenity effects;
 - iv Subdivision design and layout;
 - v Construction effects;
 - vi Contaminated land effects;
 - vii Traffic effects;
 - viii Infrastructure servicing effects;
 - ix Stormwater and water quality effects;
 - x Flood hazard effects;
 - xi Groundwater effects; and,
 - xii Ecological effects.

153. The Panel notes that the MPDC and WRC agreed in their comments that a number of the above effects categories were of minor significance and/or able to be addressed or resolved through appropriate conditions of consent. We record our findings on those matters, with reference to amended or new conditions, within the discussion of effects below.

154. Other topics required us to make findings, including whether conditions of consent could be imposed to ensure that an adverse effect is appropriately mitigated, and whether such matters would result in impacts that are out of proportion to the Project's benefits (i.e., in relation to the proportionality assessment required under section 85(3) FTAA). Effects relating to amenity values, stormwater and flooding, economic effects and regional significance, highly productive land, and geotechnical considerations were key areas of disagreement between the Applicant, the MPDC and/or WRC, and parties invited to comment, and were in some instances the subject of facilitated joint conferencing between experts for the Applicant and the Councils. We address these matters in more detail in Part I.
155. It is also relevant to note that certain positive effects the Applicant contended could arise from the overall Project were dependent on the delivery of particular components. This relates in particular to the solar farms and their generation of renewable electricity, as well as the provision of an aged care and retirement facility in an area of constrained supply for those services. The Applicant has also confirmed it agrees with this position (per its Planning comments dated 19 March 2026). As will be discussed in more detail later, we have considered it necessary to that, in the event that the residential subdivision was to be implemented, a condition precedent would be incorporated that required the commencement of the solar farms by a certain stage of that subdivision. This would be to ensure that the positive effects, and associated regional benefits, are realised and are not separate to, nor simply provide a supporting role during the consent process, for that residential subdivision.
156. Taking into account the various effects topics listed above in respect of each component of the application, the Panel has taken the approach of considering the Stage 0 subdivision proposal separately, as this establishes the lot arrangements for the subsequent activities, and then to address the 'activities' of the solar farms, RV and residential subdivision in a separate grouping. Overall, therefore, the potential effects on the environment anticipated to arise from the Project can be grouped into the following broad categories:
- a. Subdivision effects; and
 - b. Land use activity effects, incorporating:
 - i. Positive effects;
 - ii. Construction-related effects;
 - iii. Geotechnical effects, including liquefaction;
 - iv. Stormwater management and flooding effects;

- v Groundwater effects;
- vi Water and wastewater effects;
- vii Transport effects;
- viii Ecological effects;
- ix Infrastructure funding effects; and,
- x Visual, landscape and amenity effects.

157. The Panel has addressed these effects, and the corresponding sub-topics, thematically throughout our discussion below. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project as noted in Part H: Regional and District Planning Framework. Under Part F, the Panel has addressed economic effects when considering the significance of the Project. We have also addressed the separate topics relating to economic effects as relevant to the question of regional significance, and effects associated with the loss of HPL, as separate matters under Part F.

158. In terms of the relevant receiving environment the Panel has applied the test in *Hawthorn*.³⁶ The environment includes that which presently exists. It also:³⁷

...embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered where it appears likely that those resource consents will be implemented.

SUBDIVISION EFFECTS

Application assessment

159. The overall rationale for the Stage 0 subdivision application is to enable the efficient and timely delivery of the Project, by subdividing the Site to create new titles that are reflective of the proposed boundaries between the three land use activities (addressed separately below). No land use activities are proposed as part of the Stage 0 subdivision. The subdivision will be subject to its own separate schedule of conditions.

³⁶ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

³⁷ *Hawthorn Estate*, above n 28, at [84].

160. Volume 2 of the AEE addresses the potential effects of the subdivision, and that assessment is summarised below. The Panel notes that the subdivision component of the Application is a non-complying activity under the MPDP (whether as a singular activity or as bundled with the overall Project), as it involves the subdivision of sites containing high-quality soils, and does not comply with the requirements of the ESSP.

Positive effects

161. The AEE notes that the proposed subdivision will facilitate the wider Ashbourne development, for which it contends provides significant positive and economic benefits (discussed in more detail below). It considers that any actual and potential adverse effects of the proposal on the environment, including those in relation to subdivision, infrastructure and servicing, reverse sensitivity, productive capacity, and contaminated land, are considered to be less than minor.

General effects of subdivision

162. As a sub-set of 'Subdivision effects' generally, the AEE assesses these effects as those associated with facilitating and enabling the efficient delivery of the Ashbourne project. The AEE advises that the proposed 0 lot configuration and boundaries have been informed by the Ashbourne masterplan which, with reference to the Urban Design Assessment (Appendix 1Q), is considered to provide a spatial arrangement that is legible and connected, with an integrated open space network and a variety of housing types to meet the needs of the local area.
163. Overall, the Applicant considers that the proposed subdivision, including the new lot configuration and boundaries, will have less than minor adverse effects on character and amenity values within the surrounding environment and on neighbouring properties.
164. Notwithstanding that the subdivision layout is to facilitate a subsequent development proposal, the AEE also highlights that all of the proposed lots are large, ranging from 4.2ha to over 30ha, and generally of regular shape that would be able to accommodate a range of future activities without creating adverse effects on existing character and amenity values.
165. In terms of proposed Lot 2 (13.7ha balance lot), the AEE advises that no land use activities are proposed to be established within this lot as part of the present application (and future activities would be subject to MPDP provisions). As previously noted, the Applicant has since confirmed that a consent notice will be included as part of the subdivision such that any further activities for the balance lot will be

limited to permitted activities under the MPDP. The Application was also amended to remove proposed Lots 8 and 9, and so the assessment of effects in relation to these lots (section 5.2.2 of the AEE) is no longer relevant.

Infrastructure and servicing effects

166. The subdivision does not give rise to any infrastructure or servicing effects because all servicing (including roading, stormwater, wastewater, water supply, and utility connections) will be provided through the land use and subdivision consents sought for the activities described in Volumes 3–5 of the Application. However, the AEE notes that the proposed lots are all of sufficient size to accommodate infrastructure servicing and that any potential effects can be contained within the boundaries of these proposed lots.

Reverse sensitivity effects

167. The AEE considers that, given the size and number of existing land parcels and the size of the proposed lots, no potential for new reverse sensitivity effects will arise with respect to the existing rural environment (arising from any potential reverse sensitivity effects associated with the land use activities proposed within these lots). The primary potential for such effects is to proposed Lots 8 and 9, which have since been removed from the proposal.

Productive capacity effects

168. The AEE comments on the potential effects on the productive capacity of the Site:³⁸

- i* The Ashbourne soils predominantly underlain by LUC2 soils, and the Land Use Capability Classification Assessment finds that significant areas of the overall site are subject to drainage and topography limitations which restrict productive potential;
- ii* The majority of the proposed residential development, which will be located within lots 4, 5, and 6 is located within the [ESSP] which identifies this land for future development; and,
- iii* ... Having regard to the above, and on the basis that the purpose of this subdivision activity is to facilitate the wider Ashbourne development, it is considered that this proposal will have less than minor adverse effects on rural productivity.

38 AEE Volume 2, Stage 0 Vacant Lot Subdivision, s 5.5.

Contaminated land effects

169. The AEE refers to the PSI/DSI prepared by SLR Consulting (Appendix 1R) which concludes that it is likely that HAIL³⁹ activities have been undertaken on the site, including pesticide use and storage. To mitigate any potential effects on human health and environmental discharge associated with any future disturbance of contaminated soils, SLR recommended that works across the site be undertaken in accordance with the Contaminated Site Management Plan (**CSMP**) included as Appendix 1S. This document details the remediation goals and methodology, environmental management procedures, unexpected contamination discovery protocol, health and safety measures, testing requirements and validation reporting.
170. SLR Consulting have also prepared an Acid Sulphate Soil Management Plan (**ASSMP**, Appendix 1T) to outline how potential or actual acid sulphate soils will be identified, managed, and mitigated during the earthworks and construction activities associated with the land use activities.
171. The AEE concludes that, by undertaking the works in accordance with the CSMP and ASSMP, potential adverse effects on human health and the environment from contaminated land and acid sulphate soils associated with the proposed subdivision and land use (including earthworks) will be acceptable and can be appropriately managed to avoid adverse effects.

Summary

172. Overall, the Applicant considers that the proposed subdivision will facilitate the wider Ashbourne development, which it states will have significant positive and economic benefits. Overall, the proposal is considered appropriate, and any actual and potential adverse effects of the proposal on the environment will be 'less than minor'.

MPDC Comments Received

173. The primary issue arising from comments from the MPDC were in respect of the effects of the subdivision on the productive potential of the site. Duncan Walker (Perrin Ag) on behalf of the MPDC was of the view that:

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

39 Ministry for the Environment, Hazardous Activities and Industries List (HAIL).

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.

Applicant's response to MPDC comments

174. The Applicant's response to comments addressed Mr Walker's assessment, acknowledging that the proposed subdivision associated with residential and retirement activities located on HPL would not meet clause 3.8(1)(a) – (c) when considered as part of the wider development and proposed land use activities. However, it goes on to say that:⁴⁰

... those aspects of the proposal are assessed against the NPS-HPL in the Individual Volumes 3- 5, where the broader effects and land use outcomes are addressed.

Clause 3.8 is one component of the list of implementation considerations that local authorities must undertake to give effect to the objectives and policies of the NPS-HPL. It is considered appropriate that the relevant implementation clauses (clauses 3.11 – 3.13) are applied holistically and in an integrated manner, rather than in isolation from the objectives and policies of the NPS-HPL.

For completeness, the following assessment of the proposed vacant lot subdivision is provided with respect to Clause 3.8, and specifically acknowledges the relationship between the proposed subdivision and land use activities proposed as part of the Ashbourne development:⁴¹

Lot 1: Proposed Lot 1 will accommodate the retirement village and therefore will not satisfy Clause 3.8(1)(a)-(c).

Lot 2: Proposed Lot 2 is balance land that will remain vacant as no land use activities are proposed under the subdivision.

Lots 3 and 7: Proposed Lots 3 and 7 will accommodate the solar farms which will include provision for grazing activities to occur concurrently with infrastructure activities. In addition, the solar farm activity and associated structures will not permanently limit the productive capacity of land and underlying soils will remain intact and suitable for future farming. This aspect of the proposal will avoid the cumulative loss of the availability and productive capacity of highly productive land and is considered to satisfy Clauses 3.8(1)(a) and clause 3.8(2).

Lot 4: Proposed Lot 4 is primarily zoned Rural-Residential, with the exception of approximately 2.5 hectares located within the Rural Zone. The NPS-HPL is only applicable to that part of Lot 4 within the Rural Zone. The 2.5 hectares of land will not satisfy Clause 3.8(1)(a)-(c).

40 Applicant's Response to Comments, Attachment 3 at 4.2.4.

41 Excluding the analysis regarding Lots 8 and 9 (since deleted).

Lots 5 and 6: Proposed Lots 5 and 6 are zoned Rural-Residential and accordingly the provisions of the NPS-HPL do not apply.

175. The Response concludes in this regard that:⁴²

Overall, there are some aspects of the Ashbourne development which do not satisfy Clause 3.8, however these areas comprise less than half of the total application site. Exemptions under Clause 3.10 also apply to Ashbourne, as set out below. For the reasons set out below and within individual Volumes 3-5, it is considered that the identified inconsistencies with Clause 3.8 do not result in an inappropriate overall development outcome when assessed against the NPS-HPL as a whole.

Comments from adjacent landowners and occupiers

176. Angela Jones observed the land to be very productive, with strong winter grass growth and high-yielding summer crops.

177. Haden and Alesha Begovich are concerned that the solar farms are inappropriate on LUC 1 and 2 land, noting that such installations are better suited to brownfield or industrial locations. They also express concern that the Applicant intends to on-sell the solar farm sites, raising uncertainty about the actual integration of the solar farms.

178. Ian Hayes noted that approving the project will undermine the NPS-HPL and emphasised the wider economic contribution of dairying in the district.

179. John and Maria van der Vey shared similar concerns regarding the NPS-HPL and the threat of harm to farm viability, soil health and productivity.

180. In its comments, Pippins Development Ltd warned that the Proposal would constrain future residential expansion under the NPS-HPL.

Applicant's response to commentors

181. The Applicant maintained that the site is subject to permanent and long-term constraints that limit its viability for land-based primary production, in reliance on a site-specific Land Use Capability (**LUC**)⁴³ Assessment, which indicates the identified

42 Applicant's Response to Comments, Attachment 3 at 4.2.4.

43 Landsystems, Land Use Capability Classification Assessment (24 August 2024).

constraints mean the land has lower productivity than its LUC classification would suggest.

182. The Applicant considered that the productive capacity of the land is already reduced by the existing Rural-Residential zoning over part of the site, alongside further limitations identified in the LUC Assessment. In its view, enabling the Proposal would allow more efficient use of this constrained land while supporting the protection of genuinely high-class (LUC 1-3) soils elsewhere.
183. Most of the proposed residential activities occur on land exempt from the NPS-HPL. Only limited subdivision is associated with the solar farm and RV component, and the Applicant therefore considers that the resulting fragmentation of land is minor in scale.

Panel Findings

184. Overall, the Panel accepts the Applicant's assessment in respect of the potential effects of the subdivision and that in general these will be minor and acceptable.
185. However, the Panel finds that the effects on HPL are highly contentious and remain largely unresolved across both the proposed RV and part of the proposed residential area. A full discussion of the NPS-HPL and an evaluation of its effects on each Project Part can be found in Parts F and G of the decision.
186. We note that while site contamination and the relevance of the NES-CS was a factor common to all four components of the Application, this was not a matter of contention and the Panel finds that adverse effects in respect of this topic are able to be appropriately managed through implementation of the PSI and DSI, and associated conditions of consent.
187. The Panel made the observation in its Draft Decision that if the Application were declined in part, for the reasons we have set out later in the decision, there may be implications spatially in terms of whether Stage 0 subdivision requires a variation before it can be given effect. This was addressed in the response to the Draft Decision through provision of a new Stage 0 subdivision plan that aligned with that decision.

LAND-USE ACTIVITY EFFECTS

Positive effects

188. The land-use components of the Application were considered by the Applicant to derive from both the contribution of the activities to economic activity, including through the construction stages, as well as the ongoing social and economic impact from the implementation and operation of the activities. Common to all aspects of the Application was the benefit that would accrue through the delivery of the three components of the Proposal being accelerated through the FTAA process in comparison to expected timeframes under a 'conventional' consenting process.

Solar Farms

189. The solar farms were described in the AEE (Volume 3) as providing significant public benefit from its direct construction value (including direct and indirect construction jobs) and ongoing support for the solar farms (site management, panel maintenance and electrical servicing). Overall, and with reference to the Economic Impact Assessment (**EIA**, Appendix 1K), the AEE states that in addition to economic and social benefits, the solar farms will assist to reduce energy costs and improve energy resilience and stability in the Waikato region.

190. The AEE also highlights the environmental benefits associated with the generation of electricity without greenhouse gas emissions, and the ability to continue grazing stock below and around the solar farms, with this dual use representing the most productive use of the land.

191. The Panel received advice from the Applicant's economic adviser, Mr McIlrath, in respect of the regional significance of the solar farms (in response to the Panel's Minute 8). Mr McIlrath's conclusions were that inter alia "[t]he proposed solar farms will deliver substantial benefits to both the Waikato region and New Zealand by adding generating capacity equivalent to the electricity needs of circa 6,900 households".⁴⁴ The Panel expressed an initial query as to the likely need for the implementation of the solar farms to be connected to the delivery of other components of the overall Project, in order to ensure that the regional benefits of these facilities were realised (and did not otherwise reduce the significance of the Project if not implemented). This was agreed to by the Applicant through its response of 30 January, which set out a proposed condition structure that would ensure that

44 L McIlrath, Market Economics, High Level Economic Commentary (5 January 2026) at 10.

the solar farm activity is delivered prior to any stages of the residential subdivision beyond Stage 4.

Retirement Village

192. The AEE (Volume 4) considers that the Application will result in significant public benefit through the creation of a large RV and aged-care hospital. It highlights the further following positive effects:
- a. The proposed RV is an efficient use of land, where 218 retirement villas, a community building, and 70-bed aged-care hospital will be established. The RV responds to a need for aged care units in the region, where a projected shortfall in units of approximately 1,200 units is expected to arise over the long term, while also being within proximity of the Matamata town.
 - b. Socio-economic benefits would arise through provision of an aged-care hospital on-site that will provide continuity of care, with seamless movement from independent living to managed care avoiding disruption for residents. The AEE notes that retirement villages are considered to provide enhanced amenity for aging populations and improve the delivery and cost-effectiveness of community health resources.
 - c. The provision of housing for the target demographic frees up existing housing for more intensive uses, including for larger families or for higher-density development and increasing the overall availability of housing within the region.
 - d. The RV is proposed to be serviced by on-site, self-managed three waters infrastructure, resulting in a sustainable long-term servicing strategy that does not impact the capacity or availability of public networks.
193. The AEE also considers the RV to have a positive economic impact, both from the cost of development (estimated at \$121 million) and ongoing employment, estimated at 68 permanent roles, contributing \$5.8 million to GDP annually and \$4.2 million in wages within the local community. Household spending from the village residents within the local economy is estimated to be nearly \$11 million.
194. In their comment, the Minister for Seniors noted that a positive feature of the proposed RV is its provision of nurses' accommodation to attract nurses to work there.⁴⁵

45 Minister for Seniors, Comments Received (6 November 2025).

Residential subdivision

195. The AEE (Volume 5) states the development will result in significant public benefit through the creation of a large number of housing allotments. The residential subdivision is also considered by the Applicant to give rise to the following positive effects:
- a. The efficiency of land use (accommodating 518 vacant residential lots, a commercial superlot, seven local purpose reserves, an open space lot and a supporting roading and pedestrian network) and will contribute to meeting demand for housing in the Matamata area in an appropriate location and density;
 - b. The proposed reserves will provide a mixture of functional and usable open space that will create ongoing positive social and ecological benefits for the Matamata community;
 - c. As part of an overall Project, the residential subdivision will integrate with the solar farms (for electricity supply purposes) and the RV;
 - d. The proposed layout and road network provides for a walkable design, with good legibility and the opportunity for active and recreational uses and which is broadly aligned with the ESSP;
 - e. The proposed earthworks will provide a suitable and stable ground contour for future development that is free of flood and instability hazards; and
 - f. The greenway will create a high-amenity active use corridor, while providing for safe and efficient discharge of stormwater, while the proposed planting along its alignment will create positive ecological effects to benefit the wider catchment and receiving environment.
196. The Panel notes that the extent of the benefits of a number of the matters referred to above, including with respect to the RV, was the subject of some contention, including in respect of potential flooding effects associated with groundwater levels, the extent of effects on HPL, and in particular the degree of economic benefits, including whether these would be 'regionally significant'. We address these matters in more detail later in this decision, including in Part F below, and these inform our overall decision on the Application.
197. In summary, we record our overall finding here that while the Panel recognises the range of positive effects contended by the Applicant, there are a number of matters that we do not find to be positive, and we address these issues elsewhere in this Decision. Our task is to take into account both positive and negative effects, and give

the greatest weight to the purpose of the FTAA, which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

Construction effects

Applicant's overall assessment

- 198 The Proposal will result in temporary construction effects for the duration of the civil engineering and associated activities required for construction of the proposed development, and in particular for the RV and residential subdivision and associated works. There will be effects from construction traffic, construction noise and associated works. Each of these effects is addressed below.
- 199 In general, measures are proposed to be put in place to mitigate and reduce the potential for any adverse traffic, dust, or sediment laden or raw water discharge effects during the construction phase. A draft high-level Construction Management Plan (**CMP**) has been provided within Appendix 4F, demonstrating that effects can be adequately managed.
- 200 Overall, the Applicant states that the potential adverse construction-related effects will be less than minor and temporary, considering practicable measures consistent with the scale of works will be implemented to minimise adverse effects, as outlined below.

Construction traffic effects

Applicant's assessment

- 201 The construction stages will result in vehicle movements on existing roads adjacent to the site for the transportation of machinery and equipment to and from the site, the importation of construction materials, and vehicles associated with site construction (including staff, inspectors, and consultants). Construction traffic effects are proposed to be managed by way of a Construction Traffic Management Plan (**CTMP**). A draft CTMP was attached to the Integrated Transportation Assessment (**ITA**) provided with the substantive application (Appendix IP, Appendix C). This will form the basis of the final CTMP which will be required to be developed and implemented as a condition of consent. The ITA also recommends that site specific temporary management plans (**SSTMPs**) are provided for each work site which describes the extent of temporary traffic management at work site and how road users will be managed.
- 202 In response to concerns from a number of residents on the issue of construction traffic (as referred to in more detail below), the staging of the development has been

updated so that all earthworks and civil construction traffic from Stage 3 onwards will be from either a dedicated haulage route from Station Road or a connection to Firth Street. This is consistent with the recommendation of the MPDC's Transport expert, Alastair Black.

- 203 A cut to fill balance was noted to have been achieved on site especially for the first two stages. This cut to fill balance will limit traffic to deliveries (some heavy vehicles but infrequent) and lighter vehicles (i.e., contractors' vehicles).⁴⁶
- 204 Construction traffic movements are proposed to be restricted between 8:30am and 9am, and 3:00pm and 3:30pm, to minimise potential conflicts at school drop-off periods.
- 205 The location of any gates is yet to be confirmed, however a requirement to prevent queuing on the existing road network will be included within the CTMP and CTMP.⁴⁷
- 206 The Applicant advises that use of private property for access is avoided including, for Chestnut Lane, by the following measures:⁴⁸
- a. The Application is based on not using or relying on the 129B Station Road driveway for its design or construction. The proposed Road 1 is located entirely within the Applicant's site, and does not use or merge with Chestnut Lane.
 - b. It is not intended (or part of the application) that Chestnut Lane will be used for construction traffic. Access points for construction will be via Peakedale Drive initially and later at the location of the proposed Spine Road intersection with Station Road after Stage 2 (Residential) or via Firth Street (when construction is complete).
 - c. There will still be access to the property for continuing use by small vehicles, as provided by current access rights. Once earthworks/construction starts, this will be approved and managed by the CTMP.

46 Appendix A, Tracking Table, Response to Affected Landowners, Applicant's Response to Comments (18 November 2025).

47 Appendix A, Tracking Table – Response to Affected Landowners, Applicants' Response to Comments (18 November 2025) at 4.

48 Appendix A, Tracking Table – Response to Affected Landowners, Applicants' Response to Comments (18 November 2025) at 24.

MPDC Comments

207 The transport review prepared by Mr Black for the MPDC⁴⁹ had the following comments:

- a. Concern was expressed with respect to the proposed development trigger of Stage 5 or 280 lots before any alternative construction access is provided. Until this time all construction traffic would need to use the existing transport network (i.e., Peakedale Drive, Jellicoe Road, Archford Street and Hampton Terrace).
- b. The development of the Firth Street connection as early as possible is supported, thereby enabling construction traffic to use this route to avoid transport effects on the existing network.
- c. Given the uncertainty in the timing of the residential development, construction of the southern solar farm and associated impacts on existing residential neighbourhoods, a recommendation that additional ITAs are completed at key stages of the development.
- d. The proposed management of construction traffic effects for the northern solar farm through a CMP was agreed, as this site has direct vehicle access to Station Road.
- e. Concern was expressed that the Applicant's assessment has underestimated the number of vehicle movements that will occur during construction of the southern solar farm and that its construction may result in adverse impacts for residents of the affected streets.
- f. The condition requiring a CMP was recommended to be expanded to cover a number of additional matters.

208 Overall, Mr Black concluded that the issues noted in his review could be addressed with amendments to the proposed consent conditions.

Comments from adjacent land owners and occupiers

209 A number of residents were concerned about construction traffic effects including safety on adjoining local roads. These were incorporated within comments on

49 Statement of Evidence of A Black on behalf of Matamata-Piako District Council, Transport (11 November 2025).

construction effects generally, with commenters referring to the noise and disruption of construction vehicles arriving and departing from the Site, as well as dust and vibration effects, with such movements being in close proximity to a number of properties.

Applicant response

210 The Applicant's response to comments in respect of construction traffic effects referred to the fact that the ITA had modelled the capacity of adjacent intersections, both existing including background growth and once the development is in place. The Applicant's resulting assessment was that there is sufficient capacity in the network to accommodate the expected traffic increase until such time that the Firth Street connection has been designated and delivered, or the Station Road connection. Specifically, the response incorporated the following changes and preferred management conditions:

- a. Agreement to manage construction traffic use of Peakedale Drive, including:
 - i. that no queuing on Peakedale Drive will be accepted and that the gated entry point to the site is well inside the development and away from the road end when it is practicable to do so, with monitoring to be undertaken to ensure compliance and,
 - ii. updated staging for construction traffic to reduce the construction traffic utilising Peakedale Drive as much as is feasible.⁵⁰
- b. An additional ITA will be prepared from Stage 3 to provide greater certainty and enable targeted upgrades should they be required, such that all earthwork and civil construction traffic from Stage 3 onwards will be from either a dedicated haulage route from Station Road or a new connection to Firth Street.⁵¹
- c. The operation of Jellicoe Road will be reviewed as part of the Stage 3 ITA to confirm if there have been any operational concerns raised during the implementation of Stages 1 and 2.⁵²

50 Applicant Response to Comments, Appendix A, at 4–6.

51 Applicant Response to Comments, Appendix A, at 63.

52 Applicant Response to Comments, Appendix A, at 64.

Panel finding – construction traffic effects

211 We find that construction traffic effects would be able to be adequately addressed through appropriate staging of the development and implementation of a CTMP covering matters including those recommended by the MPDC expert, as well as those limitations to construction vehicle access and movements as proffered by the Applicant. These measures would be stipulated through conditions of consent.

Construction Noise and Vibration effects

Solar Farms

212 The Applicant's assessment of the noise levels from the construction of the solar farms, prepared by Styles Group, found that construction noise levels will marginally exceed the permitted construction noise limits under the MTRB at one receiver.⁵³ The Applicant's assessment acknowledges that driven piling and the operation of heavy plant may result in some perceptible vibration at the closest dwellings but will not exceed the typical standard used to control construction vibration given the separation distances to all structures on adjacent sites. The assessment found that compliance with the typical standards used to control construction vibration will be readily achieved without the need for specific mitigation. Draft Construction Noise and Vibration Management Plans (**CNVMPs**) have been prepared for each of the two proposed solar farms (Appendices 3M and 3I). The Applicant proposes that these will be finalised and submitted to the MPDC for certification as part of the consent application process. The objective of the CNVMPs is to identify and require the adoption of the best practicable option to minimise construction noise and vibration effects and ensure compliance with the project noise conditions. The assessment considered that the noise emissions from the proposal will be reasonable at all times and recommended conditions of consent based on its findings.

Retirement Village

213 The Applicant's assessment of the noise and vibration effects of the proposed RV, also prepared by Styles Group,⁵⁴ found that construction noise levels will comply with the MPDC permitted construction noise limits at all receivers. It also noted that vibration emissions will comply with the guideline vibration values set out in the

53 Styles Group, Solar Farm, Assessment of Construction and Operation Noise Effects (26 May 2025).

54 Styles Group, Retirement Village, Assessment of Construction and Operation Noise Effects (4 June 2025).

German Standard DIN 4150-3:2016 *Structural vibration – Effects of vibration on structures*.

- 214 The assessment recommended specific construction noise mitigation. A draft CNVMP has also been prepared for the proposed RV works (Appendix 4I). It will be finalised and submitted to the MPDC for certification as part of the consent application process. The assessment concluded that its recommendations form part of the best practicable option to ensure that noise emissions are reasonable.

Residential Subdivision

- 215 The assessment of the construction noise and vibration effects of the proposed residential subdivision (Styles Group)⁵⁵ found that construction noise levels will marginally exceed the permitted noise limits of the MPDP at two neighbouring sites (as part of tree removal works, and during earthworks) at a upper level of one dwelling. In both instances the Applicant's assessment is that the infringements will be of short duration.

- 216 The Applicant's assessment also advises that vibration effects will comply with the guideline vibration values set out in the German Standard DIN 4150-3:2016 *Structural vibration – Effects of vibration on structures*.

- 217 The assessment recommended specific construction noise mitigation. A draft CNVMP has been prepared for the proposed residential development (Appendix 5L). As with those prepared for the solar farms and RV, the CNVMP for the residential development is proposed to be finalised and submitted to the MPDC for certification as part of the consent application process.

- 218 The assessment considered that construction noise and vibration levels will be no greater than necessary to complete the works and the assessment recommendations form part of the best practicable option to ensure that noise emissions are reasonable.

Cumulative construction effects

- 219 The following three scenarios have been used to assess a worst-case scenario for cumulative effects:⁵⁶

55 Styles Group, Residential Subdivision, Assessment of Construction and Operation Noise Effects (4 June 2025).

56 F McNutt, Barker & Associates, Memorandum on Behalf of the Applicant in Response to Minute 2 of the Expert Panel, Item 2 (28 October 2025) at p 2.22.

- a. The construction of the northern solar farm at the same time as the residential subdivision;
- b. The construction of the northern solar farm at the same time as the RV; and,
- c. The construction of the RV at the same time as the residential subdivision.

220 Based on the above, the results of additional noise modelling by Styles Group showed that no surrounding receivers will be adversely affected by cumulative noise and vibration effects, and that any potential effects can be managed by the proposed CNVMs and the relevant conditions of consent.

221 The Applicant also noted⁵⁷ that dust suppression measures are included as conditions of consent for all activities, and conditions include provision for dust suppressants management and CMPs. While some dust effects are likely to arise, these are temporary in nature and are considered likely to be adequately managed by the provision of dust suppressants.

MPDC comments

222 The conclusions of a peer review of noise effects assessment prepared on behalf of the MPDC⁵⁸ were:

- a. General agreement with the noise assessment of operational noise and construction noise made by Styles Group.
- b. The operational noise and construction noise assessments have been carried out to the noise standards in the MPDP. However, as these noise standards have been superseded, it is recommended that the resource consents reference the current versions of these standards. The main change is that the LA10 descriptor is updated to the LAeq descriptor. This change may assist with some areas of minor non-compliance.

Agreement that the CNVMs represent an appropriate approach to the management of construction noise, apply the BPO in mitigating construction noise and are in line with industry standards and guidelines.

- d. Agreement with the Styles Group in respect of construction noise effects.

57 F McNutt, Barker & Associates, Memorandum on Behalf of the Applicant in Response to Minute 2 of the Expert Panel, Item 2 (28 October 2025) at 13.

58 Statement of Evidence of N Savory on behalf of Matamata-Piako District Council, Noise (11 November 2025).

Comments from adjacent landowners and occupiers

223 A number of residents expressed concern about excessive noise from construction equipment during construction operations, including the aforementioned effects of noise from construction vehicles, as well as vibration, and the effects on internal and external amenity of their properties.

Applicant's response to comments

- 224 The Applicant has responded to concerns from adjacent residents regarding construction noise as follows:⁵⁹
- a. Effects on sleep of shift workers at 164 Station Road: The Applicant acknowledges that permitted night-time noise levels will not be able to be achieved during construction. The Applicant will endeavour to schedule the closest piling work during periods of the day when shift workers are not sleeping; this will involve a high level of communication and engagement with the occupants.
 - b. Noise and vibration effects on horses: The Applicant's planner recommends that the Applicant endeavour to schedule the closest piling work to stables at times when the stables are not occupied; this will involve a high level of communication and engagement with the stables management at 196 Station Road.
 - c. Effect of vibration on the structure of the pool at 182 Station Road: The Applicant notes that this structure is located 45m from the closest solar panels and there is not expected to be any risk of structural damage as a result of construction activity.
 - d. Minor noise exceedances during tree works for no's 6 & 8 Odium Drive and for demolition and civil works at 18 Eldonwood Drive: these are very short term exceedances and the Acoustic Report concluded that the noise and vibration emissions from the proposed construction works, including the minor infringements of the MPDP will be reasonable in terms of section 16 of the RMA if the recommended conditions are imposed and complied with.
 - e. Construction noise at 5 Odium Drive due to proposed earthworks will fall within permitted noise levels allowed by MPDC.

59 Appendix A, Tracking Table, Response to Affected Landowners, at 30–33, 41 and 43.

- f. The Applicant also undertook to ensure that the delivery of Lots 107-111 would be deferred, in order to address impacts on properties at the end of Peakedale Drive, and be linked to Stage 3 (estimated 2030), with a mechanism to be incorporated into the conditions of consent.
- g. Noise levels at Eldonwood Drive: these would be within permitted levels for the majority of the properties within Eldonwood Drive, with the exception of 18 Eldonwood Drive as discussed above. Mitigation measures are proposed where applicable, including temporary acoustic barriers. All adjoining residents will be notified prior to the commencement of works.

Panel finding

- 225 The Panel accepts the Applicant's assessment and response to the concern raised by neighbours. We find that while construction noise will likely occur at various times and depending on proximity to the different stages of work and construction traffic routes, these effects will be subject to usual construction noise standards and are able to be appropriately managed by way of CIVNPs, which will be implemented by way of consent conditions.

Earthworks

- 226 The Applicant states that the earthworks for the proposed solar farms will be relatively minor, being limited to construction of access roads and trenching for stormwater pipes crossing access roads and for electric cabling. Earthworks for the proposed RV will be more extensive (involving approximately 28,450m³ of cut and 77,290m³ of fill over an area of 199,800m²), including re-contouring, excavations for drainage networks, raingardens and wetlands, formation of building platforms and roading networks, retaining walls where appropriate and placing of fill for the wastewater disposal area. Earthworks for the proposed residential area will also be extensive (involving approximately 239,000³ of cut and 218,000m³ of fill over an area of 199,800m²), including the need for re-contouring, excavations for drainage networks and stormwater facilities, formation of building platforms and roading networks and retaining walls where necessary.

- 227 The Applicant advises that:
- a. erosion and sediment control measures for the earthworks for the whole development will be implemented in accordance with the WRC Guide for Soil Disturbing Activities 2009;

- b. soil stockpiles will be formed during earthworks. In response to concerns from neighbouring residents regarding the location of these, the Applicant advises⁶⁰ they will be located centrally within the site and will be subject to stringent criteria for dust and erosion control; and,
- c. dust from earthworks in dry windy weather will be managed by measures set out in the ESCPs for the RV and residential subdivision.

MPDC Comments

228 There are no comments from the MPDC that were specific to earthworks.

WRC comments

229 The comments from the WRC noted that the proposed earthworks on each site would be relatively routine and that in general, any temporary effects during the earthwork stages can be adequately addressed via suitable plans to be certified by the WRC prior to the earthworks commencing.⁶¹ The WRC also advised that the proposed earthworks for the solar farms fit within the permitted activity rules of the WRP for earthworks as the site is not considered to be a high erosion site. It confirmed that potential adverse effects from the earthworks associated with the RV and residential subdivision and greenway can be suitably avoided and/or minimised with suitable consent conditions.

Comments from adjacent landowners and residents

230 Comments from adjacent landowners and residents included concerns regarding the effects of dust and stockpiles with Eldonwood residents in particular requesting that robust conditions be imposed to prevent the storage of materials, topsoil or clay piles near shared boundaries and to ensure that construction activities are managed in a manner that fully protects the amenity of existing residents.

Applicant's response to comments

231 The Applicant's response to these comments was limited,⁶² stating that:

- a. The developer is willing to engage with adjacent landowners to provide new fencing in advance of earthworks; and,

60 Appendix A, Tracking Table, Response to Affected Landowners.

61 Statement of Evidence of S Roa on behalf of Waikato Regional Council (11 November 2025).

62 Applicant's Response to Comments, Appendix A and Appendix B.

- b. Earthworks will be temporary in nature, with the developer committing to provide a 2m-wide landscape buffer in the first planting season following the completion of relevant earthworks stages.

Panel finding - Earthworks

232 Although the proposed earthwork areas for each component of the Proposal will be extensive, the Panel finds that the potential adverse effects from earthworks can be managed through appropriate consent conditions addressing erosion and sediment control, stockpile locations and dust.

Contaminated Land Effects

233 This section supplements the Panel's contaminated land assessment undertaken at the Stage 0 subdivision stage.

Applicant's assessment

234 As noted with respect to the subdivision topic, the Preliminary and Detailed Site Investigation (PSI/DSI) carried out for the area proposed development⁶³ identifies that it is likely HAIL activities have been undertaken on the site, including pesticide use and storage. While it was identified that buildings on the site had potential to contain asbestos, none was noted during soil sampling.

235 To mitigate any potential effects on human health and environmental discharge associated with any future disturbance of contaminated soils, the PSI/DSI recommended works across the site be undertaken in accordance with the Contaminated Site Management Plan (CSMP).⁶⁴ This document details the remediation goals and methodology, environmental management procedures, unexpected contamination discovery protocol, health and safety measures, testing requirements and validation reporting. Adherence to the CSMP is required in the proposed conditions of consent.

236 Acid Soils Management Plan (ASSMP)⁶⁵ outlines how potential or actual acid sulphate soils will be identified, managed, and mitigated during the proposed earthworks and construction activities. Mapping provided by the WRC identifies isolated pockets of high-risk soils within the Site, with the majority of the Site

63 SLR, Preliminary and Detailed Site Investigation, Eldonwood Drive and Station Road (20 May 2025).

64 SLR, Contaminated Site Management Plan, Eldonwood Drive and Station Road (27 May 2025).

65 SLR, Acid Sulphate Soil Management Plan, Eldonwood Management Plans (27 May 2025).

mapped as low risk. It is intended that works across the site be undertaken in accordance with the ASSMP, which is required in the proposed conditions of consent.

- 237 The Applicant advises that based on the findings of the PSI/DSI, CSMP and ASSMP, it is considered that the proposed earthworks can be appropriately managed to avoid adverse effects on human health and the receiving environment.

Council Comments

- 238 There were no comments in respect of contamination issues from either the C or the WRC.

Panel finding

- 239 As set out in the preceding discussion of contamination effects associated with the Stage 0 subdivision, the Panel concludes that potential adverse effects on human health and the environment from contaminated land and acid sulphate soils associated with the proposed subdivision and land use (including earthworks) will be acceptable and can be appropriately managed to avoid adverse effects.

Geotechnical effects

Applicant's assessment

- 240 A Geotechnical Investigation Report (GIR) was prepared for the Applicant by GMW Geosciences (Rev 1, 22 May 2025). The main findings and recommendations of the GIR were that:
- a. Liquefaction induced settlement during a ULS event was analysed for the proposed development (excluding balance lots) to provide indicative settlements for IL1 and IL2 structures.⁶⁶
 - b. There is low to moderate potential for lateral spreading near the Waitoa River bank under IL1 seismic conditions. There is low to moderate potential for lateral spreading for the Residential and Retirement Living areas under IL2 seismic conditions. There is high potential for lateral spreading near the riverbank under IL2 seismic conditions for the Balance Lot/Future Development Block and that will have to be assessed when that block is developed.

66 IL – "Importance Level".

- c. Load induced settlements have been assessed based on cut and fill levels for single storey structures and the aged care centre. Settlement at the solar farms was assessed to be negligible.
- d. Published active fault mapping by GNS indicates the nearest active fault to the site is the Kerepehi Fault. This fault is approximately 5km east of the site. The Kerepehi Fault has a recurrence interval of between 2,000 years to 3,500 years. A recent study indicated that “scarps across the Hinuera surface range from 1m to 8m”. Fault scarps were not observed at the site. Based on assessment of digital elevation models (DEMs) of the wider Matamata area, no fault traces could be inferred across the proposed development site, unless they exist buried under the alluvial deposits (deposited up to 0.523Ma before present day). This means that if fault traces are below the alluvial deposits at the site, they would be older than Holocene age and therefore would not be active faults.

MPDC comments

241 Comments were provided by way of geotechnical peer review report prepared for the MPDC by Mr Cowbourne.⁶⁷ The Panel notes that the peer review report and evidence was prepared before Revision 3 of the scheme was issued on 18 November. The geotechnical-related aspects of the peer review report (excluding aspects of groundwater in relation to stormwater disposal which are addressed elsewhere in this decision), were:

- a. The sector to the west and northwest of the Matamata urban area was known to be geotechnically less favourable for land development than to the south, east and north. The GIR has now confirmed this.
- b. The level of subsurface investigations is not yet sufficient to provide a robust model of the subsurface conditions, both geology and groundwater. There are a number of unknowns and there is potential for further ‘step-change’ in the ground and groundwater models such as occurred in the last six weeks or so (e.g., groundwater level, liquefaction hazard).
- c. The revised assessment for liquefaction has increased the level of potential effects. Building design is more onerous, increasing from TC2 to TC2-TC3 Hybrid levels. The higher groundwater table makes the requirements more stringent than much of Matamata.

67 Terrane Consultants, Geotechnical Peer Review Report (10 November 2025).

- d. Further assessment of the potential for active faulting is required.
- e. The effect of the new/higher groundwater levels is apparently in the process of being promulgated into the overall project design, and as a result it is not possible to finalise the geotechnical peer review.

242 In response to MPDC comments above on active faulting and liquefaction the Applicant has advised⁶⁸ that:

- a. The reviewer should explain why the current assessment using a DEM model, which does not indicate a fault rupture through the site, is not sufficient.
- b. During further geotechnical design stages, additional observations will be undertaken and faulting will continue to be discussed and assessed in these future stages of design, should new data or observations come to light.

243 A revised GIR was provided with the Applicant's response to comments (Revision 3), which provided revised liquefaction analyses for the proposed development, and reaffirmed that "there is a high risk of liquefaction-induced effects occurring at the site".⁶⁹ It characterised the risk of liquefaction and liquefaction-induced settlements as 'insignificant to severe' for the IL2 structures in the ULS case, and 'moderate to severe' for the IL3 structures in the ULS case. It sets out specific engineered mitigation design options as comprising:⁷⁰

Foundation options such as (but not limited to) waffle slab foundations designed to sustain the calculated liquefaction induced ground deformation and lateral spreading;

Structural design of the proposed superstructures to sustain the calculated amount of liquefaction induced ground deformation and lateral spreading.

Calculated liquefaction effects can possibly be reduced by performing further laboratory testing to assess the fines content and plastic nature of the fine-grained soils at the site, and to account for the pumice content of the coarse-grained soils at the site.

244 The tracking table included in the Applicant's response in respect of this matter considered that the updated GIR addresses the aged care building and that it conveys that the norm for the Matamata urban area is normally TC1, sometimes TC2 foundations. It says, however, that:⁷¹

68 Appendix B, Tracking Table, Response to Council Comments, Table 2, Annexure E, at 2.3.

69 Applicant Response to Comments, Attachment 5B (GIR Rev 3), at 11.

70 Applicant Response to Comments, Attachment 5B (GIR Rev 3), at 15.

71 Applicant Response to Comments, Appendix B, at 9.

...this cannot be a criteria to overrule site-specific assessment and related geotechnical recommendations. Recommendations have been provided to optimise liquefaction results in Section 8 of the GIR. Lastly, the hazard has been assessed, the potential effects have been quantified, and mitigation measures exist that are used throughout New Zealand to satisfy the consenting requirements.

245 The Panel sought further comment regarding geotechnical issues through a section 67 request to the MPDC as part of Minute 3 (21 November 2025):

[13] Has the site been shown to be free of active fault traces? If not what additional investigations or reporting is required to address this matter?

[14] Has the liquefaction hazard been addressed appropriately with respect to effects on proposed development, including buildings? If not what additional investigation or reporting is required?

246 Further comments on behalf of MPDC were provided by way of memorandum⁷² from Mr Cowbourne in response to Minute 3:

The Ashbourne site has not been shown to be free of active fault traces. For additional investigations he would expect a SQEP such as GNS to approach the assessment as follows:

- (a) An initial desktop study;*
- (b) If judged that there is no elevated risk, then the issue is closed;*
- (c) If uncertainties were present then they would do a site inspection, more detailed desktop assessment, and consider other aspects such as historical seismicity; this would be followed by a detailed analysis and, if necessary, identification of non-build zones;*
- (d) If necessary undertake field investigations, most likely involving specialist trenching as well as other techniques to define buried features. This would be followed by a detailed analysis and, if necessary, identification of non-build zones;*
- (e) The work would take months to complete.*

There are residual uncertainties for liquefaction, mostly the possibility of lateral spread displacements in the greenway, the ponds and the wetlands. However, the elevation differences are modest and it is likely that the stabilisation measures needed to address any deficiency in stability under earthquake conditions would not be too excessive.

Given the TC3 classification and the cost consequences it is more than likely that additional investigations and assessment will be undertaken.

72 Terrane Consultants Ltd, Memorandum 2 (27 November 2025).

For the purposes of the Fast Track Application the liquefaction assessment given in Revision 3 of CMW's geotechnical report can be used as a baseline.

Expert conferencing on active faults

247 In the Panel's Minute 4, item 17 requested the following:

In relation to Memorandum 2 from T Cowbourne, it is stated that the site has not been shown to be freed of active faults. The memo included a description of an expected scope of works that a SQEP such as GNS to carry out, noting that this would take months to complete. It does not appear that this has been provided. Please outline how it can be understood that the site is free from risks from active fault lines.

248 The response to this query was addressed by the Applicant's geotechnical experts David Sullivan and Greg Snook together with MPDC's geotechnical expert Mr T Cowbourne, who prepared a Joint Witness Statement on Geotechnical Seismicity/Active faulting dated 11 December 2025. This statement recommended that the consent conditions should include:

- a. A SQEP from GNS Science / Earth Science NZ to be engaged to assess the potential for active faulting within the Ashburne site via an initial desktop assessment, and specifically advise as to the need for further assessment.
- b. The desktop assessment should be undertaken at the forefront of the detailed design stage for the project.

WRC comments

249 There were no comments on the geotechnical matters covered within this section of the decision report from the WRC.

Comments from adjacent landowners and residents

250 D and J Caulfield noted concerns on the possibility of liquefaction and P&M Equipment Hire, together with Station 143 Ltd and Begovich Investments Ltd, referred to a report by Barr and Harris which highlighted serious concerns about liquefaction.

251 The Barr and Harris report included the following comment regarding potential liquefaction hazards:⁷³

73 Barr Harris Surveyors Ltd, Report regarding Private Plan Change, Station Road, Matamata (12 March 2025).

The high water table could affect the geotechnical stability of the area in terms of the liquefaction potential of the natural soils. Providing stabilised platforms could be considered as a suitable solution for low density development such as Rural Residential. However, with more intense residential development the potential effects of liquefaction could be significantly more difficult to mitigate, for the dwellings and the required urban services.

Panel finding

252 Based on review by MPDC's geotechnical expert, the Panel finds that the geotechnical report prepared by the Applicant has satisfactorily addressed geotechnical matters, except for the issue of possible active faulting. It appears that the significance of the issue of active faulting at the site is yet to be determined through a recommended SQEP assessment. The proposed consent conditions addressing this matter assume that MPDC's internal processes are capable of responding appropriately to the results of a future SQEP assessment with respect to approving land for residential and other building development, as well as the construction of associated subsurface services. We have not sighted any evidence that contends that the MPDC's processes would not be up to this task but anticipate that this will be confirmed either way through the subsequent response stage (to the Draft Decision and conditions).

Stormwater management and flooding effects

Applicant's assessment

- 253 The proposed management of stormwater and flooding for the proposed Ashbourne developments is described in the SMP.
- 254 The SMP was updated in November 2025 and again in January 2026⁷⁴ to reflect higher than previously expected peak groundwater levels at some locations. The proposed stormwater system has been redesigned for northern parts of the proposed residential subdivision and for the RV. As a result, the stormwater design for areas of high groundwater are no longer reliant on soakage. We note that the description of the applicant's assessment includes their responses to comments from MPDC and WRC.
- 255 A discharge consent is being sought to develop the system to enable future stormwater discharge from the proposed sites. The SMP is prepared to support this discharge consent application. The new discharge consent is proposed to be

74 Stormwater Management Plan, Rev C (29 January 2026).

transferred to the MPDC and will ultimately form part of the Comprehensive Discharge Consent upon the vesting of the public network.

- 256 The Project is split into four sites with respect to stormwater management, being the two solar farms, the RV and the residential subdivision, and stormwater management is proposed for these four sites as follows:

Northern Solar Farm

- 257 This development spans approximately 13 ha and incorporates permeable ground cover and minimal impervious surfaces to ensure effective stormwater infiltration and flow dispersion. The Applicant advises that a network of grass swales and drains will manage runoff from the solar panels and ancillary infrastructure, which is expected to maintain water quality prior to discharging into the existing channel/farm drain along the northern boundary.

Southern Solar Farm

- 258 The southern solar farm spans approximately 13 ha and, as with the northern solar farm, it will incorporate permeable ground cover and minimal impervious surfaces to ensure effective stormwater infiltration and flow dispersion. A network of grass swales and drains will manage runoff from the solar panels and ancillary infrastructure, thereby maintaining water quality prior to discharging into the proposed greenway and from the site into the Waioa River.

Retirement Village

- 259 The RV spans approximately 26 ha. Stormwater is proposed to be managed by lot connections, catchpits, pipe networks and swales which convey flows to three centralised raingardens and two constructed wetlands for stormwater quality treatment, as well as extended detention and flood storage and attenuation. Stormwater is proposed to be managed to discharge from the site at 80% of pre-development flows for the 10-year and 100-year ARI⁷⁵ flows. Final discharges would be to an existing drain which discharges under Station Road to the north and a discharge to the south to the proposed greenway.⁷⁶

75 ARI = "Annual Recurrence Interval".

76 Stormwater Management Plan, Rev C (29 January 2026) at 1.5.

Residential Subdivision

- 260 Spanning approximately 45ha, the residential subdivision was designed to provide for 518 lots.
- 261 Where ground soakage conditions allow, house roofs and driveways will discharge to on-site soakage and roads will discharge via roadside raingardens for flows up to 10-year ARI events.
- 262 For Catchment A at the south-eastern portion of the site, soakage will be provided within the lots and the road to manage the stormwater flows for up to 10-year ARI events. Runoff from larger events will be conveyed as overland flow to a new designated stormwater soakage basin at the downstream of the catchment to provide mitigation for up to the 100-year ARI events.
- 263 For Catchment B at the south-western portion of the site, stormwater flows up to the 10-year ARI will be accommodated in roadside raingardens/soakage and private soakage for lot areas. Flows above this event will be conveyed to a new lined basin which discharges to the proposed greenway which in turn discharges to the Waitoa River. The greenway and basin will be designed to achieve attenuation of the post-development flood flows to 80% of the pre-development level.
- 264 For Catchments C and D, located in the northern part of the site, roof runoff will be directed to individual on-lot detention tanks sized to attenuate up to the 10-year ARI, discharging at 80% of the pre-development peak flow. Road runoff will be divided between sections of the corridor with soakage systems (providing retention up to the 10-year ARI event) and sections without soakage that drain directly to two downstream constructed wetlands. For storm events exceeding the 10-year ARI event, overflow from the on-lot detention tanks and from the road soakage systems, along with runoff from the non-soakage road areas, will be conveyed via the road drainage system to the proposed stormwater wetlands. The wetlands provide water-quality treatment, extended detention, and peak flow mitigation for 10-year and 100-year ARI events before discharge to an existing open drain to the north.

Greenway

- 265 The Applicant states that the construction of the proposed greenway, which is to extend from the south-west portion of the proposed residential development to the Waitoa River, will have a substantial catchment-wide benefit. This will be achieved by creating a stormwater storage and conveyance channel that allows existing stormwater, existing peak groundwater and proposed stormwater to discharge to the

Waitoa River where the current stormwater network in this area isn't freely flowing. The Applicant anticipates that this will provide a net enhancement to the surrounding areas for example reducing overland flow to Station Road and the northern catchments.⁷⁷

- 266 The greenway has therefore been designed to allow for the existing ponding / flooding and additional runoff from impervious surfaces to be concentrated in one more easily managed central location as opposed to the current network of smaller farm drains and roadside channels.
- 267 The greenway and Basin B are sized in order to provide conveyance:⁷⁸
- a. of existing inflows south of the greenway; and
 - b. of the attenuated flow from the southern catchment of the K. basin, and attenuation of flows (100-year ARI) above the 10-year event from Catchment B of the residential subdivision.
- 268 The Applicant has provided a detailed HEC-RAS⁷⁹ model to demonstrate that the required level of stormwater attenuation is being achieved.

Waitoa River

- 269 The Waitoa River is one of the primary receiving environments for stormwater discharges from the Project. It flows along the western boundary of the southern solar farm site and acts as the discharge point for both the residential and southern solar farm stormwater systems. The river plays a critical role in regional drainage and is known to experience periodic flood events, especially under prolonged rainfall conditions.
- 270 The Application states that all proposed stormwater outfalls that discharge into the Waitoa River will be designed to include attenuation and treatment upstream, with flows discharged either through ponds, constructed wetlands, the greenway, or existing conveyance features. This discharge strategy ensures that post-development flows into the Waitoa River are maintained at or reduced from pre-development conditions, and energy dissipation structures are proposed to minimise erosion risk at outfall locations.

77 Maven, Technical Response Memo (18 November 2025) at 3.

78 Maven, Greenway Design Memo (23 September 2025).

79 HEC-RAS = "Hydrologic Engineering Center's River Analysis System".

271 The Application also advises that future assessments of the stability of the banks of the Wairoa River, riparian conditions, and erosion susceptibility near discharge points will be conducted during the detailed design stage to ensure the integration of ecological and hydraulic objectives. Monitoring may also be proposed as a consent condition to assess any long-term impacts on the river system.

Staging, timing, responsibility and funding

272 Key infrastructure elements, such as the greenway, provide shared downstream conveyance capacity; however, the Applicant notes that not all the components of the overall proposal will depend on its availability. Stormwater discharge from the RV would be to an existing drain which discharges under Station Road to the north and a discharge to the south to the proposed greenway.

273 The southern solar farms will utilise existing natural channels and existing farm drains and, where necessary, create new discharge pathways to the Waitoa River prior to the establishment of the greenway, while the northern solar farm will operate independently of the greenway system.

274 The RV and residential subdivision are proposed to be carried out in staged phases, with each stage designed to comply with the principles and requirements outlined in the SMP. Interim measures, such as swales and temporary conveyance routes, would be implemented to ensure ongoing mitigation throughout the construction period.

Flood Hazard

275 Flood hazard is addressed in the Applicant's SMP. A flood model was prepared by the Applicant, which addresses established existing conditions within and around the development site and supports and informs the design proposal. This showed the following for the 100-year ARI event:⁸⁰

- a. Northern Solar Farm - minor overland flow paths (**OLFPs**) with shallow flow depth.
- b. Southern Solar Farm - extensive flooding with shallow flow depth.
- c. RV - several OLFPs cross the site, with shallow flow depth, and extensive shallow flooding adjacent to the eastern boundary.

80 Stormwater Management Plan, Figure 11, at 23.

- d. Residential subdivision - several OLFPs that cross the site have shallow flow, with extensive but a relatively shallow depth of flooding at the northern extent of the subdivision.

276 For the overall Project, flood hazards are proposed to be addressed by the Applicant through the following measures:

- a. New OLFPs will be created as the roading corridors are formed, with all OLFPs utilising the road reserve where possible;
- b. Preliminary assessment of proposed post-development OLFPs and 100-year ARI events shows that flow depths and velocities will be below safety thresholds for vehicles and pedestrians;
- c. There are three conveyance channels to be formed around the perimeter of the residential subdivision to redirect upstream flows and avoid adverse effects on neighbouring properties; and,
- d. The stormwater outlets will incorporate a combination of soakage basins, constructed wetlands, a lined pond and raingardens designed to ensure mitigation of flows from both the 10-year and 100-year ARI events to not more than 80% of predevelopment levels.

277 The Applicant also notes that:

- a. The greenway provides a new conveyance and storage corridor, resolving existing flooding issues that currently affect Station Road and the Highgrove subdivision.
- b. Flood modelling confirms that flood extent and depth are reduced beyond the site boundary.

- c. Sensitivity model assuming zero soakage and blocked pipes confirms the system retains performance under failure conditions.

Costs, Funding and Vesting Assets

278 The construction of the proposed stormwater management devices will be undertaken by the Applicant. The proposed stormwater infrastructure includes a greenway swale, public piped networks, soakage trenches, detention basins, raingardens, and private propriety devices.

279 The public assets will be vested to MPDC at the appropriate time as the development progresses. Private assets will remain in private ownership where appropriate legal

instruments will be set up to ensure ongoing operation and maintenance responsibilities are with the owners. Discussions will be undertaken with the Council(s) as to the design of the infrastructure, location, and purpose, with all public infrastructure subject to the relevant Engineering Approval process.

WRC assessment/comments

280 The comments from the WRC⁸¹ did not comment on runoff from the solar farms, but identified concerns with the Applicant's methodology for comparing post-development flow rates with predevelopment flow rates and also identified an issue regarding the reliance on infiltration to manage stormwater runoff across large areas of the site. These concerns related to the proposed RV and the residential subdivision.

MPDC assessment/comments

281 Similarly, the comments from the MPDC⁸² did not comment on runoff from the solar farms but noted that significant uncertainties remain regarding the viability of the proposed stormwater management solutions and their long-term resilience. In respect of the proposed RV and residential subdivision, they also considered that adverse groundwater conditions⁸³ result in uncertainty as to what is controlling the groundwater regime. The MPDC considered that further investigations, monitoring and assessment were essential.

Comments from adjacent landowners and occupiers

282 Comments from adjacent landowners and occupiers included the following:

- a. The experience of a number of local residents, including from within the Highgrove and Eldonwood areas, is that groundwater levels in winter become elevated such that soakage of stormwater into the ground is not possible.
- b. Existing drains adjacent to Highgrove are unable to take additional stormwater in heavy rain resulting in flooding of Station Road and adjoining properties in significant rain events.

81 Statement of Evidence of M Wood on Behalf of the Matamata-Piako District Council, Stormwater Management (3 November 2025).

82 Statement of Evidence of B Rhynd on Behalf of the Matamata-Piako District Council, Stormwater and Flooding (3 November 2025).

83 Statement of Evidence of Cowbourne on Behalf of the Matamata-Piako District Council, Geotechnical (10 November 2025).

- c. The Applicant's stormwater analysis uses incorrect curve numbers, and there is inadequate information on how proposed stormwater basin emergency spillways will operate.
- d. The proposed development will cause increased flood levels in the Waitoa River which will result in flooding and waterlogging of adjacent river flats and cause adverse effects on farming operations (whereby annual maintenance of the bed of the Waitoa River is carried out if consent is granted).
- e. Flooding from the proposed development will cause severe damage over a large area downstream.

Applicant response

283 The Applicant's response advised that further monitoring of existing groundwater levels and further geotechnical investigations has confirmed that groundwater levels are elevated in the northern catchments of the proposed residential subdivision and the RV. As a result, soakage-based devices in these areas were no longer proposed, and were replaced by treatment and attenuation wetlands and piped reticulation (as also referred to in the following section on groundwater effects). This was considered to remove the dependence on vertical infiltration effectiveness. The Applicant went on to say, in response to the resulting design review and allocation of space for stormwater management that:⁸⁴

The need to confirm adequate space and clearance for soakage devices within road corridors has been addressed through further groundwater analysis and a refinement of the stormwater design. Soakage has been removed from Retirement Village catchments and majority of the northern residential catchment and replaced with wetlands and piped reticulation. Due to the lack of GWL separation at peak levels wetland C and D in the residential development are providing treatment and attenuation for the northern catchment. Wetlands 1 and 2 in conjunction with 4 centralised raingardens, are providing treatment and attenuation for the retirement village. These are now sized in accordance with the latest Maven SMP which has been modelled via HEC-HMS and Sensitivity Models ran in HEC-RAS.

A small portion of the northern sub-catchment remains suitable for soakage for the primary network where the latest WGA groundwater modelling and contouring indicates sufficient vertical offset to GWL. These soakage trenches will be constructed post the Greenway being in place, as the WGA response Memo outlines, there will be net drawdown in GWLs across the catchment which then reinforces the soakage-based trenches in these areas that have good soakage soils and adequate offset to the peak GWL. Soakage will therefore remain in this localised area subject to confirmation at

84 Applicant's Response to Comments, Appendix B, at pages 13-14.

detailed design and groundwater monitoring will remain in place to inform the next design phase.

In the southern catchment soakage will continue as the primary network. The trench is aligned and CMW soil logs and sufficient clearance to groundwater has been confirmed with around 6.1m clearance and aligns with newly constructed neighbouring Peakedale Development. Overflows for the soakage trench to Dry Basin A allows additional redundancy helping peak stormwater volumes to be managed within the trenches and the soakage in Basin A.

- 284 The Applicant's response also addressed related matters raised by the MPDC, including seasonal groundwater monitoring, greenway flows and interaction with the Waitoa River and outlet design, design methodology and design gaps, design changes, and long-term monitoring.

Panel request for information

- 285 The Panel sought additional information on stormwater from the MPDC through its Minute 3 (21 November) relating to stormwater management from the solar farms, stormwater calculations of existing runoff, erosion of the Waitoa River (stormwater and stream channel erosion) and the design of sediment retention ponds. The MPDC's response had indicated remaining concerns in respect of these matters (other than the solar farms) and where additional information should be required. The Panel subsequently advised through Minute 4 (3 December) that stormwater remained a key matter in contention and a focus of business conferencing.

- 286 Expert conferencing on groundwater and stormwater⁸⁵ took place in an endeavour to address the concerns of the MPDC and the WRC regarding the Applicant's proposed approach to stormwater management. This was conducted on 12 and 16 December 2025 between stormwater and groundwater experts for the Applicant, MPDC and WRC. The Panel's appointed groundwater expert, Mr Williamson, also attended separate expert conferencing between hydrogeologists with respect to the viability of the proposed stormwater disposal by soakage. This was carried out on 11 December 2025.

- 287 The key outcome from stormwater conferencing was that:

Further assessment is necessary to ensure confidence in the robustness of the evaluations, including the availability of adaptive management options if required. This is a standard industry practice and can be incorporated into the updated [SMP]. This

85 Joint Witness Statement, Stormwater Management (11 December 2025).

updated SMP should address groundwater variability and provide evidence that the stormwater management solution is both fit for purpose and robust.

As with other aspects in the JWS an agreed pathway is that an updated SMP will be prepared as part of the consenting process and reviewed by MPDC and WRC.

It is to be noted that the Expert Panel have the discretion of requiring this updated SMP prior to consenting or post granting i.e. condition

288 In particular, the experts considered that the updated SMP requires the following matters to be addressed:

- a. Ensuring the BPO approach accounts for elevated groundwater across the stormwater system, including in respect of Basin B.
- b. Confirming attenuation requirements for the 2-, 10- and 100-year ARI events (including extended detention, retention of initial abstraction volume, and water quality treatment), including the optimisation of infrastructure sizing.
- c. Demonstrating no adverse downstream flood or erosion effects for all relevant design events.
- d. Providing detailed green infrastructure outlet design that manages energy dissipation and geotechnical constraints that are both constructable and empathetic to the landscape.
- e. Completing a flood risk assessment with a model build report.
- f. Demonstration of how the proposed discharges to the existing drains will be managed ensuring no increase in flooding depth/duration, no erosion or scour effects, and no reduction in drain capacity.
- g. Provision of design detail showing how the WRC drain capacity will be protected under post-development conditions, including a mechanism to secure maintain access to the drain.

289 The recommendation from the stormwater expert conferencing between hydrogeological experts was that consent conditions should include:

- a. Five additional groundwater level monitoring sites equipped with datalogger pressure sensors are to be constructed on site including two nested piezometers in the deepest part of the soakage basin.

- b. The Applicant is to prepare a groundwater level synthetic hydrograph and peak recharge analysis (i.e., intensity and recurrence intervals) for the Site to inform detailed design.
- c. Completion of detailed design phase certification processes with MPDC and WRC.
- d. A requirement for a management plan covering maintenance and operation of the drainage network, including provision for hydrogeologist input.

290 The Panel's Minute 11 (22 January) requested that the updated SMP and condition amendments as referred to in the JWS be provided for its consideration.

291 The Panel's Minute 13 (29 January) requested clarification regarding conveyance of stormwater from the RV to the Waitoa River and clarification and/or provision of the results of the groundwater mounding assessment for Basin A.

292 The Applicant's response to Minutes 11 and 13 (22 and 30 January 2026 respectively) advised that the four matters recommended in the Groundwater JWS for inclusion in consent conditions would be incorporated into a revised suite of conditions. The response also included a revised SMP (Revision C, 29 January 2026) and provided more fulsome results of groundwater mounding for Basin A in WGA's Technical Memo dated 29 January 2026.

293 The Panel's Minute 14 (4 February 2026) requested comment:

- a. on the likely typographical error in the groundwater mounding data in the WGA Technical Memorandum⁸⁶ provided in response to Minute 13. The Panel also notes that its review of the available information on likely groundwater depth at Basin A, together with the results of the WGA groundwater mounding analysis, raises significant concerns about the robustness of the stormwater assessment for disposal from Basin A and the ability to develop consent conditions that adequately address both the uncertainties in future groundwater levels at the basin location and the uncertainties inherent in the mounding assessment;
- b. as to how the infiltration of stormwater to ground by soakage devices other than Basin A might affect the mounding assessment for Basin A, and advised

86 WGA, Technical Memorandum (29 January 2026).

that the Panel considered it imperative that a mounding assessment for Basin A include a winter season scenario; and,

- c. on whether the information provided to the Panel was adequate to address the requirements of Policy 5 of the NPS-NH, and the 100-year time frame of Policy 6.

294 The Applicant responded to Minute 14 in a response provided on 13 February, including:

- a. An updated WGA Technical Memorandum⁸⁷ which:
 - i. Advised that there was a typographical error in the groundwater mounding data in their January memorandum and provided a corrected table.
 - ii. Provided a discussion of groundwater mounding levels and an updated mounding assessment was also supplied.
 - iii. Provided a technical discussion and show that the Basin A design was conservative in response to the Panel's question on how infiltration of stormwater to ground by soakage devices (other than Basin A) might affect the mounding assessment for Basin A. It also provided a mounding assessment for Basin A for a winter season scenario.
- b. A memorandum from Maven⁸⁸ advised that:
 - i. The technical information provided to the Panel is appropriate to address the requirements of NPS-NH Policy 5, noting the comprehensive technical investigations undertaken, including in respect of hydrological modelling.
 - ii. The proposed stormwater management system, greenway corridor, wetland, finished floor levels and groundwater mitigation measures have been designed to avoid risk, and mitigate the hazards identified through their investigations.
 - iii. The hydraulic modelling has included a climate change allowance of (RCP8.5 2100 -2120) in accordance with current regional guidance and

87 WGA, Technical Memorandum (10 February 2025).

88 Maven, Engineering Memorandum (13 February 2026).

Regional Infrastructure Technical Specifications (**RITS**) standards, and the design managed natural hazard risk over at least a 100 year horizon.

- c. The Applicant provided revised consent conditions for stormwater discharge on 13 February.

295 The Panel was not confident that the WGA Technical Memorandum of 10 February adequately addressed its concerns regarding certainty of performance of Basin A and noted that the four matters recommended in the Groundwater JWS for inclusion in consent conditions were not included in the Applicant's proffered conditions of 13 February. The Panel accordingly requested Mr Williamson to review the WGA Memo of 10 February, and to then provide an opinion on the Applicant's proposed regional stormwater consent conditions. Mr Williamson's memorandum dated 18 February 2026 concluded that he had little confidence that the stormwater disposal basin will have the required capacity during the design storm events and that the draft conditions provide no pathway for addressing the areas of uncertainty identified.

296 The Panel conveyed the advice received from Mr Williamson to the Applicant by way of Minute 16 on 19 February.

297 This was responded to by the Applicant, seeking that expert conferencing be arranged via the following Minutes:

- a. The Panel's subsequent Minute 17, issued on 20 February, indicated, among other things, that expert conferencing should involve relevant Council experts.
- b. The Panel then issued Minute 18 on 23 February, granting the Applicant's request to undertake expert conferencing to resolve the issues identified in Mr Williamson's advice in relation to Basin A and the absence of appropriate conditions, together with issues related to location and operation and performance of proposed subsoil drains required to limit the elevation of groundwater levels within the proposed residential subdivision. This conferencing was to involve the Applicant, Mr Williamson, the WRC and MPDC, in accordance with the draft agenda prepared and provided by the Panel.

Panel findings

298 The Panel's findings on stormwater management and flooding effects are addressed by Project Part, as below.

Northern and Southern Solar Farms

299 The Applicant relies upon “permeable ground coverage” to “ensure effective infiltration”. Their position appears to be that as the existing ground surface will essentially remain as undisturbed grass cover, runoff from the impermeable panels will infiltrate into the ground sufficiently to result in a net overall zero effect on runoff quantum arising from the panels. This view has not been substantiated by way of a quantitative hydrological assessment.

300 By way of Minute 3, the Panel requested that MPDC advise whether the Applicant’s approach was reasonable and accurate. MPDC’s response⁸⁹ advised that

There will be no significant change in impermeable surface cover across the site (at ground level) and the existing site surface flow regime will remain untouched. Therefore, the increase in stormwater generation will be no more than minor. In the absence of evidence of groundwater table rising to the surface the solar farm installation will not change the outcome of the rainfall discharge regime.

301 The Panel has some concern regarding the lack of a quantitative hydrological assessment from the Applicant to assess potential increase in runoff quantum from the solar farms. However, we accept Ms Rhynd’s advice (for the MPDC) that the increase in stormwater generation will be no more than minor. Given that maintenance of existing surface soil conditions and overland flow mechanisms is important for mitigating runoff from solar panels, we include conditions addressing this matter.

Retirement Village

302 The Panel notes that the proposed stormwater system for the RV has been re-designed to exclude any stormwater disposal to soakage. We acknowledge the recommendations made in the Stormwater JWS were provided before the system re-design, but we consider these recommendations remain relevant to the revised stormwater system. These included requiring the SMP to be updated to address a number of matters. The Applicant’s proposed stormwater conditions of (13 February) did not include all the recommendations from the JWS.

303 Nevertheless, the Panel finds that the proposed stormwater system will be fit for purpose, subject to that system being designed and operated in accordance with an SMP which has been updated as recommended in the stormwater JWS and certified by MPDC by way of review by an experienced stormwater engineer.

89 Memorandum of B Rhynd on behalf of the Matamata-Piako District Council (27 November 2025).

Residential Development

304 The Panel notes that the proposed stormwater system has been re-designed in acknowledgement of higher than previously expected ground water levels. Before expert conferencing occurred on these issues, the Panel considered that the following matters had not been satisfactorily resolved:

- a. The lack of detailed description concerning the extent of proposed subsoil drains necessary to control groundwater levels to ensure adequate performance of the soakage devices to manage flows up to 10-year ARI events in Catchments A and B, and those parts of Catchments C and D where soakage is considered to be viable.
- b. The deficient detail in the proposed consent conditions that addressed the above matter, and which addressed detailed design and provision of ongoing operation and maintenance of such subsoil drains. If subsoil drains are not required, the Panel observed a need for further analysis to ensure soakage devices can be designed and operated to dispose of stormwater flows for up to 10-year ARI events.
- c. The lack of robust assessment of capacity of proposed Basin A for the disposal of runoff from design storms, noting Mr Williamson's concerns set out in his memo of 18 February.

305 The Panel noted that the groundwater mounding analysis provided to date had not clearly shown the results and implications for disposal of design storms. At this time, we considered a significant flaw for stormwater disposal from Catchment A as the areal extent of proposed Basin A had been designed and surrounded on two sides by existing residential and rural residential development and on the other two sides is constrained by the proposed new road and lot layouts (Stages 1A and 2A). The Panel considered this constraint significant and required the provision of further technical assessment and/or an explanation of previous mounding assessments, including allowing for disposal of design rainfall before the Panel could approve the stormwater disposal arrangements for the residential subdivision.

306 These issues were raised in Minute 19 issued by the Panel, which led to expert conferencing and the resulting JWS⁹⁰ on 4 March. Conferencing addressed the

90 Joint Witness Statement, Stormwater (4 March 2026).

multiple questions posed by the Panel.⁹¹ The key findings arising from the conferencing were as follows:

- a. All parties to the JWS ultimately considered the design has been adequately tested to ensure that adaptive management of stormwater can be applied through the design process. The Applicant is to provide a cross-section through Basin A showing the results of the groundwater assessment as part of the SMP.
- b. The Applicant affirmed that Basin A has been designed with redundancy beyond the standards such that even when accounting for no soakage in this catchment discharges less than predevelopment, that in the 10-year event soakage on lots and in roads (with overflows to Basin A) is not critical to stormwater disposal and can be removed and replaced with a pipe network if required, and that if soakage can be provided, it will be.
- c. The Applicant stated that subsoil drains are not required within Catchment A to prevent groundwater levels rising to a extent that would compromise soakage disposal, and that the subsoil drains proposed as part of the road to help to prevent saturation of subgrade and are standard practice in road design.
- d. It was agreed that the mounding assessment had been carried out with appropriate initial groundwater level conditions for the 10-year and 100-year ARI event (allowing for climate change) including an appropriate factor of safety.
- e. It was also agreed that modelling had been completed to a sufficient level, and no additional draft conditions were needed so long as the draft conditions as previously agreed between the experts during the previous JWS were included. It was also noted that the synthetic hydrograph has been completed and no longer needs to be included in the conditions.
- f. The Applicant confirmed that the findings of its analyses stood, even if no subsoil drains are installed, and that if subsoil drains are installed and the groundwater is lowered as a result, this was expected to lower the severity of the geo-hazards risk to the development. The Applicant confirmed subsoil drains are only proposed where no soakage trenches are installed or no soakage is available, and in the form of under kerb drainage. The groundwater

91 Minute 19 of the Expert Panel (24 February 2026), Agenda.

levels will not affect the design of the stormwater network or the roading design.

- g. It was agreed that subsoil drains are not required and that stormwater management is adaptive and can be either trenches or piped.

307 The Applicant was therefore able to provide the key missing information, and Mr Williamson and the Councils were satisfied with the outcome of conferencing. After reviewing this JWS, the Panel is now also satisfied that the outstanding stormwater matters are resolved, subject to conditions.

Flood hazard

308 We note that the proposed development will include features, such as the greenway, which will reduce flood hazard area to below that which is currently exposed in some locations. We consider that flood hazard can be adequately addressed at the final design stage, by way of the preparation of an updated flood risk assessment, including a model build report to be included in an updated LIMP (requiring technical certification by WRC, as provided for in the Applicant's preferred conditions dated 13 February).

Groundwater effects

Applicant's assessment

309 There are a number of aspects relating to the effects associated with groundwater which are described as follows, noting that these necessarily have some overlap with the preceding discussion related to stormwater management. We have addressed this as a separate topic as groundwater considerations are also relevant to the wastewater and water supply topics that follow, although this discussion excludes the effects of contaminants in the proposed wastewater discharge from the RV and the hydrogeological effects of proposed bore water take for the RV. Those aspects are discussed in the wastewater and water supply sections of this decision report.

310 The Applicant's initial hydrogeological effects assessment included mounding assessments for stormwater disposal to soakage basins, effects on groundwater levels from construction and operation of the greenway, wastewater pumpstations and subsurface pipelines.

311 As a result of initial comments from technical reviews on behalf of MPDC and WRC and local residents expressing concern about effects on groundwater levels from the proposed stormwater disposal, the Applicant has revised the proposed disposal of stormwater by soakage to avoid areas of likely elevated groundwater levels. The

Applicant has provided further technical information to address groundwater levels on the site for the revised stormwater disposal, as discussed above. This further technical information is referenced where relevant in the following discussion on groundwater effects.

Development effects on groundwater levels

312 The effects of the development on groundwater levels are addressed by way of a technical memorandum prepared by WGA⁹² and are summarised as follows:

- a. Groundwater levels will be lowered through the use of subsoil drains, stormwater systems and the greenway. Additionally, the proposed development will result in the partial sealing of the ground surface which will result in significant recharge reduction through the installation of these impervious surfaces. This sealing will have the effect of generally lowering shallow groundwater levels due to reduced surface recharge. While the solar farms will not result in such large reductions in recharge, the addition of the stormwater system will enable rainfall runoff to move to the proposed artificial wetlands rather than ponding and recharging the underlying shallow aquifer.
- b. The disposal of stormwater through soakage is now only proposed for periods when groundwater levels are lower and is no longer proposed in the RV or the northern catchment of the residential subdivision.
- c. Wastewater disposal will add some recharge to the system. However, this artificial recharge at a rate of 5mm per day over 2.4 ha is relatively small compared to annual rainfall recharge over the wider area.

313 In summary, the proposal is considered to result in an overall reduction in recharge and thereby reduce winter groundwater levels within the RV and residential subdivision in parts of the Site.

Effect of stormwater disposal to soakage basins

314 As a result of higher than previously expected groundwater levels being identified (after receipt of the MPDC comments, as discussed above) in the northern parts of the proposed residential area, the previously proposed soakage Basins C and D are to be replaced with constructed wetlands. These do not rely on soakage to

92 WGA, Technical Memorandum, Response to Submitters (18 November 2025) at 3.

groundwater for their operation. Soakage Basin A has been retained and is proposed to continue to operate as a soakage basin with an assessment of the effects of soakage⁹³ showing projected mounding through time at the basin and nearby structures resulting from runoff from a 3-day 100 year rainfall event. This showed a maximum mounding height of 6m after two to three days, then dropping to less than 1m after 40 days. Mounding height at the nearest structure was a maximum of 1.8m.

- 315 As a result of higher than previously expected groundwater levels in the location of the proposed RV stormwater disposal by soakage is now not proposed.

Greenway dewatering

- 316 Groundwater at the Site flows in a north-easterly direction within these areas underlain by Hinuera Formation soils.⁹⁴ The construction of the greenway will intercept some of this groundwater flow and will re-direct it in a westerly direction, into the Waitoa River.

- 317 The calculated extent of groundwater drawdown caused by the construction and operation of the greenway⁹⁵ has been assessed as less than 0.1m at 20m from the greenway at the upstream end of the and less than 0.1m drawdown at approximately 50m from the greenway for locations adjacent to the western edge of the proposed RV and further downstream. This level of drawdown and any associated ground settlement are considered to be highly unlikely to lead to an effect on any existing infrastructure.

- 318 As the greenway affects the same groundwater that is already discharging into the Waitoa River further north, a more westerly conveyance of groundwater will make no material difference to the overall flow of the river. This is because the inflow of groundwater to the river from the greenway will be insignificant compared with the flow of the river.

Effects of proposed drains under roads in the RV and northern residential area

- 319 The calculated extent of groundwater drawdown caused by the construction and operation of proposed drains under proposed roads in the RV and northern residential area⁹⁶ has been assessed as being limited less than 0.1m at

93 WGA, Technical Memorandum, Response to Submitters (18 November 2025) at 3.

94 WGA, Ashbourne Development, Hydrogeological Effects Assessment (June 2025).

95 WGA, Technical Memorandum, Response to Submitters (18 November 2025) at 5.

96 WGA, Technical Memorandum, Response to Submitters, (18 November 2025) at 6.1.3.

approximately 15m from the edge of the roads. These drawdowns are considered to be highly unlikely to lead to an effect on any existing infrastructure due to ground settlement.

Effects of wastewater pipeline dewatering

- 320 The effects of wastewater pipeline dewatering have been assessed in the initial hydrogeology assessment provided with the Application.⁹⁷ As part of the development a number of trenches will need to be excavated temporarily to allow for the installation of wastewater pipelines. In some locations on the site trenches will be dug such that they may intersect the groundwater table. In this case the trenches may need to be dewatered to allow for pipeline installation.
- 321 To assess a “worst case” scenario, the Applicant assessed the effect of inflow into a 150m section of trench penetrating 1.65m into the groundwater table.
- 322 It is assumed that dewatered groundwater will be discharged into the Waitoa River to the west of the site. As this is the same groundwater that is already discharging into the Waitoa River further north, more westerly conveyance of groundwater is expected to result in a negligible difference to the general flow of the river.
- 323 The calculated extent of groundwater drawdown reaches a maximum of 5m length of influence from the edge of the trench. No existing structures that may be affected by groundwater drawdown exist within 5m boundary of any pipeline.

Effects of wastewater pump station dewatering

- 324 Three wastewater pump stations are proposed to be constructed within the development area, two within the residential subdivision and one in the RV. The design for each pump station includes the installation of a wet well which is likely to require drawdown of the local groundwater table to a level at or below the level of wet well floor. The WGA assessment assumes that dewatering will need to draw the groundwater table down below the base of the wet well to provide a dry working surface during construction.
- 325 The dewatering process at each site would lead to a groundwater drawdown cone extending outward from the excavation. The results of hydrogeological analyses of expected drawdown during wet well construction were described as follows:⁹⁸

97 WGA, Ashbourne Development, Hydrogeological Effects Assessment (June 2025) at 5.

98 WGA, Ashbourne Development, Hydrogeological Effects Assessment (June 2025) at 7.

- a. At the residential area central pit groundwater drawdown is projected to be 4.7m below the interpreted winter groundwater level adjacent to the pit. This drawdown may be locally exceeded depending on the dewatering method applied. The nearest structure to the central pit is approximately 350m away which is significantly further than the drawdown extent. There is no expected effect on nearby structures from groundwater drawdown.
- b. At the northern residential wet well construction groundwater drawdown is projected to be a maximum of 2.6m adjacent to the pit. The nearest structure to the northern pit is approximately 40m away at which point drawdown will be 0.08m. Potential effects on this structure from a geotechnical perspective will depend on geotechnical conditions and the type of structure.
- c. At the RV wet well construction, groundwater drawdown is projected to be a maximum of 3.3m adjacent to the pit. The nearest structure to the RV pit is approximately 155m away which is further than the drawdown extent. There is not expected to be any effect on nearby structures from groundwater drawdown.

MPDC comments

- 326 The comments from the MPDC expressed concern about groundwater levels in relation to soakage for stormwater disposal. These matters have been addressed through Mr Cowbourne's participation (on behalf of the MPDC) in the aforementioned joint witness conference on groundwater effects in relation to stormwater and the subsequent revision of stormwater design which does not rely on soakage in areas of expected elevated groundwater levels.
- 327 Mr Cowbourne's reports for the MPDC have highlighted concerns relating to high groundwater levels and the impact on wastewater pumpstation risk/design as well as a high water table near the entrance (water tank location) and potential risk to structures. In his view, this needs further investigation which may result in potential design changes. He also noted that, as a result of the high water table, flotation will need to be considered when designing the wastewater treatment system (Innoflow) as this will mostly be buried up to 2.7m below ground level.

WRC comments

- 328 The WRC also expressed concern about groundwater levels in relation to soakage for stormwater disposal. These matters have been addressed through Ms Wood's participation in the joint witness statement on stormwater on behalf of WRC and the

subsequent revised stormwater design which does not rely on soakage in areas of expected elevated groundwater levels.

- 329 With respect to proposed construction dewatering, the WRC's expert review⁹⁹ (provided by Nicola Wilson) agreed with modelled predicted drawdowns and their extents. Ms Wilson advised that she had no concerns over the effect on existing groundwater users and surface water from the dewatering activities. It noted the effect of these drawdowns on structures would need to be assessed by a geotechnical expert.

Comments from adjacent landowners and occupiers

- 330 The Eldonwood Residents Association expressed concern about groundwater development impacts. A number of commenters noted that the site is subject to a high winter groundwater table and raised concerns that the proposed stormwater management would exacerbate existing groundwater and flooding issues within Station Road, Peakedale Drive and Highgrove.

Applicant's response to comments

- 331 The Applicant has responded to concerns regarding elevated groundwater levels associated with stormwater disposal as described previously above including by way of a Technical Response Memorandum¹⁰⁰ along with the updated SMP with additional groundwater modelling and design updates.
- 332 WGA notes that stormwater and flooding will be reduced as a result of Ashbourne's proposed stormwater management devices, including within Station Road. They also note that the proposed stormwater system and greenway will reduce groundwater recharge and seasonal high groundwater levels.¹⁰¹ They consider, therefore, that the re-designed stormwater network has improved outcomes and takes into account the higher than typical winter groundwater levels that were noted on site during further investigations.
- 333 With regard to the MPDC's comments regarding infrastructure effects, WGA advised¹⁰² that wastewater infrastructure below peak groundwater levels will be sealed (PVC piping, PE piping, manholes, tanks and chambers) to minimise

99 Statement of Evidence of N Wilson on behalf of Waikato Regional Council (10 November 2025).

100 WGA, Technical Memorandum: Response to Submitters (18 November 2025).

101 WGA, Technical Memorandum, Response to Submitters (18 November 2025).

102 Applicant's Response to Comments, Appendix B, Tracking Table, Response to Council Comments, section 1.9, Table 5(e) and (f).

infiltration and inflow into the wastewater system as well as the land disposal area. They advise that all wastewater treatment plant tanks and the wastewater pumpstation chamber will include anti-flotation devices. This may be in the form of concrete collars at the base of the tanks. Calculations and proposed means of anti-flotation will be undertaken at detailed design.

Expert Conferencing

334 As previously noted, expert conferencing on groundwater and stormwater was undertaken on 12 and 16 December to address the WRC and MPDC concerns regarding elevated groundwater levels and the proposed stormwater management approach. The key outcome of stormwater conferencing was that:

Further assessment is necessary to ensure confidence in the robustness of the evaluations, including the availability of adaptive management options (if required). This is a standard industry practice and can be incorporated into the updated [SMP]. This updated SMP should address groundwater variability and provide evidence that the stormwater management solution is both fit for purpose and robust.

As with other aspects in the JWS an agreed pathway is that an updated [SMP] will be prepared as part of the consenting process and reviewed by MPDC and WRC.

It is to be noted that the Expert Panel have the discretion of requiring this updated SMP prior to consenting or post granting i.e. conditions.

335 The outcomes of the expert conferencing with respect to groundwater soakage aspects of proposed stormwater measures were that the updated SMP requires the following matters to be addressed:

- a. Ensuring the BPL approach accounts for elevated groundwater across the stormwater system, including in respect of Basin B.
- b. Providing a detailed greenway outlet design that manages energy dissipation and geotechnical constraints that are both constructable and empathetic to the landscape.

336 As noted previously, the recommendation from the stormwater expert conferencing between hydrogeological experts was that consent conditions should include:

- a. Five additional groundwater level monitoring sites equipped with datalogger pressure sensors are to be constructed on site including two nested piezometers in the deepest part of the basin.
 - b. A requirement to prepare a groundwater level synthetic hydrograph and peak recharge analysis (i.e., intensity and recurrence intervals) for the site to inform detailed design.
 - c. Completion of detailed design phase certification processes with MPDC and WRC.
 - d. A requirement for a management plan covering the maintenance and operation of the drainage network, including provision for hydrogeologist input.
- 337 The Panel's Minute 11 (22 January) requested that the updated SMP and condition amendments as referred to in the JWS be provided for consideration.
- 338 The Panel's uncertainty regarding the need for and proposed use of subsoil drains for groundwater level control was addressed through the expert conferencing and JWS,¹⁰⁴ as described above in the discussion of stormwater.
- 339 The key outcomes of the JWS for the 4 March conferencing were:
- a. Subsoil drains are not required within Catchment A to prevent groundwater levels rising to an extent that would compromise soakage disposal, and that the subsoil drains proposed as part of the road to help to prevent saturation of subgrade are standard practice in road design.
 - b. Subsoil drains are only proposed where no soakage trenches are installed or no soakage is available, and in the form of under kerb drainage.
 - c. High groundwater levels will not affect the design of the stormwater network or the roading design.
 - d. Subsoil drains are not required for stormwater disposal and that stormwater management is adaptive and can be either trenches or piped.
 - e. Subsoil drains are not required to mitigate geo-hazards such as seismicity, fault rupture, liquefaction, lateral spread, slope stability and static settlement.

104 Joint Witness Statement, Stormwater Management (4 March 2026).

Panel Finding

340 The Panel considers that the matters related to groundwater for proposed dewatering for the construction activities have been adequately addressed by the Applicant and can be managed by consent conditions.

341 Similarly, the Panel also finds that the matters relating to potential groundwater level impacts on stormwater disposal, geotechnical hazards and road design have been adequately addressed in the proposed design and consent conditions.

Wastewater and water effects (residential subdivision)

Applicant's assessment - wastewater

342 The proposed wastewater systems for the residential subdivision have been designed in accordance with the RITS and other relevant standards including the MPDC Development Manual 2010. The internal reticulation network for the Proposal will be achieved via new 150mm diameter gravity wastewater lines. A full description of the connection points and staging is available in AEE¹⁰⁵ however, a summary is provided as follows:

- a. Stage 1 – A new internal network will connect into an existing wastewater manhole. Flows go to the Eldonwood wastewater pump station, which is proposed to be upgraded with a 20m³ underground wastewater storage to service 100 lots (Stages 1-2).
- b. Stage 2 – The new internal network is to be extended to a new manhole built over the existing 150mm uPVC line in Peakedale Drive. Wastewater would then continue to the Eldonwood wastewater pump station.
- c. Stage 3 – The internal network would connect to a new central wastewater pump station to be constructed near the entrance to the Southern Solar Farm site. Wastewater would then be pumped via a rising main to the east, through the proposed Pippins area (to the east), or by an alternative route to SH27, and then north to Burwood Road to terminate at a new discharge manhole. The network would then switch over to a gravity network starting from the new discharge manhole. A new 225mm uPVC gravity reticulation main following Burwood Road will connect into the existing wastewater manhole on Burwood Road.

105 AEE, Volume 5, Residential & Greenway.

- d. Stages 4, 5 and 6 – The gravity reticulation network connects into the new central wastewater pumpstation.
- e. Stage 7 and 8 - New internal networks connecting to a new northern wastewater pumpstation are proposed within Stage 8. The wastewater from the northern wastewater pumpstation would be pumped to the upstream end of the gravity network (to be provided as part of Stage 5).

Applicant's assessment – water supply

343 There is an existing 100mm diameter rider main and 200mm diameter water main on Peakedale Drive, and a 200mm diameter rider main on Station Road. The proposed reticulation network consists of 250mm and 125mm mains servicing the 20m wide main spine road (Road 1) with sluice valves and hydrants located at appropriate locations throughout. 63mm and 125mm mains are proposed for the rest of roads (Roads 2 - 16). Water supply modelling was carried out for the proposed development scenarios for both the residential subdivision and FV aspects of the Proposal. The results of the modelling were:

- a. Scenario 1: Full development (residential and FV) connected to the existing network with the future projected 2053 demands. Results showed that the existing network could not provide sufficient flow into these developments.
- b. Scenario 2: Stage 1 residential only, with 2053 projected demands, connecting to the existing water supply network at the end of Peakedale Drive. Results confirmed the existing network could support Stage 1 residential water supply requirements.
- c. Scenario 3: Stages 1 and 2 residential, by extending the water network within the residential development. Results showed that there is sufficient flow and pressure; however the existing inlet pipes would only provide the minimum required pressure.

344 To address pressure constraints for the fully developed network within the proposed residential development, booster pump(s) are being considered. A new water supply pumpstation adjacent to the overland flow path leading to proposed stormwater Basin A.

MPDC assessment

345 Based on MPDC's review,¹⁰⁶ water and wastewater services can be provided to the proposed residential area subject to necessary network upgrades. It noted, however, that further detailed assessments would be required to confirm the exact scope and timing of those upgrades to ensure sufficient capacity within MPDC's existing infrastructure.

Comments from adjacent landowners

346 Pippins Development Ltd:

- a. commented on the network capacity uncertainty beyond the land that is currently zoned as residential. Capacity allocation and any upgrades triggered by the proposed connection are not settled. Allowing the proposal to go forth could indirectly prejudice the servicing that is available to Pippins;
- b. is concerned that the proposed wastewater rising main through their land toward Firth Street could constrain sewer design of their own network;
- c. expressed the viewpoint that the (initially proposed) sewage treatment and disposal system for the RV would be inadequate or substandard. Pippins notes that the MPDC has a 10-year housing plan for eastern Matamata that could utilise the existing established infrastructure; and,
- d. considers MPDC does not have capacity for final sewage disposal, noting that the MPDC has also refused access to its network to recently built houses.

347 Other commentators:

- a. expressed concern that the Applicant may rely on water and wastewater connection to the existing public network that has limited or no capacity for new connections.
- b. noted, in a similar vein to Pippins, that other newly built properties in the area have requested access to the existing water supply network, and have been refused.

106 Statement of Evidence of G Agas on Behalf of the Matamata-Piako District Council, Water and Wastewater (11 November 2025).

348 In response to the comments received from adjacent landowners, the Applicant advised:¹⁰⁷

- a. Sufficient capacity exists within the wider water and wastewater networks, subject to upgrades which the Applicant has committed to deliver and fund through PDAs.
- b. These upgrades include improvements to an existing wastewater pump station that is over capacity, adding resilience to infrastructure, and paying full contributions towards the in-progress upgrade of the MPDC's wastewater treatment plant.
- c. Collaboration with the MPDC and WRC has ensured that the design aligns with growth planning, avoids burdening existing ratepayers, and allows staged and scalable upgrades.

Panel findings

349 The Panel accepts the results of MPDC's review as discussed above, that water and wastewater services can be provided to the proposed residential area subject to necessary network upgrades. Further detail assessment is required, however, to confirm the exact scope and timing of those upgrades to ensure sufficient capacity within MPDC's existing infrastructure.

350 We note that robust consent conditions are required to ensure the necessary water and wastewater upgrades are carried out prior to or in conjunction with the proposed residential development. This is discussed further in terms of infrastructure funding considerations later in this decision.

Wastewater and water effects (retirement village)

Applicant's assessment - wastewater

351 The applicant advises that gravity sewer pipelines discharging to a sewage pump station are proposed in order to service the RV. Pumped sewage will discharge through a rising main into the proposed wastewater treatment plant (**WWTP**) located centrally within the proposed RV. The WWTP will use an advanced secondary AdvanTex treatment system designed to NZS1547:2012 and wastewater will be disinfected by way of a UV system.

107 Applicant's Response to Comments, Appendix A, Tracking Table, Response to Affected Landowners; and Maven, Technical Response Memo (18 November 2025).

- 352 Treated wastewater would discharge via dripline irrigation to a disposal field located west of the RV. The disposal field is 24,148m², with an allowance for a reserve field sized at 50% provided to the west. Disposal fields would be raised to maintain a 600mm clearance (initially) to peak groundwater levels, in response to concerns expressed by the MPDC regarding clearance to groundwater levels. An easement would be provided for both the disposal field and reserve field as shown on the scheme plans.¹⁰⁸
- 353 The Applicant indicates that further specifications of the new wastewater pump station, WWTP and dispersal field will be provided during the detailed design stage.
- 354 The nearest offsite water supply bore is located approximately 227m to the north east of the wastewater disposal field. The onsite production bore, proposed to supply water to the RV, is approximately 50m from the proposed disposal field area and screened within deep aquifer strata (from about 108 to 120m below ground level) below a significant thickness/sequence of confining aquifer and aquitard strata. There are no nearby surface water bodies down-gradient from the wastewater disposal field.
- 355 The effects of proposed wastewater disposal on groundwater quality are discussed as follows, based on initial assessments¹⁰⁹ and a further assessment with respect to the clearance of the disposal field relative to revised groundwater levels.¹¹⁰
- 356 Faecal coliform attenuation calculations indicate that coliform counts in the discharged treated wastewater would become negligible shortly after it reaches the saturated zone of the shallow aquifer. All shallow bores located within a 200m buffer of the disposal field are owned by the Applicant, and their use can be managed appropriately. There are no shallow bores or other potential receiving surface water systems located close enough to the discharge field to receive groundwater discharges carrying faecal coliform counts in excess of 1 cfu/100mL. Therefore, the Applicant considers that the effects of the operation of the wastewater disposal site would be less than minor.
- 357 The production bore will be located near the disposal zone. To assess any effects on this bore, faecal coliform attenuation has been modelled vertically to the depth of the screen. The screen for the production bore is located 92.75m below the top of the saturated zone. Over this distance there are multiple clay aquitards, ensuring that

108 AEE, Volume 4, Retirement Village, Appendix 4N, Scheme Plan, Maven.

109 AEE, Volume 4, Retirement Village, Appendix 4M, Water Management Plan, WGA (June 2025).

110 WGA, Technical Memorandum, Response to Submitters.

the removal rates of faecal coliforms are higher than assessed. The assessment shows that negligible concentrations of faecal coliforms can be expected at this depth.

- 358 The Applicant's assessment (prepared by WGA) of viral removal in soil found that due to the separation distance between the soakage field and any nearby bore, including the production bore onsite is 50m, the viral load would be sufficiently attenuated.

MPDC and WDC comments – wastewater

- 359 MPDC's comments¹¹¹ expressed concern regarding the location of the proposed disposal area, the high groundwater levels and impacts on bore water quality. The MPDC noted that no comment had been provided with respect to flotation, as this requires detailed design of the WWTP, yet to be undertaken. Expert hydrogeological comment¹¹² referred to the limited amount of information available about the ground itself, and how this contributes to uncertainties with respect to bore supply. An elevated risk posed by the proximity of the water bore to the proposed wastewater disposal field was acknowledged.

WRC comments – wastewater

- 360 WRC advised¹¹³ that on-site domestic wastewater treatment is expected to be achievable in this location; however, many aspects of the proposal warrant further consideration and further information, including:
- a. The design guideline used as a basis for the volume calculations and loading rates has not been defined.
 - b. There appears to have been no specific site investigation in the location of the proposed disposal area to confirm soil types and depth to groundwater.
 - c. The required groundwater separation distance is not met by the proposal. Potential mitigation via raising the disposal area is available (although not currently proposed), and the effects of the discharge on groundwater have been assessed by the Applicant's technical expert as less than minor. An assessment of the potential effects of the wastewater discharge on the production bore using

111 Statement of Evidence of J Sternberg on behalf of the Matamata-Piako District Council (5 November 2025).

112 Statement of Evidence of A Cowbourne on behalf of Matamata-Piako District Council (10 November 2025).

113 Statement of Evidence of T Simonson on behalf of the Waikato Regional Council (7 November 2025).

the ESR 'Guidelines for separation distances based on virus transport between on-site domestic wastewater systems and wells' could further address this issue.

- d. The use of a per capita flow rate of 165 litres per person per day requires the installation of water reduction fixtures, which have not been specified.
- e. The potential for pharmaceutical content in the wastewater to be higher than standard levels given the presence of the aged care hospital has not been noted in the treatment system design.
- f. The location of the WWTP has the potential to generate some odour when servicing and the management of this has not been addressed. WRC considers this could be addressed within a site management plan.
- g. There is no designated reserve disposal area included in the design or shown on any site plan. WRC consider a reserve area equivalent to 10% of the primary disposal area may be needed.
- h. The cumulative effects of the development in terms of the wastewater discharge, in particular nutrient loads in comparison to the current land use have not been addressed.
- i. The consent conditions offered by the Applicant do not incorporate standard WRC conditions for on-site wastewater discharge.

Applicants' response to comments received from MPDC and WRC

361 The Applicant provided additional information in response to the comments from MPDC and WRC¹¹⁴ including:

- a. The addition of a new section, "Regional Council Conditions of Consent – Wastewater Discharge" to an updated set of RV conditions,¹¹⁵ as requested by WRC.
- b. Confirmation that the consent conditions have been tailored to the specific wastewater treatment process proposed and meets WRC discharge parameters.

114 Applicant's Response to Comments Received, Appendix B, Tracking Table, Response to Council Comments, at 9, 2.0 and 2.2.

115 Applicant's Response to Comments, Appendix 26, Updated Conditions of Consent, Retirement Village.

- c. Contamination and water quality risks have been adequately considered by accompanying expert reporting (WGA Memo¹¹⁶ and Maven Memo¹¹⁷), and addressed within the Application.
- d. In response to the Panel Minute 11 (Point 13) the Applicant provided an assessment¹¹⁸ which showed that the proposed nutrient loading results in an improvement in terms of cumulative effects on shallow groundwater compared with current land use.

Comments from adjacent landowners – wastewater

362 Many comments from adjacent landowners expressed concern about network capacity and the wastewater disposal field, stating the proposed field is substandard and improperly designed. Many referred to MPDC's 10-year household plan for the eastern side of Matamata which is already enabled to utilise existing established infrastructure as an alternative to the Proposal.

Applicants' response to comments from adjacent landowners – wastewater

363 The Applicant's response to submissions from adjacent landowners¹¹⁹ indicated the Proposal would assist with long-term wastewater infrastructure costs by paying full contributions for upgrades to wastewater management upgrades through PDAs. No response directly addressed submissions discussing the disposal field or its design.

Applicant's assessment – water supply

364 Groundwater from an existing production bore is proposed to be used for dust suppression during construction, irrigation of landscaped areas, and as a potable supply to the village. The abstraction rates being sought for irrigation and RV supply are¹²⁰ a maximum daily volume of 336m³, an irrigation annual maximum volume of 56,233m³, and a total annual maximum volume of 92,308m³.

365 The groundwater extracted from the production bore will be distributed through a network of 16 water tanks and a treatment facility, before being pumped via a

116 Applicant's Response to Comments, Appendix 4M, Ashbourne Retirement Village Water Management Plan, WGA (June 2025).

117 Applicant's Response to Comments, Appendix 4G, Stormwater Operation and Maintenance Plan, Maven (5 June 2025).

118 WGA, Technical Memorandum, Response to Minute 11 of the Expert Panel (Point 13) and Minute 13 (29 January 2026).

119 Applicant's Response to Comments Received, Appendix , Tracking Table, Response to Affected Landowners.

120 AEE, Volume 4, Retirement Village, at 3.6.3.

200mm main from the pump station to the supporting riser main. This will ensure an adequate potable water supply for all dwellings and other facilities, along with fire hydrants and valves to meet the requirements of FW2 in accordance with the SNA PAS 4509 NZ Fire Service Fire Fighting Water Supply Code of Practice.¹²¹

- 366 Groundwater quality from the production bore was sampled at the time of the constant rate test (14 May 2025). The results from the groundwater quality testing showed excellent quality suitable for treatment and potable supply, with tested parameters below aesthetic and maximum acceptable values. A pumping test was performed on the production bore with the data analysed to provide an estimate of the effects of the proposed abstraction on water levels in nearby bores.
- 367 A comprehensive assessment of effects was carried out for the proposed groundwater take from the production bore. There are 28 bores within a 2km radius of the production bore. WGA modelled the projected drawdown under two scenarios and concluded that potential drawdown interference on the nearby bores is less than minor. Based on a two-layer stream depletion model, the proposed abstraction is considered to have a less than minor effect on the flow in the nearest stream. WGA concluded that the proposed abstraction would have a less than minor effect on nearby wetlands, which are located at a significant distance from the location of the bore, and that there is sufficient water available for allocation in the source aquifer.

Comments from MPDC – water supply

- 368 Comments from MPDC¹²² confirmed that the existing water supply network will not have enough capacity to service the RV, and that no water supply infrastructure within the development will be vested in the MPDC. They also expressed concern about the impact of wastewater disposal on bore water quality, and that further investigation is required. Water quality will need to comply with Drinking Standards requirements, and monitoring and reporting will need to be undertaken in accordance with Mata Arowai requirements.

Comments from WRC – water supply

- 369 The WRC considers that there are no issues regarding water availability from the bore associated with the RV.¹²³ The WRC noted that there is some uncertainty as to

121 Applicant's Response to Comments Received, Appendix B, Tracking Table, Response to Council Comments.

122 J Sternberg, Statement of Evidence on behalf of the Matamata-Piako District Council (5 November - 2025), Annexure H.

123 S Roa, Statement of Evidence on behalf of the Waikato Regional Council (11 November 2025).

whether or not more bores will be constructed and what the water taken from these bores would be used for. The Applicant's proposed consent conditions identify that the bores would be used for domestic supply. If the domestic water for the RV is taken from a different bore than identified within the application documentation, then WRC considers that a relevant condition(s) must be included in any water take consent granted. Specifically, the WRC considered that the location of the bore/groundwater take must be located no closer to any existing bores on neighbouring properties and waterways.

Applicant's response to comments received – MPDC and WRC

370 The Applicant provided the following responses to the comments made by the MPDC and WRC,¹²⁴ confirming that the existing bore at the RV is to be utilised and that no further bores are proposed to be drilled, and that:

- a. As the water supply will be taken from this existing bore, no additional consent conditions are considered necessary; and,
- b. the small size of the proposed take and depth of the bore lessen any potential drawdown effects.¹²⁵

Panel findings

371 The Panel's finding, based on the design of an elevated disposal area and subject to appropriate consent conditions for wastewater treatment and disposal, is that the potential adverse effects of the proposed wastewater treatment and disposal system can be avoided. We also find that the proposed water supply to be taken from an existing bore has been demonstrated as likely to have no adverse effects on existing nearby bores and that the quantity of the proposed take will be limited by proposed consent conditions. We note that the quality of abstracted bore water will need to comply with drinking water standards, and monitoring and reporting will need to be undertaken in accordance with Taumata Arowai requirements.

124 Applicant's response to comments, Tracking Table, (Appendix B).

125 Applicant's response to comments, Attachment 4, WGA, Technical Memorandum in Response to Submitters (18 November 2025).

Transport effects

Applicant's Assessment

Integrated Transport Assessment

- 372 An ITA¹²⁶ was prepared by Commute Transportation Consultants on behalf of the Applicant for all components of the Proposal (Appendix 1P). It identifies that, based on the access points available at Stage 1, the key existing wider network intersections are the Jellicoe Road/Firth Street (SH27) intersection and the Station Road / Firth Street (SH27) intersection. Two new intersections have been assumed on Station Road, referred to as Spine Road/Station Road and RV/Station Road.
- 373 In the ITA, the intersections were assessed assuming full build-out conditions, conservative network connections, and a 10% increase in background traffic relative to existing movements. The spine road was conservatively assumed not to carry traffic; therefore, this intersection was not modelled. Notwithstanding this, should 50% of the site-generated trips use this access road once constructed (approximately 280 peak-hour vehicle movements), the intersection is expected to operate acceptably. Right-hand turn bays have been proposed at both Station Road intersections. If the speed limit on Station Road is later reduced to 50kph before the implementation of the proposed upgrades, the ITA found the requirement for a right-turn bay could be reevaluated.
- 374 The Applicant's SIDRA modelling also indicated that all movements at the intersection of Jellicoe Street and Firth Street would operate at LOS¹²⁷ C or better and are considered well within the industry performance thresholds. The RV access was also shown to operate satisfactorily.
- 375 A specific infrastructure assessment against the ESSP confirmed support for development and also identified specific corridors that require further assessment.
- 376 The ITA concluded in respect of operational transport-related outcomes:
- a. The site is reasonably well located for walking and cycling, with the town centre and local schools within a 25-minute walk.
 - b. No local traffic safety issues were identified, and the development is not expected to exacerbate safety risks during construction or operation.

126 Commute Transportation, Integrated Transport Assessment (9 July 2025).

127 LOS = "Level of Service".

- c. The key access intersection for residents will remain via Jellicoe Road and Firth Street until a new intersection is provided on Station Road. Modelling shows adequate capacity to accommodate the additional trips generated by the proposed residential development.
- d. Internal road layout and cross-sections largely comply with MPDC standards. Identified deviations from these standards are not expected to result in operational or safety effects.
- e. Waste collection is expected to be accommodated on-street via public collection.
- f. Subject to detailed design, all vehicle tracking¹²⁸ is considered acceptable.
- g. The additional residential scenario assessed indicates that with a commercial hub may provide wider network benefits, no additional road upgrades would be necessary.
- h. The effects relating to construction are temporary, and the site layout enables safe and efficient construction access.

377 The ITA concludes there are no traffic engineering or transportation planning reasons that would preclude the development of the subject site per the Proposal.

Further Transport Information Provided by the Applicant

- 378 The Applicant provided several transport memorandums from Commute, responding to MPDC reviews and requests contained in various minutes of the Panel:
- a. 21 October 2025: Response to Gray Matter's initial ITA review, dated 2 September 2025, on behalf of MPDC.
 - b. 18 November 2025: Response to MPDC and comments from invited parties, including comments on changes made since the initial ITA, and a recommended staging/upgrades table.
 - c. 11 December 2025: Response to Panel Minute 4, providing a summary of condition changes proposed by the MPDC (Mr Alastair Black), in response to the Panel's Minute 3. Where changes proposed were not agreeable, the Applicant proposed alternative conditions.

MPDC Comments and Assessment

379 MPDC provided the following as part of its comments on the Application:

- a. 2 September 2025: Review of the Applicant's ITA, including a number of recommendations, noting that most issues could be addressed through consent conditions, but some may influence subdivision layout or road reserve boundaries.
- b. 11 November 2025: Statement of Evidence of Mr Black providing a professional assessment of transport matters and recommended changes, which may be summarised as follows:
 - i Mr Black considers that the Proposal will significantly increase traffic on low-volume local roads, with potential implications for safety, efficiency and residential amenity. While the overall development layout is generally suitable, he is concerned that the proposed staging and mitigation measures do not sufficiently address broader transport effects.
 - ii Mr Black's statement notes that the Proposal assumes adequate capacity within the surrounding transport network; however, around 400 lots (approximately 80% of the development) would rely on a single vehicle access point, generating approximately 340 peak-hour trips. This level of traffic on currently low-volume residential roads may result in higher vehicle speeds, rat-running, and reduced amenity for residents.
 - iii Additional external network upgrades and revised infrastructure thresholds are required before the development progresses to later stages. Mr Black recommends changes to staging and infrastructure triggers along with additional external network upgrades and periodic transport assessments to ensure staging remains appropriate. He also identifies layout and boundary matters which need to be addressed through updated engineering drawings.

380 The Panel sought further information from the MPDC through its Minute 3, issued on 21 November 2025:

[25] The Panel notes the advice within the UDM that there are ongoing discussions with MPDC regarding pathways on Station Road. This would appear to relate also to comments in Appendix 5N regarding the NPS-UD (Objective 8 and Policy 1) and the WRPS (IM-05) regarding provision for active modes from the site to the Matamata centre. The Panel awaits the outcome of those discussions.

[26] Does the application need to address any remaining concerns regarding traffic following review of Commute Transportation's Traffic Memo dated 18 November 2025, and whether such concerns are considered capable of being appropriately managed through consent conditions?

[27](g) Appendix 5N states regarding the District Plan (P21, at p.102) that "The proposal will encourage alternative transport modes through the integration of dedicated cycleways and walkways within the street network and greenway corridor" (also referenced in the UDM at p.4). The Panel was not able to discern any dedicated cycleways within the proposal (per Appendix 5F and updated plans) and seeks clarification in this regard.

Response

381 The MPDC provided a response to the Panel's request on 27 November, advising that:

- a. MPDC supports the Applicant's updated proposals, including
 - i a 3m-wide sealed, shared path along Station Road, between the RV and Smith Street;
 - ii a pedestrian refuge island on Station Road; and,
 - iii kerb extensions and ramp path connections at the Hampton Terrace / Jellicoe Road intersection.
- b. MPDC also recommended that a pedestrian refuge island at the Smith Street/Station Road intersection be required as a consent condition.
- c. Mr Black's review of the updated staging, infrastructure and engineering plans provided by the Applicant confirmed that his remaining concerns regarding further traffic issues could be addressed via consent conditions. He noted however that the Stage 4 infrastructure condition offered by the Applicant requires modification to ensure that the urbanisation of Station Road and the pedestrian refuge islands on Station Road and Smith Street are implemented.
- d. The MPDC acknowledged that there are no dedicated cycleways on the street network within the development or in the neighbouring area. A shared path is proposed to be provided along Station Road.

Firth Street Link

382 MPDC also advised that it has sought offers of service to commence designation of the Firth Street link. However, MPDC does not have funding to progress the

designation. It is proposed that the cost of designating the route is included within the PDA at the sole cost of the Developer (subject to any development contribution offsets).

Conclusion

383 The MPDC concluded that the Applicant has provided further information that generally addresses the transportation aspects of the development, and that the remaining concerns can be addressed through changes to the engineering plans and to the relevant consent conditions.

Comments from Adjacent Landowners and Occupiers

384 A number of comments were received, raising the following key concerns:

Existing congestion and near misses

385 The area around Station Road, Smith Street, and the five nearby schools/daycares already experience significant congestion and frequent near misses. Commentors consider that these issues must be addressed before any additional traffic is introduced.

386 Several commentors noted recurring near misses at the Station Road / Firth Street (SH27) intersection during school drop-off and pick-up times, expressing concern that additional traffic from a new subdivision would exacerbate existing safety risks.

Road Network Capacity and Suitability

387 Multiple commentors considered that the subdivision and RV will generate substantial additional traffic on rural roads that are not designed for urban-level volumes, noting narrow carriageways, limited shoulders and poor visibility.

388 Similar comments expressed the belief that the existing network is unsuitable for the scale of development proposed without major upgrades, yet to be proposed. A more direct access route should be required before development begins.

Pedestrian and vehicle safety

389 The safety of students walking to and from school was identified as a major concern throughout the community.

390 Multiple commentors noted that there is currently only one pedestrian crossing on Firth Street, which serves the entire western side of Matamata.

- 391 The existing exit from Eldonwood Drive onto Station Road is said to be dangerous, with residents submitting that they fear increased traffic volumes expected from the development could worsen congestion and accident risk.
- 392 Many residents feel Station Road is not a suitable or safe arterial route for the level of traffic the development would generate.
- 393 Submitters requested further traffic testing at additional intersections, specifically: Smith Street / Station Road; Smith Street / Farmers Road; and Smith Street / Peria Road during peak school periods (8:00–9:00am and 2:45–3:30pm).

Comments from NZTA

- 394 NZTA have advised that their position¹²⁹ on the substantive application is neutral on the basis that no impacts on SH27 are anticipated.

Applicant Response

- 395 The Applicant has agreed to the following changes and conditions in response to comments:
- a. Contribute to MPDC's costs associated with completing the linkage to Firth Street (requiring a designation process to be undertaken by the MPDC).
 - b. Prepare an additional ITA for Stage 2 to provide greater certainty and enable targeted upgrades should they be required, such as requiring construction traffic from Stage 3 on Road 1 to use either a dedicated Station Road haul route or a new Firth Street connection.
 - c. Review the operation of Jellicoe Road as part of the Stage 3 ITA.
 - d. Provide a pedestrian refuge on Station Road and a 3m shared path from Road 1 to Smith Street.
- The Applicant has accepted a condition requiring confirmation of vehicle crossing relocation feasibility and reconfirmation of the Road 1 / Station Road intersection design. The Applicant has noted they are open to consulting feedback from the neighbouring properties in question.

129 N Foran, New Zealand Transport Agency Waka Kotahi, Memorandum (3 November 2025).

- 396 The pedestrian connection has been removed from plans, and the Applicant commits to not providing a vehicle or pedestrian connection to Eldonwood. The Applicant also responded on 30 January to three matters raised in the Panel's Minute 11 being:
- a. clarified the intended provision of a shared path along one side of proposed Roads 1 and 7 with an associated recommended consent condition;
 - b. provided a concept plan showing the route of a proposed shared path connection between Station Road and Smith Street, to be confirmed via consent condition; and,
 - c. provided of a map to illustrate that there are a number of viable route options available for commuter cycling between the proposed development and the Matamata town centre and employment areas located to the east, with corresponding indicative cycling travel times.

Panel finding

- 397 The Panel finds that the Applicant has responded satisfactorily to comments from MPDC and to the extent practical to concerns from adjacent landowners and occupiers. We find that traffic and transportation-related effects from the proposed development can be managed by way of consent conditions, including precedent conditions where necessary to ensure that new road connections and road upgrades are implemented in accordance with proposed staging of the development.

Ecological effects

Applicant's assessment

- 398 The development of the Site will occur primarily over existing rural farmland used for livestock grazing. In general, vegetation to be removed consists of exotic species and hedgerows (albeit that some trees are proposed to be retained for landscape purposes as part of the RV). The primary potential ecological effects will relate to roads adjacent to the Waitoa River, and discharge effects on the river itself, as well as effects of fauna that utilise existing trees in the locality.
- 399 The potential ecological effects of the Proposal were addressed within an Ecological Impact Assessment prepared by EcoLogical Solutions Ltd. The overall conclusions within that assessment were described as follows:

Vegetation on site was dominated by exotic pasture grasses and trees in hedgerows with low ecological value. The vegetation did provide some potential habitat for native nesting birds as well as the At Risk-Declining copper skink (Oligosoma aeneum), though both of these were considered to likely be present in only low numbers on-site and

therefore assigned a low and moderate ecological value, respectively. The Ashbourne Site was used by long tailed bats (*Chalinolobus tuberculatus*) Threatened Nationally Critical, and the possibility of roost trees on site could not be eliminated. The ecological value of bat habitat on the Ashbourne Site was considered moderate. Two types of wetlands were present on site: pasture wetlands dominated by exotic species, rated with a moderate ecological value; and oxbow wetlands along the Waitoa River, rated with a high ecological value. The Waitoa River has an ecological value of moderate, based on the water quality and species known to be present. However, the series of artificial farm drains (many of which were not bearing water during site visits) had negligible ecological value.

Vegetation clearance has similar effects and effects management across all four precincts. The proposed development has the potential to impact native fauna including birds, lizards, and bats through vegetation clearance. However, these effects are effectively managed through the implementation of specific fauna management plans as outlined in the Ecological Management Plan (Ecological Solutions 2025) resulting in either very low or low post effects management levels of effect.

Development of the Residential Community, Retirement Living Village and associated Greenway have the potential to adversely impact the oxbow wetlands through earthworks within 100m and vegetation clearance within 10m for the construction of stormwater infrastructure. However, these effects are rated as low pre-effects management. The reclamation of artificial farm drains has the potential for high ecological impact on native fish. However, this can be effectively mitigated through implementation of fish management measures, described in the Ecological Management Plan (Ecological Solutions 2025). Stormwater discharge to the Waitoa River is considered to have a low ecological impact pre-effects management due to the stormwater management design.

Comments from the Department of Conservation

400 The comment from the Department of Conservation (**DoC**) referred to effects on freshwater ecology, the Ecological Management Plan (**EMP**) and the ecological conditions related to the land-use components of the overall Application. Overall, DoC noted that their primary concerns related to the management of effects on terrestrial ecology, specifically ensuring the consent conditions appropriately manage these effects, and are enforceable. In addition, DoC noted that conditions should be consistent with the requirements set out in those other approvals sought outside of the FTAA process and that, subject to those provisos, it considered that the effects of the proposed activities will be appropriately managed.

Comments from the Minister for the Environment

401 The Minister for the Environment noted concerns over habitat for the long-tail bat community, highlighting that the direction of the National Policy Statement for Indigenous Biodiversity requires consideration, and requested that the potential

effects on highly mobile fauna habitat and effects on the habitat of significant indigenous fauna be addressed.

Applicant's response

402 The Applicant's response prepared by EcoLogical Solutions noted general agreement with DoC's proposed amendments, and incorporated an updated EMP. It advised, however, that some amendments were not adopted relating to bird management. These were for the following reasons (in summary):

- a. The setback distance for a located active bird nest was retained at 20m (rather than 50m as sought by DoC). This was for the reasons that:
 - i. the habitat structure available for both arboreal and ground nesting birds is such that there will be high visibility of identified active nests and the setback perimeter markings;
 - ii. The species using the open area habitat within this site (active farm) are presumed to be well adapted to existing with a certain disturbance regime; and
 - iii. 20m is a common setback distance used in resource consent conditions.
- b. The Bird Management Plan has been amended to include the pre-works survey report preparation and submission to the MCDC as sought by DoC, but EcoLogical Solutions did not consider that a requirement for certification of this report is necessary, noting that it "*will be a completion report submitted after the survey and therefore it is not clear to me what is actually being certified that would be of value for the fact*".
- c. Although the risk of bird collision at the site would be low, DoC recommended a condition for bird collision monitoring. EcoLogical Solutions considered that such survey requirements were not commensurate with the level of risk, and that a reasonable monitoring programme could include monthly surveys during construction and three-monthly surveys during the first two years of full operation. In addition, it was advised that "*there is not a need for a robust carcass monitoring method requiring a Wildlife Act Authority as time stamped and georeferenced photos of any bird carcasses would seem more practical for documenting species and number of carcasses found*", such that annual reporting of monitoring outcomes would be reasonable.
- d. Regarding the Minister's comments, the Applicant acknowledged that the site is utilised by long tailed bats (being a threatened and highly mobile species). It

referred to the proposed management measures for effects on bats, comprising short term measures (implementation of DoC's bat roost protocols) to ensure bats are not harmed/killed during vegetation clearance, as well as longer term measures. The Applicant noted that the longer term adverse effects of artificial lighting have been considered and addressed through the avoidance of artificial lighting in close proximity to the Waitoa River corridor, as well as the use of bat sensitive lighting design within the RV adjacent to the Greenway.

- 403 The Applicant advised that longer term effects attributable to the loss of open pasture, being a low quality bat habitat, has been considered as part of the greater re-vegetation plan surrounding the southern solar farm, RV and residential subdivision. It states that this plan is expected to provide greater habitat quality for bats with commuting, foraging and potential roosting areas over time.

Comments from WRC

- 404 The comments from the WRC noted that the weed 'Noogoona burr' has been found within one of the properties within the Site. It therefore sought that a Biosecurity Management Plan be submitted at least 30 working days prior to any earthworks commencing in accordance with Section 6.6 of the DoC's Pest Management Plan (as part of the conditions included as part of the relevant earthworks consents). The Applicant confirmed acceptance of this requested condition which has been added to the Residential Land Disturbance Consent in order to manage biosecurity risk.

Comments from adjacent landowners and occupiers

- 405 The Panel also received comments regarding ecological effects from adjacent residents, including the following:
- a. That Eldonwood's open landscape and mature plantings sustain birdlife and flora that define its calm character. Over five hundred new homes and extensive hard surfacing would fragment habitats, alter hydrology, and replace the natural soundscape with mechanical noise. Continuous construction, vibration, and light pollution would displace species that currently thrive within the estate's canopy corridors (Corinne Bagur Imbert and Ian Hammond).
 - b. Corinne Imbert and Ian Hammond stated that open landscape and mature plantings sustain birdlife and flora whereas the Proposal would fragment habitats, alter hydrology, and replace the natural soundscape with mechanical noise. They were concerned that continuous construction, vibration, and light pollution would displace species that currently thrive within the canopy corridors of the Eldonwood Estate.

- c. Jessica Wilson raised a number of ecological concerns associated with discharges and potential flooding of the Waitoa River, including in respect of contaminants associated with discharges and their effects on native freshwater fish and the recreational values of the river. Ms Wilson considered that *“the development risks undermining decades of work to improve water quality and ecosystem health, and will be a backward step in efforts to sustainably manage the land”*.
- d. John and Maria van Heuven were concerned that the increase in impermeable coverage would lead to an excess of water and debris entering into the Waitoa River, causing more erosion as the soils will be constantly saturated which leads to erosion, impacting on riparian plants and ecological habitats.
- e. Roger Slattery raised the potential of acid sulphate soils from the northern half of the Northern Solar Farm being discharged through stormwater runoff.

Applicant’s response to comments

406 The Applicant’s Response commented with respect to the latter issues stating that:¹³⁰

The ecological value of the existing vegetation cover across the Ashbourne site was considered low due to the historic and current landuse and dominance of exotic vegetation cover. While exotic vegetation can provide valuable habitat features for indigenous fauna species in some instances, the current vegetation cover and landuse precludes the use of those features by many fauna species due to the ongoing disturbance regime, including farm production by exotic mammals, and fragmentation of habitat. The proposed disturbance regime is expected to result in a “loss or alteration to one or more key elements/features of the existing baseline conditions, such that the post-development character, composition and/or attributes will be partially changed at the ecological district scale”, and effects management. Post effects management it is expected there will only be a minor shift away from existing baseline conditions. Change arising from the loss/alteration will be discernible, but the underlying character, composition and/or attributes of the existing baseline condition will be similar to pre-development circumstances or patterns” at the ecological district scale.

407 Other matters were addressed through the Applicant’s responses on stormwater management, including the introduction of new riparian planting and ecological enhancements through the creation of the greenway. We have also referred to its assessment of contamination effects earlier in this decision, and the MCDC’s agreement with that assessment.

408 The Panel sought further information (via Minutes 2 and 3) with respect to the extent of planting proposed within the esplanade reserve area and with regard to the

130 Applicant’s Response to Comments, Appendix A, at 77.

riparian and wetland environment adjacent to the Oxbow wetlands and Waitoa River generally, as no planting was shown in the relevant landscape plans (notwithstanding the Application documents referencing the positive effects associated with such planting). The Applicant responded to this query on 28 October where it confirmed that no specific landscaping was proposed in and around the Oxbow wetlands, and that no effects management is required in respect of them. An associated memorandum from EcoLogical Solutions advised that:

...existing vegetation communities around these features were characterised as mature, mixed exotic and native. The existing vegetation communities were providing adequate shade, organic recruitment and bank stabilisation. This current level of riparian function was deemed effective and therefore not in need of replacement. In addition, the oxbow wetlands are not expected to be subjected to any significant adverse effects attributable to the proposed development and therefore, there is no effects management (remedy or mitigate) required.

- 409 The Applicant also advised (from a landscape perspective) that specimen trees were now proposed to be planted by the Applicant (consisting of 25 trees) to create an 'edge' to the development and provide continuity of vegetation.
- 410 The Panel noted through Minute 3 that the specimen tree planting of 25 trees within the esplanade reserve area contrasts with provisions within the application documentation as to the proposed extent of ecological restoration of this area (at Appendix 5N). The Applicant was invited to provide a reappraisal of the Proposal with respect to the relevant statutory provisions. The Applicant's response of 27 November acknowledged that its statutory assessment had indicated a greater extent of planting and rehabilitation, and in response to its revised undertakings provided an updated assessment against the objectives and policies of relevant statutory documents. The Panel nevertheless considered that "*the extent of planting proposed within the Greenway (including at the terminus of the Greenway in proximity to the Waitoa River), the proposed specimen trees adjacent to the Waitoa River, and the wider landscape strategy, that the proposal is generally in accordance with the provisions of the NPS-F, NPS-IB, and WRPS*".¹³¹

Panel finding

- 411 Overall, the Panel is satisfied that the ecological effects of the Proposal will be acceptable, and received no expert evidence to the contrary. It has also reviewed the Applicant's revisions for the EMP-related conditions in light of the comments from DoC, and accepts the Applicant's ecologists' rationale for those changes. These were

131 Applicant's Response to Minute 3 of the Expert Panel, Memorandum (27 November 2025) at p 16.

adopted into the draft land use and regional consent conditions related to water and wastewater effects (residential development).

Infrastructure funding effects

412 This matter relates to the potential implications of funding the necessary roading, wastewater and water infrastructure for the proposed development and how this may impact on MPDC's planning and funding for such infrastructure Matamata-wide and whether there would be costs imposed on MPDC resulting from the proposed development.

Applicant's position

413 The Applicants initial economic assessment¹³² noted that it is unlikely that the proposal might impose unwarranted costs on wider community via the infrastructure required to service it as the Councils have a range of funding tools to help fund such costs. Annual costs can be recovered directly from the beneficiaries via targeted rates or other similar funding.

MPDC comments

414 The economic evidence prepared for the MPDC¹³³ was that there are economic costs associated with rezoning additional land when there is no shortfall of supply. This is to say that in the absence of a market where scale of a proposal does not make it economically efficient. The evidence from MPDC was that enabling large-scale capacity where it is not required risks undermining the viability of existing and anticipated residential growth areas (and committed infrastructure investment), while also imposing additional infrastructure costs to service a "significant" but potentially unnecessary development.

415 The planning evidence for the MPDC¹³⁴ was that the proposed development would have long-term adverse effects on infrastructure delivery, cause unplanned demands on roading and three waters infrastructure and lead to inefficient infrastructure delivery. It would also result in long-term adverse effects on the planned, funded and integrated delivery of sustainable infrastructure and urban growth in Matamata. There will be significant impacts relating to lack of integration of land use with

132 F Colegrave, Insight Economics, Economic Impact Assessment (23 June 2025) at para 16.4.

133 T Heath, Property Economics, Statement of Evidence on Behalf of the Matamata-Piako District Council (11 November 2025) at para 4.14.

134 M Rademeyer, Statement of Evidence on Behalf of the Matamata-Piako District Council (11 November 2025) at paras 1.2(e), 4.5, 4.9(b), 4.12(g).

infrastructure and resulting impact on MPDC's funding through the long-term plan and cost recovery through development contributions (**DCs**).

416 Evidence from the MPDC's Assets and Project Manager¹³⁵ was that the MPDC can generally support the proposed approach for water and transport, subject to further investigation into a potential water booster pump and into external roading upgrades. It advised that the MPDC is open to transparent DC offsets for works undertaken on behalf of the MPDC that provide wider community benefits, provided overall funding remains aligned with its budgets and policies. The evidence advised that the MPDC is prepared to co-fund:

- a. 33% of additional storage at the Eldonwood Pump Station; and
- b. the renewal portion of the Burwood Road gravity main water pipe based on its remaining asset life if replaced early, including financial cost to cover the early renewal.

417 The MPDC also responded to the following question in the Panel's Minute 7 (dated 15 December):

Can Council's planning and/or infrastructure expert(s) please advise on the likely or possible significance of the above identified potential increase in Council's infrastructure burden through increased marginal costs and whether this can be transferred to the applicant should the resource consent applications for the Ashbourne development be successful. The panel would like as much information on this matter as possible including, if able to be estimated, likely ongoing or future financial costs and other implications that may be a burden for Council.

418 This response prepared by T Heath¹³⁶ was that MPDC's position is that no DC offsets will be granted for the proposed development, with the exception of a Residential Transport offset to fund the Firth Street upgrades and associated designation. While discussions remained ongoing at the time of that response, Mr Heath observed that *"there may be emerging agreement between the Applicant and the MPDC that DC offsets for the remaining items of strategic infrastructure will not be offset"*.¹³⁷ He considered that if this position is confirmed, the majority of the infrastructure funding

135 S Kampshof, Statement of Evidence on Behalf of the Matamata-Piako District Council (11 November 2025).

136 T Heath, Property Economics, Residential Capacity Assessment, Response to Minute 7 of the Expert Panel (December 2025).

137 T Heath, Property Economics, Residential Capacity Assessment, Response to Minute 7 of the Expert Panel (December 2025), at p 3.

risk would rest with the Applicant, and the residual cost exposure to the MPDC would be mitigated. This would alleviate concerns in relation to this economic cost.

- 419 Nevertheless, for the purposes of responding to the Panel’s question to explain the potential implications if DC offsets were to be granted, Mr Heath focused on the wastewater implications for the RV and residential subdivision components separately. This showed that any DC offsets granted to the developer for any infrastructure projects not otherwise budgeted for are likely to result in an additional cost burden (in the order of up to \$2.75m for the RV and the residential wastewater components) to the MPDC, regardless of whether or not the developer is utilising MPDC assets (i.e., the private wastewater system for the RV).
- 420 Further, Mr Heath noted that the originally planned cost of the Starata Wastewater Treatment Plant upgrade has increased substantially—from approximately \$40 million to around \$68 million. Consequently, while the MPDC may receive higher DC revenue than initially anticipated, this uplift is unlikely to fully offset the scale of the increased capital costs, and it will still be necessary for the MPDC to carefully manage funding shortfalls and marginal cost pressures within the wastewater upgrade program.

Applicant’s response to MPDC comments

- 421 The Applicant’s response to the initial comments from MPDC included¹³⁸ that concerns about infrastructure risk are unsubstantiated. Standard mechanisms - DCs, PDAs, targeted rates - ensure cost recovery, and a PDA is already advancing substantial contributions to wastewater upgrades. It noted that the MPDC has extensive experience managing growth infrastructure, and no site-specific constraints have been identified.
- 422 The Applicant stated that, in summary,¹³⁹ infrastructure funding is manageable with proper use of available tools. The FTAA process does not bypass these funding arrangements; it simply accelerates the consenting. It highlighted that the MPDC will still have control through conditions and agreements to ensure infrastructure is managed appropriately and stated that there was no evidence that the project would create a systemic risk to MPDC’s finances or network planning. Rather, the Applicant considered that by delivering growth in a planned way, the Project can complement the MPDC’s strategic planning – providing homes and infrastructure together in one package, rather than leaving it to retrofit or chase unplanned growth.

138 Applicant’s Response to Council Comments, Appendix B, Tracking Table, Table 1 at 6.

139 F Colegrave, Insight Economics, Economic Memorandum, Response to Comments (18 November 2025).

423 With respect imposition of conditions relating to PDAs the Applicant advised as follows:¹⁴⁰

9. *The Amendment Act has inserted section 84A into the Act, which clarifies the powers of the Panel to impose conditions requiring the provision of infrastructure. Section 84A states 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—

(a) the project; or

(b) the stage of the project to which the application relates.

10. *Section 84A came into force on 17 December 2025.*

11. *MDL therefore submits that, if it and the Council have not been able to conclude their negotiations regarding the PDA before the Panel comes to make a decision on the Proposal, the Panel would be able to impose a condition requiring the PDA to be agreed before the Proposal can proceed.*

Comments from Tim Denne and the Applicant's response

424 The Panel's economic adviser, Mr Denne, made comments in respect of infrastructure funding. He suggested that there was insufficient evidence that "*the developer could pay for the infrastructure [required for the Proposal] and still have a viable project*".¹⁴¹

425 The Applicant disagreed with that position, submitting that:

Putting aside the difficulties of how this could even be considered a relevant external adverse impact as opposed to a question of viability, if the Panel was to share those concerns and consider that to be an "adverse impact" in relation to the approvals sought, MDL submits that any "adverse impact" could be entirely mitigated by the imposition of a condition requiring agreement of the PDA.

Accordingly, any issues relating to the funding of infrastructure for the Proposal are not an adverse impact that could be "out of proportion to the project's regional or national benefits."

140 Memorandum of Counsel on Behalf of Matamata Development Ltd (19 January 2026).

141 Joint Witness Statement, Economics (11 December 2025) at 101.

Comments from adjoining property owners and residents

- 426 There were no comments from adjoining property owners and residents that specifically addressed issues related to infrastructure funding.

Panel Finding

- 427 Our finding is that the matter of infrastructure funding can be satisfactorily addressed subject to appropriate PDAs being reached between the Applicant and MPDC. However, we should emphasise that we have not seen the final form of these. We consider the PDAs would need to avoid the concern raised in the economic evidence for MPDC¹⁴² that if DC offsets are granted to the developer for any infrastructure projects not otherwise budgeted for, they need to ensure that an additional cost burden is not imposed on the MPDC.

Visual landscape and amenity effects

Applicant's Assessment

- 428 The potential adverse visual landscape and amenity effects were addressed in the Application documents with respect to the RV residential subdivision and greenway and the solar farms. That assessment has been made in the context of and in respect of the existing nature of the Site, being predominantly undeveloped and comprised of farmland, and in a landscape context between the rural-residential landscape to the east (e.g., the Highgrove subdivision) and a traditional rural landscape (the site itself and those beyond to the west, north, and south).

Retirement village

- 429 The Applicant acknowledges that the density of the RV represents a built form more akin to an urban environment than its existing rural-residential context. However, it emphasises that the RV is single storey in nature and the AEE, with reference to the landscape assessment prepared by Greenwood Associates, suggest that it "is considered comparable in terms of patterning to the recent Highgrove subdivision to the east". It says in overall terms that the proposal will have less than a minor effect on landscape character, because:¹⁴³

The proposed development essentially shifts the transition to a rural landscape to the western edge of the Retirement Village, with this shift in the 'transition point' addressed

142 T Heath, Property Economics, Residential Capacity Assessment, Response to Minute 7 of the Expert Panel at 5.

143 AEE, Volume 4, at 31.

by a post and rail fence along Station Road and the provision of buffer planting that provides visual screening of the proposed built form, while retaining a character akin to the existing hedge.

- 430 The AEE goes on to state that although the proposal will result in a noticeable change in the appearance of the Site, any adverse visual and amenity effects are considered to be less than minor, due to the mitigation measures to be adopted, including proposed planting along the boundary with Station Road, as well as buffer planting alongside the common boundary to the Highgrove subdivision and dwelling setbacks of at least 10m.

Residential subdivision and greenway

- 431 The AEE notes that the proposed earthworks will allow for the retention of the general landform of the site and its physical landscape character. The proposed subdivision will incorporate a reasonable number of street trees within road reserves, and the design guidelines for the development of the subdivision require a high-level of planting within each lot, including a specimen tree and planting. Additional native planting proposed for the greenway will also assist to ensure that landscape effects are 'less than minor', whereby the existing landform is retained and "*the overall quality of landscaping improving as a result of the proposal*".¹⁴⁴

- 432 In terms of visual effects, the Applicant considers that views from the site from Eldonwood Drive and the public road will be 'low moderate', and 'very low-low' for other viewpoints, and of 'low' or 'low moderate' significance from private viewpoints. It draws support from its location (largely) within the ESSP, which is considered to anticipate a transition to an urban environment, so that the extent of visual effects on adjacent properties are considered to be determined by the design of development and mitigation of visual amenity, "*as opposed to requiring an assessment of the principle of residential development on the site*".¹⁴⁵ The Application further notes that the subdivision has been designed to incorporate larger lots exceeding 700m² along the edges of the development where they interface with neighbouring properties, so that further setbacks can be anticipated, combined with landscaping incorporating one specimen tree on the rear of each site.

Solar farms

- 433 The Application notes that the MPDP specifically provides for large solar farms as a permitted activity in the Rural Zone, so that such facilities can be considered to be

144 AEE, Volume 5, at 40.

145 AEE, Volume 5, at 40.

anticipated within the environment. Nevertheless, it advises that generous landscape buffers are proposed around both solar farms on all boundaries (of a minimum depth of 3m) which have been designed to completely screen views of the solar farm once mature from all boundaries (between 5-15 years from planting). With reference to its Landscape Assessment, the Applicant concludes that the overall effect of the solar farms on the prevailing landscape character can be considered as 'low'. It concludes that:¹⁴⁶

Overall, while the proposal will result in a noticeable change in the appearance of the site that is atypical for the surrounding area, any adverse visual landscape and amenity effects are considered to be less than minor, taking into account the proposed landscape buffer and the ability for solar farms to be established as a permitted activity in the rural zone.

- 434 The Application also addresses glint and glare effects of the solar farms, which has been addressed through a 'Glint and Glare Assessment' prepared by Lightyears, which notes the use of recessive, rather than reflective glass used in solar panels. The results of the assessment indicate that no neighbours will be at risk of glare, or ocular impact from solar glare.

MPDC Comments

- 435 The MPDC comments considered that the Project would be contrary to the provisions of the MPDP that seek to maintain character and amenity values, because it proposes development that is inconsistent with the emerging and planned character and amenity values of the Rural Residential Zone. This was also raised in a Part 2 RMA (section 7(c)) sense, where it was assessed that the proposal does not maintain or enhance the planned and emerging character and amenity of the rural and rural residential receiving environments. The MPDC considered that the character and amenity impacts of the proposal are significant.
- 436 MPDC comments included urban design evidence from Ian Munro that addressed the overall merit of the proposal across various sub-topic areas and confirmed the areas that he could support, or where he recommended changes and/or opposition to the Proposal. In respect of the residential subdivision, Mr Munro noted the Applicant's proposed guidelines and controls would do little to maintain visual amenity, privacy, or otherwise mitigate the adverse scale and intensity effects of urban development proposed on neighbouring sites. He considered that setbacks and gaps between dwellings much closer to the rural residential zone standards are required, along with

146 AEE, Volume 3, at 32.

more comprehensive fencing and landscaping adjoining the Site's external boundaries to separate neighbours from one another.

437 While noting that a 'like-for-like' approach of lots of 2,500m² would still present a fairly intensive interface, he proposed that, in the interests of promoting maximum housing choice and variety, allotments in the range of 1,200m² - 1,800m² (with an average of 1,500m²) "*would be sufficient to maintain a reasonable and appropriate character and amenity on adjacent land, and provide an interface with adjacent properties that was still inconsistent with, but not in my opinion contrary to, the spatial and built form outcomes sought by the [MPDP] at external boundaries*".¹⁴⁷ He recommended that an 8m rear yard setback and 3m side yard setback should also apply to such sites, along with 4m landscape buffers for those areas to the east of the RV.

438 It was Mr Munro's conclusion that without such changes, he was "*unable to agree that adverse urban form and character effects arising from the proposal, due to its context of being positioned on rural and rural-zoned land, have been avoided, remedied or mitigated appropriately*".¹⁴⁸

Comments from neighbouring property owners

- 439 A number of commenters were concerned about the effects of the Project on the character and amenity of the local environment. We summarise the nature of comments received as follows:
- a. Reference was made to the rows of compact housing, hard paving, and artificial lighting that would sit in stark contrast to Eldonwood's garden scale and open horizons. The absence of a transitional buffer between a low-density lifestyle zone and a high-density residential complex would not be good planning.
 - b. Eldonwood's defining feature is peace; its low noise levels, natural light, and restorative calm. The introduction of a major urban precinct immediately beside our boundary will generate continuous ambient noise from daily activity, mechanical plant, and construction. Such disturbance erodes the

147 I Munro, Statement of Evidence on Behalf of the Matamata-Piako District Council (11 November 2025) at 8.11.

148 I Munro, Statement of Evidence on Behalf of the Matamata-Piako District Council (11 November 2025) 8.13.

restorative quality that many residents, including older people and those recovering from loss, depend upon.

- c. The Project will damage the general visual and 'green' amenity of the area and will materially affect the value and enjoyment of the properties within Eldonwood and elsewhere, being an adverse effect for the purposes of section 85 of the FTAA.
- d. The density and nature of the development is inconsistent with surrounding housing, like that in Eldonwood and Highgrove.
- e. There has been a complete lack of building design, aesthetic consideration and landscape enhancement, resulting in a project void of any critical analysis and sincerity.
- f. The Project is fundamentally incompatible with the established scale, zoning, amenity and environmental qualities of Eldonwood and would diminish the amenity values that Eldonwood residents rely upon.
- g. The visual pollution and loss of amenity associated with the solar farms has not been mitigated, and will remain visible to adjacent properties even after the new trees have matured. Concerns were also raised in respect of glint and glare effects of the solar farms, including in respect of aircraft safety.

Applicant's response

440 The Applicant's response to the MPDC highlighted that the Project incorporates numerous edge treatments to achieve a considered transition between the proposed development and existing rural residential environment, along with a number of design features to avoid and mitigate potential effects on character and amenity values. It noted that additional amendments were proposed to be made to the residential subdivision. These included the incorporation of edge treatments, including setbacks, planting, fencing, and height and coverage controls, in order to achieve "a considered and appropriate transition between the Ashbourne site and existing environment, including the Rural Residential zone".¹⁴⁹ On that basis, the Applicant took the position that the proposal would achieve a high standard of amenity in the built environment, that would be in keeping with the relevant objectives and policies under the MPDP, and be consistent with section 7(c) of the RMA.

149 Applicant's Response to Comments, Appendix A, at 68.

441 In terms of the comments from neighbours, the Applicant advised that the “*potential adverse effects on the planned and emerging character of the surrounding environment*” will be mitigated through:

- a. The location and design of the proposed residential lots (including internalising the location of higher density lots);
- b. Use of a ‘considered’ height and landscaping strategy; and
- c. Separation from external site boundaries.

442 The Applicant considered that these factors would “*ensure that the proposal can integrate with the existing receiving environment, particularly in the context of Station Road, which includes a transition between the existing rural and urban environments*”.¹⁵⁰

443 Specifically, the Proposal as amended through the ‘Response to Comments’ stage, as illustrated in the Proposed Boundary Treatment Plan Summary¹⁵¹ and as further refined in response to the Panel’s queries (see Minutes 3 and 4), incorporated:

- a. 1.5m-1.8m high fencing along boundaries to adjacent residential lots, and a 1.5m-high four rail boundary fence along the southern boundary.
- b. A 2m-wide landscaping buffer along all the boundaries of the lots adjoining neighbouring residential properties and the southern boundary, and a 3m-wide landscaping buffer along all the boundaries of the lots adjoining the Highgrove site boundary. These are shown in a ‘Residential Boundary Buffer Plan’, where the planting is described as being able to reach “*approximately 4m in height, to provide visual mitigation and help screen light spill from both public and private sources, while maintaining the functionality and amenity of the development and neighbouring properties*”.¹⁵²
- c. A building line restriction for lots adjoining residential properties within Eldonwood and Highgrove and the southern boundary.
- d. A single storey dwelling control for lots along the southern boundary.

150 Applicant’s Response to Comments, Appendix A, at 68.

151 Applicant’s Response to Minute 3 of the Expert Panel (27 November 2025), Attachment 4.

152 Applicant Response to Comments, Appendix A, at 68.

- e. A consent notice would be imposed on those lots subject to the height and yard restrictions and buffer planting requirements, as follows:¹⁵³

The following must be registered as a consent notice on the records of title to be issued for Lots 378-388 and 390-403:

- (a) *"That the planting buffer area shown on the Buffer Planting Plan prepared by Greenwoods Associates version XXX be planted and maintained with a mix of species as per the approved Planting and Establishment Plan to a width of no less than 3m in perpetuity. Any dead or unhealthy plants within the buffer area are to be replaced during the next available planting season to maintain the visual buffer."*

The following must be registered as a consent notice on the records of title to be issued for Lots 38-45, 47-51, 90-97, 132-137, 166-180, 268-281, 419-420, 421-429, and 474-492:

- (b) *"That the planting buffer area shown on the Buffer Planting Plan prepared by Greenwoods Associates version XXX be planted and maintained with a mix of species as per the approved Planting and Establishment Plan to a width of no less than 2m in perpetuity. Any dead or unhealthy plants within the buffer area are to be replaced during the next available planting season to maintain the visual buffer."*

- 444 The change to the arrangement for the southern-most lots was in response to the Panel's query in Minute 3, in response to the Applicant statement that 'larger lots' had been positioned along the rural boundaries. The Panel was not able to discern that the southern-most lots were any larger than those proposed elsewhere within the residential subdivision (and indeed, were smaller than some, being typically 500m² or less). The Applicant's response reiterated its view that these lots were 'generally larger' than the typical internal lots. While it considered that the combination of larger lot sizes, deeper rear yards and dedicated landscaping would create a softer, more spacious edge to the adjoining rural land than is achieved on internal blocks, it proposed to limit the height of buildings along the southern boundary to single-storey. This was considered to provide greater certainty that the rural boundary will be experienced as a lower scaled built edge, that will be largely screened by required landscaping consistent with achieving the perception of a generally low level of building bulk.

153 Applicant Response to Minute 4 of the Expert Panel (11 December 2025) at 4.

Design and layout considerations

445 Associated with the issue of amenity and landscape character effects were those arising from the design and layout of the Project itself. This incorporates considerations relating to urban design, and objectives relating to the creation of efficient, legible and well-functioning environments, which are matters largely internal to the RV and residential subdivision, but which do have some bearing on the way in which these developments are experienced externally, and adjacent to, the Project.

446 The AEE states that the RV has been “*strategically located within the wider Ashbourne development to provide a transition between the more intensive residential areas and the open rural land to the west*”. It considers that the RV serves to provide a ‘softer’ urban edge and to maintain the existing transitional nature of development along Station Road. Overall, the Applicant considers that “*the architectural design and layout of the retirement village provides a high-level of amenity for future residents, while maintaining a coherent transition between urban and rural areas*”.¹⁵⁴

447 In terms of the residential subdivision, the AEE concludes that the ESSP provides an expectation that the majority of the subdivision will undergo a shift to an urban development, and that “[t]he proposed residential subdivision will result in an activity that is allowed for under the RDP”.¹⁵⁵ It goes on, however, to acknowledge that the proposed layout will be of a higher density than is envisaged in the ESSP, but in that regard would represent an efficient use of the land that would be in keeping with development to the east of the site. It further asserts that the proposal would act to address the “*missing tooth*” in the urban form of Matamata.

448 The AEE describes the overall arrangement of the residential subdivision in the following terms (as has been referred to in part above):¹⁵⁶

Lots are generally regular-shaped, front-loaded with compliant building platforms providing for the future development of dwellings at a scale and density that enhances the diversity of housing choice in the area. The design of the lots enables flexibility for future dwelling designs, allowing for both compliance with the permitted building envelope or, where necessary, the ability to seek consents for any required infringements. Indicative building typology designs have been included as Appendix 5A to provide an indication of the anticipated built form and scale across the various sized

154 AEE, Volume 4, at 32.

155 AEE, Volume 5, at 37.

156 AEE, Volume 5, at 38.

lots enabled by the subdivision. The variation in lot sizes is considered to enable a diverse streetscape character for the area while maintaining the potential for well-designed, functional homes.

The subdivision has been thoughtfully designed to focus the highest density uses (lots less than 400m²) centrally within the site and in closest proximity to the proposed commercial node and open space area to internalise effects of the increased density within the Ashbourne development, as illustrated in Figure 11 below. These lots are also located near the existing subdivision to the east of the site which is of a similar density, with lot sizes of approximately 600m² along Peakedale Drive, creating a legible extension to the higher density development within the surrounding area by focussing density in proximity to the existing urban edge of Matamata. Larger lots are proposed to the north of the site, being more in keeping with the existing large lot urban and rural residential properties along Eldonwood Drive, Chestnut Lane, and Highgrove Avenue.

- 449 In overall terms, the Applicant considered that the proposed subdivision would support “a high-quality residential streetscape amenity consistent with the wider Matamata area that complements existing and planned residential character and pattern of development”,¹⁵⁷ and thereby contribute positively to Matamata’s urban character.
- 450 The abovementioned approach was queried to some extent for the MPDC by Mr Munro, who noted that while he was generally supportive of the principle of urban residential activity occurring on the site instead of rural residential-type development, “there is a need to manage the potential adverse effects of urban-intensity development relative to rural and Rural-Residential zoned land adjacent to the Site”.¹⁵⁸ As referred to above, Mr Munro did not consider that the proposal had achieved this, noting the density of development at many of the Site’s external boundaries of between 1,200m²-1,800m² (other than east of the Peakedale Drive axis), and set out recommendations to mitigate character and amenity impacts, primarily through reallocation of densities and improved connectivity, as referred to above. These were supported by Mr Rademeyer.
- 451 The Applicant’s response incorporated amendments as discussed previously to address Mr Munro’s recommendations. On that basis, it considered that the updated conditions (and associated building line restrictions and landscape buffers) would ensure that “the potential character and amenity adverse impacts in relation to the development can be managed”.¹⁵⁹

157 AEE, Volume 5, at 39.

158 MPDC Comments, Annexure C at 1.2.

159 Applicant’s Response to Comments, Appendix A, Attachment 2, at 25.

452 Through Minute 3, the Panel also sought further information from the Applicant and the MPDC in respect of any urban design implications associated with the extent of rear lots, to be accessed via Jointly Owned Access Lots (**JOALs**). The Applicant's response identified 58 rear lots of the total of 518, which it considered would not undermine the overall character or quality of the neighbourhood. It suggested, however, that:¹⁶⁰

...detailed design will include coordinated landscape treatment, fencing and development controls to ensure that dwellings present front doors and windows towards the JOAL. These measures, together with the low traffic volumes and capped number of lots off each JOAL, will support good passive surveillance, a positive pedestrian experience and a safe, slow-speed shared environment consistent with good urban design practice.

453 The response from Mr Munro on behalf of the MPDC noted that proposals had been proffered that would achieve the outcomes described above and outlined some suggested measures for those JOALs serving five or more lots.

Commercial node in residential zone

454 The Panel also notes that the Application provides for the reasonable possibility of a neighbourhood centre superlot supporting a superette, childcare, café and four additional commercial tenancies.

455 In Minute 2 the Panel sought confirmation that the proposed commercial area within the Ashbourne residential zone (described in the Application as 'Option 1') will proceed, and forms part of the application (and that 'Option 2' [i.e., an alternative residential development] is deleted).

456 Mr Munro provided urban design evidence on behalf of MPDC. His evidence was very supportive of the commercial node to service the neighborhood of around 518 new dwellings such that it was his opinion that development of the commercial node should proceed sooner rather than later:

457 He went on to say:

There is also no need in urban design terms for the commercial node to only be developed in one-go. Starting even with one stand-alone corner shop would be more desirable than leaving the site vacant and to this end I recommend that the commercial node should be developed, including if only initially in-part, as soon as it is possible for the developer to do so.

160 Applicant's Response to Minute 3 of the Expert Panel, Memorandum at 5.

- 458 The Applicant's urban design response (Katherine Hu and Cam Wallace, B&A) indicated that the commercial node would not proceed before Stage 4:

There is currently no intention to advance the commercial node (Lot 1002) earlier than the staging proposed, being Stage 4. Commercial viability in a greenfield location typically depends on achieving a sufficient local population base and establishing strong movement and access connections, including to establish the link to Peakedale Drive and the wider residential area. On this basis, no change to the staging or design drawings is proposed.

- 459 The Panel takes the view that a service node offering childcare, superette and a café is appropriate in a neighbourhood of this scale but record our concerns, which we will address in conditions, that the currently vacant tenancies should retain the 'service' character currently offered and avoid the introduction of commercial activities with office characteristics. This would also assist in addressing any concerns in relation to displacement in terms of the commercial viability of the Mataura town centre.

- 460 The Panel also notes in respect of this matter that Mr Murray had also recommended additional development allowances for the surrounding residential lots, of smaller size than elsewhere to reflect their central location and proximity to the commercial node (in the order of 350m²). In particular, he proposed that unlimited density be allowed for within those lots within 200m of the commercial node. While the Panel understood the reasons for that proposal, we note that the Applicant had not sought such an enablement, and to the extent that it would enable more development per lot than the proposed development standards have envisaged, we did not discern that such an outcome had not been modelled as part of the stormwater management provisions for the respective stage(s).

Panel findings

- 461 The Panel considers that there are a number of issues with respect to both the RV and residential subdivision proposals from the perspective of both their use and reliance (in full and in part) on HPL, and as developments that are not planned and out of sequence with the MPDC's strategies for the provision of land for residential purposes, and for the reasons set out in the MPDC's comments on the application. Of these, the RV is of greater concern in terms of its use of HPL, for the reasons set out elsewhere in this decision. Further, the Panel does not agree that the location of the proposed RV represents a "logical extension" to the ESSP land¹⁶¹ given the way in which such extensions have already been provided for through the MPDC's statutory planning processes. Nor have we been able to reconcile the Applicant's

161 AEE, Volume 4, at 47.

contention that the residential subdivision completes an identified “missing tooth” in the urban framework of Matamata,¹⁶² given its location beyond the current edges of its urban areas and where no such gap has been identified in the MPDC’s own planning provisions. Nor do we accept that the identification of rural-residential activities through the ESSP in any way presages the expectation of use of that land for urban development, particularly where that development is of significantly greater intensity to what is provided for through that structure plan.¹⁶³

462 The Panel’s consideration of the appropriateness of the proposed residential subdivision and RV is also informed by the economic evidence that we have received. As referred to elsewhere in this decision, we are satisfied that the MPDC has provided sufficient live-zoning for residential activities within Matamata, and that there are existing approved subdivisions that are being implemented to provide for further residential development.¹⁶⁴ Accordingly, the proposed use of rural land for this purpose, prior to any re-zoning processes, does not appear to be necessary from a scarcity perspective or lack of consented opportunities. In addition, the MPDC’s planning processes have established what to us appears to be clear expectations as to the nature of development that is envisaged (or precluded) in this part of Matamata through the RMA.

463 The Panel also takes note in this regard of the advice we have received from Ms Tait with respect to Objective 4 and Point 6 of the NPS-UD, where she highlights that the MPDC’s Residential Capacity Assessment does not identify a shortfall in housing supply, and that “*the factors in Objective 3 do not warrant additional housing (i.e. there is no unmet demand and there is no public transport system or local employment opportunities to support additional housing development)*”.¹⁶⁵

464 We note that the applicant has endeavoured to address the inevitable interface issues that arise through the residential ‘model’ that it proposes with regard to the character and sensitivities of surrounding land that is comprised of a combination of residential, rural-residential and rural land. However, while it suggests that lot sizes have been increased towards the edges, relative to the smaller ‘internal’ lots, they remain of notably greater density for the most part than those existing sites that they adjoin, as was observed by Mr Munro. The Panel acknowledges, and has sympathy for, the views expressed by a number of neighbouring commenters as to

162 AEE, Volume 5, at 38.

163 Noting that it proposes Rural Residential 1 and 2 zonings.

164 MPDC Response to Minute 7, Residential Capacity Assessment – Minute 7 Response, Property Economics (December 2025).

165 S Tait, Memorandum, Planning Position (3 February 2026) at 8.

the amenity effects associated with the juxtaposition of residential density that will become evident through implementation of the subdivision and future development, and for which they could not have reasonably anticipated though any due diligence as to the MPDC's current or intended planning provisions for this area.

465 As previously noted, the Applicant also looks to address these effects through fencing, the provision for 5m yard setbacks, and individually owned and managed landscape buffer yards (of 2-3m width), which it considered will be sufficient to manage the visibility of this increased density that is proposed. In broad terms, these measures appear to be less than what is necessary to manage such interface issues, and in the Panel's view a 'considered' response to this issue would have incorporated lots that are of more consistent size to those that they abut.

466 In that respect, the Panel prefers the evidence of Mr Munro as to the size of lots that would be appropriate for the interface of the Site to rural-residential areas to the west of the Peakedale Drive access, and the southern boundary interface, being in the order of 1,200m² - 1,800m² (average 1,500m²), along with an 8m yard setback.

467 In terms of the landscape buffer requirements, the Panel has some doubt as to the long-term efficacy of individually owned and managed buffer yards, given the inevitable variability in the objectives of rear owners for the potential use of rear yards and their interests in comprehensive landscape maintenance. Nevertheless, the Panel adopts the well-understood principle that a decision-maker must assume that conditions, particularly those proposed by an applicant and where underscored through consent notices, will be complied with, and for the term in which they are intended to apply (being in perpetuity in the case of landscaping). We did not, however, consider that the rationale for the difference in the width of landscape yards as between Hillgrove to the west, and Eldonwood to the east, had been adequately made out. In particular, we note the Applicant's comment that a 3m buffer that was offered "*out of respect for the submitter*" would logically and necessarily also apply to other submitters/commentors, particularly where it acknowledges that a wider buffer "*...to create a denser and more natural screen without affecting neighbouring areas*".¹⁶⁶ Such an outcome is equally appropriate and valid in respect of the eastern areas in the Panel's view.

468 The Panel also considers that 2 and 3m landscape buffers are insufficient, having regard to the amenity issues that we consider arise in the context of the proposed subdivision and its interface to the established form and character of adjacent residential environments. We therefore consider that a more extensive 4m-wide

166 Applicant's Response to Comments, Appendix A, at 12.

landscape buffer, as recommended by Mr Munro, would be necessary to better mediate this interface, in combination with the increased lot sizes that we have referred to above.

469 In summary, the Panel agrees with the views expressed by the MPDC and numerous commenters that the Proposal would not maintain or enhance the planned and emerging character and amenity of the rural and rural residential receiving environments, nor that which could reasonably be anticipated to arise through the ESSP for the area of the residential subdivision. We consider that there are amendments that would need to be made in line with Mr Munro's recommendations in respect of minimum lot sizes for those lots abutting the external boundaries (other than those that have a residential zoning at the end of Peakedale Drive) and associated yard and landscape buffer provisions, along with corresponding amendments to the Residential Design Guidelines (to address the various development standards for larger lots).

470 Associated with that change is a need to specify a building coverage standard that reflects the lower density form of development required for this interface area. The Panel notes that the ESSP applies a 15% standard but we recognise that this relates to the larger lot envisaged by the rural residential zoning. We have determined that a 25% standard (requiring consent under Rule 3.2(2)) would allow for an appropriate level of development of these lots, while maintaining a more spacious layout relative to the higher density lots provided in the internal parts of the subdivision.

Panel's overall assessment

471 Overall, and through a standard RMA process (including through the lens of the section 104D threshold tests that would normally apply), the Panel would not have considered the proposed subdivision to be an appropriate development of rural-residential zoned land, having regard to the planning and economic evidence (in respect of displacement in particular) that it has received. But for the need to direct the greatest weight to be given to the purpose of the FTAA, the Panel would not have the jurisdiction under section 104D of the RMA to grant the consents.

472 We do not consider the RV component, and part of the residential subdivision, to be an appropriate development of HPL, as we describe in more detail in Parts F and G below, nor one that is consistent with the outcomes expected for rural-zoned land. The solar farms are, however, consistent with permitted activity provisions of the MPDP, and their overall form and landscape buffering will, in the Panel's view, ensure that this aspect of the Proposal will have minor adverse effects, and are acceptable.

473 The case for the residential subdivision activity, however, is more finely balanced than for the RV, and as we outline in more detail in the sections that follow, when considered in terms of the overall purpose of the FTAA, we find that the residential subdivision will, in general terms, be acceptable. In particular, and as set out elsewhere, our concerns when applied on a proportionate basis do not override the regional significance of the residential subdivision component, including when combined with the solar farms. However, that finding is subject to the need for what we acknowledge to be significant changes to the subdivision layout, including as to lot sizes (as well as yard and buffer requirements), and the change that was necessary at the south-western part of the proposal to preclude the use of HPL.

474 The Panel recognised through its Draft Decision that the change to the south-western section, while affecting a relatively small component of the overall residential proposal, as well as an increase in lot sizes, would necessarily require changes to the design of the subdivision in respect of the boundaries and staged approach in various parts of the subdivision, as well as associated engineering considerations. This was undertaken as part of the Applicant's response to the Draft Decision and draft conditions, albeit that some aspects were not adopted which we address later in this final decision.

PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

Initial Assessment and Statutory Interpretation

475 Section 3 of the FTAA states that the purpose of the FTAA is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.

476 As noted above in Part C, section 81(4) the FTAA specifically requires a panel to consider the extent of a project's regional or national benefits.

477 The assessment of adverse impacts in relation to an approval sought is particularly important in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are out of proportion to regional or national benefits.¹⁶⁷

478 There is no specific definition of significant regional or national benefits in the context of listed projects. Section 22 the FTAA, which relates to the criteria for assessing a referral application, provides the following:

167 Section 85(3) Fast-track Approvals Act 2024.

- (2) For the purposes of subsection (1)(a), the Minister may consider—
- (a) whether the project—
- (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
 - (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
 - (iii) will increase the supply of housing, address housing needs, and contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
 - (iv) will deliver significant economic benefits:
 - (v) will support primary industries, including aquaculture:
 - (vi) will support development of natural resources, including minerals and petroleum:
 - (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
 - (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
 - (ix) will address significant environmental issues:
 - (x) is consistent with local or regional planning documents, including spatial strategies:

479 The Applicant's AEE (Volume 1 – Overview)¹⁶⁸ incorrectly refers to the Project as a Project, and therefore “*has already been identified as having significant regional or national benefits*”. The AEE nevertheless sets out reasons said to support the Project as being consistent with the purpose of the FTAA, which can be summarised as follows:

- a. an integrated development providing over 500 new homes and 200 retirement units, offering a range of housing types and price points;

168 AEE, Volume 1, Overview Report, at 10.

- b. increased housing supply and enhanced competition in the local market;
- c. meeting demographic needs, including an ageing population;
- d. alignment with Objective 1–2 and Policy 1 of the NPS-UD;
- e. significant one-off economic benefits in GDP, jobs, and wage growth;
- f. construction and ongoing employment opportunities; and
- g. innovative design responding to climate change through two solar farms and a multi-functional greenway.

480 MPDC’s legal memorandum emphasised that the Paper is not bound by the Minister’s referral decision when considering regional or national benefits and must independently assess the substantive decision.¹⁶⁹

481 It also corrected the AEE, clarifying that the Project was ‘referred’ not ‘listed’, as we have referred to above. MPDC took the view that *on balance, the Ashbourne project will not deliver such regional benefits to a degree that would outweigh its adverse economic impacts*¹⁷⁰ for the following reasons:

- a. The Ashbourne development is unlikely to stimulate new residential demand in Matamata. Instead, it would redistribute growth that is already planned for, rather than unlocking latent or unmet demand.
- b. There is already sufficient zoned residential and RV land to meet projected demand in the district, meaning the project is not required to meet statutory housing capacity obligations under the NPS-UD.

The proposal involves the conversion of HPL, which is economically inefficient unless the land is proven to be permanently constrained for productive use.

- d. The infrastructure costs associated with servicing the development pose a risk to the wider community, especially if growth is diverted from already planned

169 Matamata-Piako District Council, Comments Received, Annexure A, Legal Memorandum (11 November 2025) at 3.6.

170 Matamata-Piako District Council, Comments Received, Annexure A, Legal Memorandum (11 November 2025) at 3.32.

areas, potentially leading to duplicated and inefficient infrastructure investment.

482 As previously noted, the Panel sought advice from Mr Denne, who reviewed the competing economic assessments of Fraser Colegrave (Insight Economics, on behalf of the Applicant), and Tim Heath (on behalf of the MPDC). In his 28 November report, Mr Denne concluded that against the four suggested criteria, the Project shows no evidence of providing significant regional or national benefits because:¹⁷¹

- a. the data provided suggests no more than that it will produce a normal profit for the industry;
- b. it is not using underutilised infrastructure or other resources;
- c. there is no evidence provided of expected significant spillover effects; and,
- d. it is not transformational in the way that major transport, irrigation or major new industry projects might be.

483 Expert conferencing was then held. In the JWS dated 11 December 2025, the economists' positions on regional significance remained materially opposed.

- a. Mr Colegrave maintained that the Proposal is regionally significant because "*it represents a large increase in future land supply by an experienced, motivated, and well-resourced developer, and it is required to keep pace with demand while tempering the rate of future house price inflation*".
- b. Mr Heath considered that the economic impacts were not regionally significant, due to the displacement of growth that would otherwise occur elsewhere. When discussing displacement, Mr Heath noted, "*once displacement is properly accounted for, the proposal is unlikely to materially impact the level of economic activity within the region than would occur in its absence*".
- c. Mr Denne reiterated that the methods used did not allow for regional significance to be reliably established; "*it is difficult to tell the regional significance of the project from the data provided because the multiplier methodology used has reported average effects of a project of this type, rather than the project-specific impacts from which any significant benefits*

171 T Denne, Resource Economics, Economic Advice to the Panel (28 November 2025) at 3.6.4.

could be identified”.

484 The MPDC subsequently provided a supplementary legal memorandum,¹⁷² which highlighted other decisions made under FTAA, particularly the *Delmore*¹⁷³ Draft Decision and how ‘significance’ has been determined to relate to scale rather than transformation, and that qualitative benefits must be substantiated, particularly where infrastructure constraints remain unresolved.

485 The memorandum further references the *Delmore*¹⁷⁴ Draft Decision with regard to the contextual nature of significance:

...confirms that classification as a “listed project” under Schedule 2 of the FTAA does not guarantee approval and it also confirms that while Panels apply a contextual interpretation of “regional significance”, they retain a discretion to decline applications where benefits are aspirational rather than substantiated and critical infrastructure constraints remain unresolved.

486 The MPDC submitted that there are several contextual considerations to be taken into account regarding the Proposal:

- a. The Proposal’s economic effects are likely to represent displacement or a transfer of activity that would have occurred elsewhere in its absence;
- b. The demand for housing at this location has been overstated, and does not take account of broader factors such as demographic trends, access to employment and amenity and migration inertia; and,
- c. Infrastructure costs may potentially impact on the viability of the Project, and have implications for the MPDC’s infrastructure network.

487 The Applicant’s memorandum of the same date¹⁷⁵ sought to reconcile the displacement between economic assessments and direct the Panel on how significance has been determined under FTAA by other panels. To summarise, the memorandum stated that:

- a. Listed status is not determinative, but the Minister’s acceptance “*provides some useful guidance to a panel as to the nature of a project which falls within*

172 MPDC, Comments Received, Annexure A, Legal Memorandum (11 November 2025).

173 *Delmore*, Proposed Draft Decision under the Fast-track Approvals Act 2020 (29 August 2025).

174 Memorandum of Counsel for the Matamata-Piako District Council, Comments Received (11 November 2025) at 3.18.

175 Memorandum of Counsel for the Applicant, Response to Comments (18 November -2025).

the purpose section of the FTAA".¹⁷⁶

- b. If the Panel is satisfied that the Proposal will have benefits, it is not required to resolve differences in opinions between economic experts as to the extent of those benefits.¹⁷⁷ Further, even if the Panel were to determine that the Proposal did not have 'significant regional or national benefits', the purpose of the FTAA may nevertheless be achieved by facilitating the Proposal.¹⁷⁸
- c. Benefits may be significant even if not monetary.
- d. Housing supply and well-functioning urban environments are expressly recognised benefits under section 22(2)(a)(iii).
- e. The four criteria for assessing regional significance set out by Mr Deane are not determinative, and comprehensive cost-benefit analysis is not required or evident in previous FTAA decisions.¹⁷⁹

488 Both memoranda referred to examples of listed projects, which provided some guidance to panels as to a proposal that falls within the purpose of the FTAA. The Application in this case is a referred project, and the Ministerial approval for such a referral incorporates a statement as to the Minister's finding that the Project:¹⁸⁰

...would have significant regional benefits because it would

- i. Increase housing supply by providing approximately 700 new residential units (including retirement units)*
- ii. include solar generation which could power up to 8000 homes, and*
- iii. provide economic benefits including generating 2175 full-time equivalent (FTE) jobs during construction*

489 The Panel accepts that the Minister's initial assessment does not determine the final question of regional significance.

176 *Maitahi Village*, Decision under Fast-track Approvals Act 2024 (18 September 2025).

177 *Drury Metropolitan Centre - Consolidated stages 1 and 2*, Decision under the Fast-track Approvals Act, 7 November 2025.

178 *Maitahi Village*, Decision under Fast-track Approvals Act 2024 (18 September 2025).

179 *Maitahi Village*, Decision under Fast-track Approvals Act 2024 (18 September 2025) and *Rangitopuni* (27 November 2025).

180 *Ashbourne*, Notice of Decision on Application for Referral under the Fast-track Approvals Act 2024 (13 May 2025) at 2.

Sunfield

490 As part of reaching its Draft Decision findings, the Panel reviewed the Draft Decision in *Sunfield* issued on 10 February 2026 (now confirmed through its final decision).¹⁸¹ This related to an application for a residential development that similarly involved disagreement between economists regarding how to quantify a project's national and regional benefits, including the appropriate methods, quantifiers, and models. The Panel in *Sunfield* went so far as to convene a hearing on these issues. In its ultimate findings on regional benefits, we note:

- a. The *Sunfield* Panel had low to moderate confidence that there would be a significant *economic* benefit associated with the proposal.¹⁸² As with Ashbourne, irreconcilable differences between the economic assessments created uncertainty that could not be fully resolved. The *Sunfield* Panel adjusted some of the monetary values to reflect its concerns regarding the accuracy of certain figures within the economic evidence.
- b. It placed the greatest weight on the contribution the development would make to increasing the supply of housing, in light of the principles in the NPS-UD and the broader concept of a well-functioning environment. It also acknowledged a range of additional benefits, including contributions to climate change mitigation and adaptation, resilience and recovery from natural hazards, and other environmental and sustainability outcomes.¹⁸³ These were considered at a project-wide level rather than broken down by component.
- c. The *Sunfield* Panel ultimately found that the benefits were "*collectively regionally and nationally significant.*"¹⁸⁴

491 However, in determining whether this Project provides significant regional or national benefit, the Panel has assessed the significance of each individual Project Part – solar farms, residential development and RV and greenway, before reaching an overall conclusion on the project as a whole, as set out below. Each Project Part has its own discrete set of benefits and disbenefits, which vary in nature and scale, requiring the Panel to consider their significance separately.

Regional significance – solar farms

492 In relation to the solar farms, the Panel accepts that economic benefits are a primary

181 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026).

182 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026) at [531].

183 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026) at [539].

184 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026) at [540].

indicator of regional benefits.

493 Mr Colegrave's economic assessment on behalf of the Applicant¹⁸⁵ states that the two proposed solar farms would generate sufficient electricity to power more than 7,000 homes per year. Through agrivoltaics, land beneath the panels would continue supporting sheep grazing, whilst also contributing to regional renewable energy goals, lowering emissions, and supporting local energy resilience.

494 Throughout the processing of the Application, the Panel sought and received extensive information from both the Applicant's and the MPDC's economists. As set out above, their opinions diverged significantly on almost all issues.

495 The Panel therefore appointed an independent economist, Mr Denne, who was tasked to review all competing economic analyses, including those regarding the solar farms. In his report,¹⁸⁶ Mr Denne criticised the Applicant's claimed benefits, stating that the "whole section" outlining the solar farms' benefits was "not supported by the evidence provided. He considered that while a qualitative assessment had been undertaken, more robust quantitative evidence was required.

496 The Panel then directed the Applicant to provide further information to quantify and support the regional benefits of the solar farms by way of Minute 8. In response, the Applicant provided additional expert commentary from economist Lawrence McIlrath¹⁸⁷ who addressed the matters raised in detail. He aligned his assessment with the purpose of the RTAA, stating that the solar farms will "*facilitate the delivery of infrastructure and development projects with significant regional or national benefits.*"

497 Mr McIlrath's assessment compared the proposed 29MW of electricity generation with other operating solar farms in New Zealand, including:

- a. Mauriston (Genesis Energy) – 47MW
- b. Te Herenga o Te Ra (Lodestone Energy) – 31MW
- c. Kohira (Lodestone Energy) – 24MW

185 AEE, Volume 1, Application Overview, Appendix 14.

186 T Denne, Resource Economics, Economic Advice to the Panel (28 November 2025).

187 Barker & Associates, Planning Memorandum, Attachment 1 and L McIlrath, Market Economics, Response to Housing Affordability Distribution (5 January 2026).

- d. Rangitaiki (Lodestone Energy) – 24MW
- e. Te Puna Mauri o Omaru (North Power) – 14MW

498 After reviewing all the material provided, the Panel takes the position that the Applicant has demonstrated that the scale of the proposed solar farms is regionally significant, relative to other existing solar farm facilities, and that they will contribute meaningfully to New Zealand’s renewable energy and decarbonisation goals.

Regional significance – residential development

Residential capacity and demand

499 As noted earlier, MPDC opposed the Proposal in its entirety, with the lack of demonstrated need for residential development being a central reason for this. MPDC’s Memorandum of Counsel accompanying its invited comment,¹⁸⁸ states:

There is already sufficient zoned residential and retirement village land to meet projected demand in the district, meaning the project is not required to meet statutory housing capacity obligations under the NPS-UD. Further, the Ashbourne development is unlikely to generate additional residential demand in Matamata. Rather than unlocking latent or unmet demand, it would redistribute (what is already planned for).¹⁸⁹

500 In response, the Applicant’s economist undertook a significant study of the local housing market of both the Matamata urban area and the Matamata general ward. The study identified a compound annual growth rate of 1.3%, suggesting local population growth was stronger than previously assumed. After reviewing the local demographic profile, the existing dwelling stock and housing market indicators, it was concluded that there was a need for additional housing capacity in Matamata.

501 Notwithstanding that Matamata is a Tier 3 urban environment and not required under the NPS-UD to produce a Housing Capacity Assessment (**HCA**), MPDC had prepared one. The Applicant’s review of the HCA suggested feasible capacity may be considerably lower than reported, potentially only half. The Applicant therefore considers additional land supply is necessary, supporting 518 new dwellings provided for at Ashbourne through its proposed subdivision.

188 Memorandum of Counsel for the Matamata-Piako District Council, Comments Received (11 November 2025).

189 Memorandum of Counsel for the Matamata-Piako District Council, Comments Received (11 November 2025) at 5.2(e).

502 In response, MPDC engaged Mr Heath to provide a review of this HCA and, having reassessed the urban housing capacity, Mr Heath considered that Matamata had more than sufficient capacity to meet its high demand growth over the short, medium and long term.

503 MPDC maintained that providing 518 new dwellings would not attract new demand, but simply redistribute and displace growth. This means the Proposal could not qualify as having significant regional or national benefits.

504 The Applicant then submitted further detailed evidence prepared by Mr Colegrave, who denounced Mr Heath's conclusions on the HCA as 'fundamentally unreliable', emphasising that large master-planned developments can stimulate market growth and by unlocking latent or unmet demand and attracting new residents. The response also maintained that:

- a. the assumption of ample alternative capacity ignores feasibility constraints;
- b. the suggestion of no net new growth rests on an unrealistic counterfactual, whereas evidence indicates the Proposal will induce extra growth and bring forward benefits that would otherwise be lost or delayed;
- c. rigid application of the MPS-HL is inappropriate in the FTAA context, where such factors are supposed to be weighed against benefits;
- d. competition, diversity, and scale are themselves benefits emphasised by central government policy;
- e. infrastructure concerns are overstated and can be addressed; and,
- f. displacement and loss of lifestyle lots are minor relative to the substantial benefits.

505 Given the persistent divergence in expert views, in Minute 3, the Panel directed Mr Heath to respond specifically on:

[9] The ability of the Ashbourne project to stimulate further demand for housing.

...

[12] Displacement of economic activity and net regional benefit.

506 In response to the request in Minute 3, Mr Heath provided a fulsome critique of Mr

Colegrave's second economic memorandum, alongside a comprehensive technical report. As stated at page 4 of his evidence:¹⁹⁰

In essence the fundamental point of disagreement between Mr Colegrave and myself appears to be whether a market imbalance exists. Mr Colegrave characterises the additional demand as 'a classic case supply driving demand when an unmet need is addressed'. I do not consider there to be an unmet need in either the local Matamata or the regional housing market, and there is no evidence provided to suggest there is.

In my view, the proposed Ashbourne development is unlikely to generate new residential demand for Matamata; but rather result in a redistribution of Matamata / Waikato Region's projected growth. This represents a significant propensity to disperse rather than generate additional economic activity. I also believe that many of Mr Colegrave's claims are unsubstantiated. This includes:

- *The assumption that there is unmet or latent demand without any supporting evidence (in my view) to demonstrate that this is indeed the case.*
- *The misapplication of the counterfactual in my evidence, which refers to a project of similar size or scale. My position is not that Ashbourne will be built somewhere else, but that a similar number of homes (including the retirement village) would be delivered in other locations to the absence of Ashbourne.*
- *That the loss of HPL is seemingly a net loss of economic benefit compared to the claimed economic benefits. In my view, this remains an adverse impact that the panel should consider.*
- *That there is something inherently attractive to the market in large-scale developments like Ashbourne and that its offer is unique. In my view, the Ashbourne proposal is predominantly to deliver residential lots akin to those already provided in Matamata's market. Contrary to what Mr Colegrave claims it does not appear that Ashbourne will deliver anything other than lots of various sizes for households to build more standalone homes on. In this regard, the additional 'choice' offered is limited to the option of living.*

Economic experts

50 It became clear to the Panel that, in light of the statutory planning hurdles that the Panel considers arise from the Proposal (as discussed later in this decision), the economic issues were central to determining both the need for residential development and whether provision for 518 lots would provide regional benefits. As noted previously, with the two economists essentially polarised in their respective positions, the Panel obtained independent advice from Mr Denne, who commented on

190 T Heath, Property Economics, Memorandum on Behalf of the MPDC, Response to Minute 3 of the Expert Panel (27 November 2025).

the diverging economic viewpoints:

In this context, demand assessments as made by the council may be a useful planning tool, e.g. to project future infrastructure needs, but they are not reflecting some optimal level or location 15 P52 in Colegrave et al (2025) 14 of supply. The analysis should reflect a more dynamic market that is price responsive to supply demand-balances. Under such an analysis, static demand assessments are not that useful. In addition, I suggest the argument between IE and PE over the existence or not of supply constraints should give some weight to the fact that a developer with real skin in the game is proposing an investment in this market. The investment succeeds or fails on the level of demand being sufficient for the developer to obtain a reasonable return on investment.¹⁹¹

508 The Panel then instructed all three economists - Messrs Colegrave, Heath and Denne - to participate in expert conferencing to try and seek common ground. The JWS¹⁹² did not achieve an agreed overall position.

509 On the question of whether the proposal was of regional significance, their three respective positions remained as follows:

- a. Mr Colegrave considers that the Proposal is regionally significant, representing a large increase in land supply by an experienced, motivated, and well-resourced developer. The proposal is required to keep pace with demand while tempering the rate of future housing price inflation. It is precisely the kind of project that the FFAA was designed to help unlock and *"from which regional significance can readily be gained"*.
- b. Mr Heath acknowledges that while the scale may be regionally significant, the economic effects are not, due to displacement effects. The overall economic impact must be considered in light of existing market conditions, and a material proportion of the development's impacts are likely to represent displacement or a transfer of activity that would have occurred elsewhere in its absence. Whether displacement is treated as a mitigating factor that reduces the claimed benefits (i.e., realised benefits), or as a significant adverse effect to be weighed against the gross economic benefits, is a matter for the Panel to determine. However, in his view the outcome would be same, because *"once displacement is properly accounted for, the proposal is unlikely to materially impact the level of economic activity, within the region, than would occur in its absence"* (Panel's own emphasis).

191 T Denne, Resource Economics, Economic Advice to the Panel (28 November 2025) at 3.2.

192 Joint Witness Statement, Economics (11 December 2025).

- c. Mr Denne considered that the data and methodology do not allow a reliable assessment of project-specific regional significance. It is difficult to extract the regional significance of the project from the data provided because the multiplier methodology used has reported average effects of a project of this type, rather than the project-specific impacts from which any significant benefits could be identified.

Accounting for Displacement

- 510 MPDC filed a legal memorandum addressing how “regional significance” could be determined. It highlighted that:¹⁹³

Panels have also clarified that significance is a matter of scale rather than transformative effects. Cultural, social, and environmental outcomes such as those recognised in Rangitooopuni¹⁹⁴, can also satisfy the regional significance threshold. However, the Delmore¹⁹⁵ decision confirms that qualitative benefits alone are insufficient where critical infrastructure constraints remain unresolved and claimed benefits are aspirational rather than substantiated. Across all cases, the Panels have balanced flexibility with rigorous, evidence based assessment to determine if claimed benefits are credible and, in fact, regionally significant.

- 511 Applying this to the Proposal, the MPDC stated:

- a. A material proportion of Ashbourne’s impacts are likely to represent displacement or a transfer of activity that would have occurred elsewhere in its absence.
- b. The Applicant has overstated the demand for housing at this location. As noted by Mr Heath, the Ashbourne development is unlikely to stimulate significant additional demand. A range of broader factors drive housing demand, including household demographic trends, access to employment and amenity, and migration inertia.
- c. There are concerns about the potential impact of infrastructure costs on the project’s viability and the broader implications for MPDC’s infrastructure system.

193 Memorandum of Counsel on Behalf of Matamata-Piako District Council (17 December 2025).

194 *Rangitooopuni*, decision under the Fast-track Approvals Act 2024 (27 November 2025).

195 *Delmore*, proposed Draft Decision under the Fast-track Approvals Act 2024 (29 August 2025).

512 Of assistance to the Panel was MPDC's analysis of previous decisions under the FTAA, provided that the Act itself does not offer a definition of "significant".

- a. Concerning what may be considered when assessing regional significance, reference was made to the Waihi North Decision,¹⁹⁶ where the Panel drew assistance from section 22(2) of FTAA:

(2) For the purposes of subsection (1)(a), the Minister may consider—

(a) whether the project—

(i) has been identified as a priority project in a central government, local government or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:

(ii) will deliver new regionally or nationally significant infrastructure, or enable continued functioning of existing regionally or nationally significant infrastructure.

(iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):

(iv) will deliver significant economic benefits:

(v) will support primary industries, including aquaculture:

(vi) will support development of natural resources, including minerals and petroleum:

(vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:

(viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:

(ix) will address significant environmental issues:

(x) is consistent with local or regional planning documents, including spatial strategies:

(b) any other matters the Minister considers relevant.

513 The residential component of the Proposal clearly falls within section 22(2)(a)(iii), relating to increased housing supply (nearly double).

514 The key issue is whether there is an actual need for housing supply, provided through the breadth of contradictory evidence.

196 *Waihi North*, decision under the Fast-track Approvals Act 2024 (18 December 2025).

- a. It is the Applicant's firm position that section 22(2)(a)(iv), the delivery of significant economic benefits, is undeniable.
- b. In contrast, the MPDC takes the firm view that the projected economic benefits will likely reflect a redistribution of investment rather than an increase in economic activity.
- c. In respect of section 22(2)(a)(x), the MPDC planning evidence sets out that the Proposal conflicts with MPDC's strategic growth model.

515 In response to the MPDC's concerns, the Applicant advised¹⁹⁷ that the Panel should not account for displacement because:

- a. The FTAA expressly treats increasing housing supply, addressing housing needs and contributing to a well-functioning urban environment as benefits in their own right, and those outcomes don't necessarily involve competition with existing or planned supply;
- b. Under section 81(2) of the FTAA, the Panel is required to consider the NPS-UD. Objective 2 of the NPS-UD directs that planning decisions support competitive land and development markets. Similarly, Policy 1 of the NPS-UD suggests that a well-functioning urban environment supports and limits adverse effects on the competitive operation of land and development markets. In the Applicant's submission, that policy direction indicates that competition is its own benefit, rather than displacing other benefits; and,
- c. If displacement was treated as negating or materially diminishing the significance of regional benefits, no housing development could ever meet the purpose of the FTAA unless it could demonstrate wholly new or isolated benefits. The Applicant does not consider that would be consistent with Parliament's intention in enacting the FTAA, given that "building housing developments that are affordable housing" was specifically identified during Parliament's consideration of the Fast Track Approvals Bill as "the kind of stuff that this bill is aiming to solve".

516 The Applicant also submitted that if it found displacement effects to be relevant in its decision regarding significance, the Panel should seek legal advice on the same. The

197 F Colegrave, Insight Economic, Technical Economic Response Memorandum, Applicant's Response to Comments (18 November 2025).

Panel agreed and requested further advice from Mr Brabant via Minute 9.¹⁹⁸

517 After analysing the legal memoranda filed by both the Applicant and MPDC, Mr Brabant concluded:¹⁹⁹

- a. Displacement should be 'accounted for' when considering whether a Proposal has 'significant regional or national benefits' if economic benefits are relied on by an applicant, and displacement is determined to be an economic disbenefit (as opposed to being regarded as an adverse environmental impact).
- b. Whether displacement is determined to be an economic disbenefit depends in part on whether that asserted displacement has a reliable and supportable evidentiary basis, represents a material and tangible economic disbenefit, and is otherwise not speculative.
- c. If displacement is not determined to be an economic disbenefit, then there is no requirement to 'account for it' in an assessment of significant regional or national benefits.

Panel finding

518 In the context of the Proposal, and upon considering Mr Brabant's advice, we consider that the residential component is finely balanced. The Panel considers that there are evidential shortcomings in the economic evidence provided. Some benefits appear to be overstated by the Applicant.

519 On balance, we prefer the evidence of Mr Heath, as to question whether there is a 'need' for the large supply of new housing to Matamata and agree that displacement may indeed be an undesirable outcome.

520 However, we are mindful that the residential development is just one of four individual Project Parts that comprise the Proposal, and our task is to assess the Proposal in the round. All things considered, the supply of new housing in and of itself is likely to meet the purpose of the FTAA.

521 As stated in Mr Brabant's memorandum:

I acknowledge the potential to argue that if a new development prevents existing zoned land from being developed, then the net outcome may not be an increase in realised

198 Minute 9 of the Expert Panel (18 December 2025).

199 J Brabant, Legal Advice to the Panel (27 January 2026).

housing supply. The difficulty arising from this proposition is the spectre of existing zoned land being protected from the introduction of competition. That is particularly problematic when the future development of existing zoned land is necessarily subject to uncertainty. For that reason, as referred to later in this opinion, I am of the view that a Panel would need to have an extremely high degree of confidence that consenting new proposed residential development would have material and significant adverse effects on housing supply before it could determine that this was a disbenefit that effectively counted against approval of the project. The purpose of the FTAA is enabling not protectionist. (Panel's own emphasis).

522 To conclude, the Panel has determined that, on balance, the residential component of the Proposal would meet the regional benefits threshold, with the exception of the portion of Lot 4 that is classified as LUC 2 land and therefore subject to the provisions of the NPS-HPL, and where its boundary interface issues have been appropriately resolved. The changes we have determined to be necessary to this component of the Proposal have necessarily reduced the number of new and future dwellings relative to the 518 as originally sought (to 400 lots), and that outcome inevitably reduces the significance of the Proposal, but is considered on balance to nevertheless remain 'regionally significant'. Our detailed reasoning in respect of the regional benefits test is set out later in the Decision at Part O.

Regional benefits – Retirement Village

523 The Applicant seeks approval for a RV on a 20-hectare site including:

- a. 218 single-storey detached villas;
- b. a 70-bed aged care hospital;
- c. two staff dwelling;
- d. a multi-purpose facilities building (lounge, café, library, gym, pool, recreation areas);
- e. an internal road network; and,
- f. on-site, self-managed three-waters infrastructure.

524 The RV will be delivered in ten stages, supported by detailed construction, stormwater and landscape management plans. The site is located to the south of Station Road, immediately west of the existing Highgrove subdivision, and zoned Rural under the MPDP.

Applicant's assessment of significance

525 The Applicant undertook a demand-supply assessment for retirement living within a

45-minute drive-time catchment.²⁰⁰ It estimates demand will increase from 1,320 units (2023) to 3,140 units by 2053. The Applicant has stated that existing capacity is estimated at only around 650 additional units.

526 The assessment highlights that the proposed RV will meet the needs of an ageing population, release existing homes into the market, and provide socioeconomic benefits, including:

- a. Enhanced wellbeing, with on-site community facilities encouraging social connection and promoting an active lifestyle.
- b. Safe, purpose-built housing, with units designed expressly for older adults to ensure security, accessibility and comfort.
- c. Greater accessibility and affordability through economies of scale.
- d. Ageing in place.
- e. Continuum of care.
- f. Increased political voice for older residents.
- g. Efficiencies in the delivery of health services via on-site care services.

527 Workforce benefits are also outlined, with key roles including village managers, chefs and kitchen staff, gardeners, laundry staff, repairs and maintenance staff, accounts personnel, cleaners, marketing and advertising staff, drivers and transport-related roles, and activity coordinators.

528 The projected future spending from the occupants of the RV is estimated to contribute \$11 million in annual expenditure within the wider community.

529 The Panel²⁰¹ challenges the methodology used by the Applicant to calculate the level of demand, arguing it overestimates need, and that sufficient appropriately zoned land exists for RV development within the district:

Regardless, given the substantial amount of suitably sized vacant greenfield land within the Matamata-Piako District, there appear to be no land supply constraints that would prevent the development of additional retirement village capacity on already zoned land.

200 AEE, Volume 1, Overview Report, Appendix 1K, Economic Impact Assessment.

201 Statement of Evidence of T Heath on Behalf of the Matamata-Piako District Council, Economics (11 November 2025).

Highly Productive Land

- 530 The MPDC's response also emphasises that the proposed RV occupies a substantial area of HPL, and is not required to meet expected demand in the short to medium term, thereby diminishing its net benefit:

This distinction is particularly significant given that the proposed retirement village would occupy a considerable area of Highly Productive Land. Although this application may contribute positively to a long-term shortfall in Retirement Village units, it is not required to meet expected demand, particularly over the short to medium term. In my view, this diminishes the net economic benefit of this component of the Ashbourne Project.

- 531 The Panel considers that none of the economic benefits of the proposed RV set out by the Applicant are reliant on it being located on HPL.

- 532 The Ministry for the Environment's referral advice noted potential inconsistency with the NPS-HPL due to the use of HPL for residential development.

We note that both MPDC and WRC have identified that the project is likely to be inconsistent with the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) as it involves residential development of highly productive land in the rural zone. This is a matter that an expert panel would need to consider when assessing a substantive application for the project.

- 533 Clause 2.1 of the NPS-HPL states that "highly productive land is protected for use in land-based primary production, both now and for future generations". In practical terms, this means HPL is protected now and into the future as a finite, non-renewable resource. The Panel considers that if arguments that economic benefits of urban development outstrip the value of the land derived from rural activities alone were sufficient to override the NPS-HPL, any urban development on rural, highly productive land could be justified on the same basis, undermining the very purpose of the NPS-HPL. The exemption in clause 3.10(3)(a), for instance, states that when evaluating whether the exemption applies, a decision-maker cannot take into account the potential economic benefit of using HPL for purposes other than land-based primary production.

- 534 The Panel considers that there is a pathway through clause 3.9 of the NPS-HPL for the solar farm and greenway Project Parts, as the land will still be reasonably capable of supporting productive rural use. This would not be the case for the proposed RV

land or part of the residential subdivision.

535 The Applicant provided a detailed review of the land's LUC classification via its Land Use Capability Assessment,²⁰³ suggesting current mapping does not reflect site-specific productivity constraints and that much of the site may be reclassified once regional mapping is completed.

536 The Panel sought legal advice on whether it could rely on this site-specific assessment to disregard the NPS-HPL. Mr Brabant advised that:

- a. *Blue Grass*²⁰⁴ implies that a site-specific soil survey or productivity report cannot be used to re-categorise land regarded as LUC 1, 2 or 3. As it happens, the Landsystems detailed on-site assessment lodged in this matter confirms that the Site contains predominantly LUC 1 and 2 soils.
- b. Therefore, the Applicant would not appear to be greatly assisted by the conclusions of its site-specific soil report (that much of the Site's rurally zoned land contains predominantly LUC 1 and 2 soils).
- c. The FTAA does not provide an alternative pathway to set aside the position in *Blue Grass* as:
 - i. The Court's interpretation of clause 3.5(7) equally applies to consent applications applying for all of the RMA *and* the FTAA, as the required interpretation relates to the NPS-HPL instrument itself, rather than the relevant consenting process.
 - ii. The legislative regime under which an applicant applies does not amend the provisions of the NPS-HPL (or the interpretation of those provisions) nor render them irrelevant.

537 We note that the amendments to the NPS-HPL, which became effective on 15 January 2026, relaxed restrictions on the use, subdivision and development of LUC 3 land, but did not alter the restrictions for LUC 1 and 2 land.

Panel Findings

538 Having considered the economic evidence, demand assessment and the broader host of community benefits claimed for the RV proposal, the Panel finds that these

203 AEE, Volume 1, Overview Assessment, Appendix 1L, Land Use Capability Assessment.

204 *Blue Grass Limited v Dunedin City Council* [2024] NZEnvC 83.

benefits do not overcome the strong policy direction contained in the NPS-HPL. Consistent with the position confirmed in *Blue Grass*, the protections for HPL cannot be displaced by site-specific assessments or general economic justification.

539 The benefits are not dependent on the particular proposed location, and the Panel concludes that this component of the Proposal does not meet the regional or national benefits threshold required to justify its approval.

540 In addition, the Panel has some disquiet regarding the granting of consent for development on HPL. While we are aware that the *Sunfield* Panel has granted consent for development on HPL, there is a distinction between that project and Ashbourne.

541 The Panel in *Sunfield*, due to the characteristics of the site, were unable to grant a partial consent to avoid development on HPL. They had to essentially grant or decline consent after weighing up the loss of HPL against the proposal's significant scale and the economic benefits of granting consent. We acknowledge the findings in that decision but consider the present circumstances are neither binary nor weighted in favour of approval of the RV, notwithstanding the emphasis we must give to the purpose of the FTAA. We consider it worth including the *Sunfield* deliberations on this issue. That Panel said in its decision:

[312] The Panel has turned its mind to whether there are any conditions that it may set in relation to the adverse impacts associated with the loss of HPL. However, the change from rural to urban use at the scale proposed is such that there are no conditions that would be capable of avoiding, remedying, or mitigating this impact. As such, the Panel will need to weigh this impact against the project's regional or national benefits. The Panel undertakes to exercise its powers under Part H of this Decision....

[776] However, we did find that the loss of HPL would amount to an adverse impact that was unable to be mitigated through the imposition of conditions.

[777] As such, our next task is to weigh the extent of the regional and national benefits with the adverse impacts that we have found exist in relation to the loss of HPL.

[778] We ask ourselves whether the loss of HPL is sufficiently significant to be out of proportion to the project's regional or national benefits. We do so in circumstances where there are no conditions that we can set to avoid the loss of the highly productive soils that exist on part of the site.

[779] HPL has an inherent value. Once it is lost to development of the kind proposed here, it is effectively lost for that purpose forever.

[780] The Applicant has attempted to place a monetary value on the loss of HPL. It calculated a loss of around \$1.5m. Though, we view that figure with some caution, for

reasons we expressed earlier in our Decision (for example, the use of current market land values).

[781] It is difficult to place a monetary figure on the loss of HPLs. Rather, we prefer to take a qualitative approach to this exercise.

[782] Our approach is informed by the following matters: (a) The land in question comprises LUC 2, rather than LUC1 land. It is not what is considered to be prime land (in contrast, perhaps, with lands used for vegetable growing in Pukekohe); (b) With the removal of LUC 3 land from the protection of the NPSHPL, the remaining LUC 2 classed land on the site is more limited, fragmented, and isolated; and (c) No large or geographically cohesive areas of LUC 2 land now exist on the site.

[783] We now weigh those factors against the significant regional and national benefits. In doing so, we place the most weight on the purpose of the FTAA. We find ourselves that that purpose is to facilitate the delivery of infrastructure and development project with significant regional or national benefits.

[784] We find that the adverse impacts of the loss of HPLs are not sufficiently significant to be out of proportion to the project's regional and national benefits such that consent should be declined. Granting consent is consistent with the purpose of the FTAA as it will facilitate the delivery of a development project with significant regional and national benefits.

542 In the case of the Proposal, we have already discussed our view that the Council's evidence that there are alternative suitable, serviced sites in Matamata for a retirement village and that the demand for new retirement villages will be met with existing stock in the short and medium term is preferred. We have also expressed reservations regarding the adverse amenity effects and the inappropriateness of a high-density development with boundaries alongside general rural and rural-residential development. Overall, while acknowledging the requirement of the FTAA that we give the greatest weight to the purpose of the Act, our assessment of the RV component of the project requires us to decline those approvals.

543 In these circumstances, we have the option to approve the two solar farms and residential development (which will need to surrender approximately 2.5 ha of HPL) and decline the RV, leaving the HPL protected in accordance with the strong 'avoid' objective in the NPS-HPL. We consider that the two solar farms and residential subdivision collectively continue to meet the purpose of the FTAA (subject to resolution of the matters we have previously noted) as being regionally significant.

PART G: STATUTORY DOCUMENTS

Introduction

544 The AEEs addressed the relevant statutory documents and provisions relevant to

each component of the overall Application. Rather than restating this material in full, this section addresses the documents and provisions of particular relevance to the Application, alongside the comments received. In reaching our conclusions, we also rely on our assessment of effects and the conditions we have determined appropriate (including those set out in Part H: Regional and District Planning Framework, as relevant to each topic area).

Government Policy Statements

545 As previously noted, the only Government Policy Statement in place is that related to Grocery Competition. This does not raise any considerations of relevance to the Application.

National Policy Statements

546 There are eight National Policy Statements that are relevant to the Application and are as follows:

- a. National Policy Statement on Highly Productive Land (**NPS-HPL**);
- b. National Policy Statement on Urban Development (**NPS-UD**);
- c. National Policy Statement on Renewable Electricity Generation (**NPS-REG**);
- d. National Policy Statement on Freshwater Management (**NPS-FM**);
- e. National Policy Statement for Indigenous Biodiversity (**NPS-IB**);
- f. National Policy Statement for Natural Hazards (**NPS-NH**);
- g. National Policy Statement for Infrastructure (**NPS-I**); and
- h. Hauraki Gulf Marine Park Act 2000 (**HGMPA**).²⁰⁵

National Policy Statement on Highly Productive Land 2022

547 The NPS-HPL seeks to protect New Zealand's most productive land, recognising it as a finite and nationally significant resource. We have addressed these provisions in a general way as part of our discussion of regional (or national) significance in Part F above. In this section, we consider the NPS-HPL in full, including with respect to the issues of contention as to whether any exemptions are applicable in this case.

205 Being a relevant 'National Policy Statement'.

548 The overarching objective seeks to ensure that HPL is protected for use in land-based primary production, both now and for future generations. The NPS-HPL includes specific policy direction on the development and subdivision of HPL and has a specific purpose of avoiding non-land-based primary production activities and subdivision, except where it is provided for under Clauses 3.8 - 3.10. The relevant objective and policies are as follows:

2.1 Objective

Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.

2.2 Policies

Policy 7: The subdivision of highly productive land is avoided, except as provided in the National Policy Statement.

Policy 8: Highly productive land is protected from inappropriate use and development.

Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

549 Clause 3.5(7) of the NPS-HPL applies to part of the proposal (in particular, the RV, solar farms and part of the residential subdivision and greenway) because maps that identify HPL, produced in accordance with clause 3.4, have not yet been included in an operative regional policy statement required by clause 3.5, which provides that:²⁰⁶

(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 for general rural or rural production; and

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

(b) is not:

(i) identified for future urban development; or

206 The Panel notes that the National Policy Statement for Highly Productive Land Amendment 2025 came into force on 15 January 2026. This removed the applicability of clause 3.6 to urban rezoning of Class - 3 land. It also amended the timing by which regional councils must undertake mapping of HPL (i.e., by 1 January 2028).

(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.

550 The Applicant’s LUC Assessment²⁰⁷ found that the site is defined as HPL under the NPS-HPL, being comprised of Class 1, 2 and 3 land, with Class 2 being the most predominant.

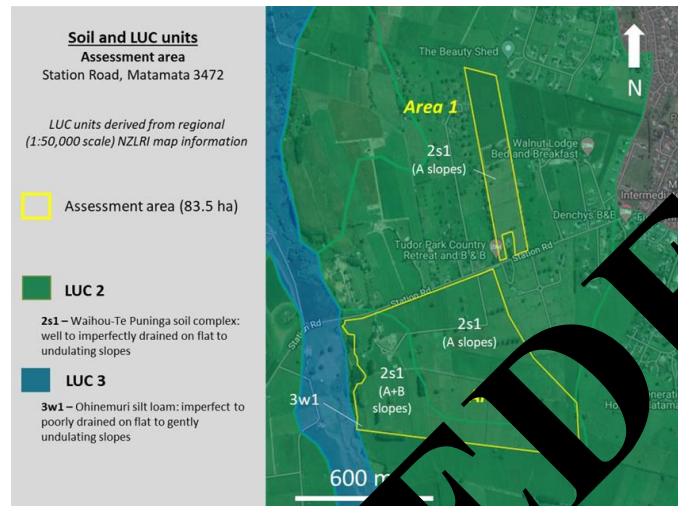


Figure 1 – LUC units derived from NZLRI map – (AEE Volume 1, Overview Report – Appendix 1L,

551 The assessment concluded that:

The detailed on-site assessment showed a greater area of poorly to imperfectly drained LUC 2w3, LUC 3w1 and 3w3 land which may constrain the variety of productive land uses suitable for this site. Areas of moderately well to imperfectly drained LUC 2w2 land, comprising organic soils, are likely suited only to pastoral use...

The drainage and slope characteristics of the land to be utilised for the proposed Stage 1, 2 and 3 solar farm is likely suitable for dual use solar farming, allowing the productive potential of the soil to continue to be utilised for pasture production and sheep grazing, while supporting primary electricity generation.

552 To be precise, Table 1 in the assessment states the approximate cover of LUC is over 99% and LUC coverage is less than 1%.

LUC unit	NPS - HPL	Area of Area 1 (%)*	Area of Area 2 (%)*	Area of total assessment area ha (%)*
2s1	HPL	100	>99	83.50 (>99)
3w1	HPL	-	<1	0.02 (<1)

207 AEE, Volume 1, Overview Assessment, Appendix 1L, Land Use Capability Assessment.

Table 1 – Approximate % cover of regional NZLRI derived LUC units (estimated from Figure 3) in Area 1 and Area 2 and NPS-HPL highly productive land. (AEE Volume : Overview Report – Appendix 1L, Table 1)

553 The assessment of this report carried out by the MPDC was in general agreement with the methodology and analysis provided in the Landsystems report, stating:²⁰⁸

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.

554 The Application had commented that while aspects of the proposal were not wholly consistent with the NPS-HPL, it would align with the relevant exemption criteria, specifically clause 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.

Retirement Village

555 With respect to the RV proposal (being within HPL land), and Objective 1, the

208 Statement of Evidence of D Walker on Behalf of the Matamata-Piako District Council, Highly Productive Land (10 November 2025) at 1.4.

Applicant stated:²⁰⁹

In summary, while the development of land for residential activities as proposed involves the conversion of some [HPL], the proposal is consistent with the intent of the NPS-HPL to protect [HPL]. The Retirement Village site is subject [to] constraints which restrict the viable productive capacity of the land, and is located to facilitate a logical transition with the ESSP area without contributing to further fragmentation in the Rural Zone. These factors ensure that the long-term environmental, social, economic, and cultural benefits of the development outweigh the loss of productive capacity on this specific site.

556 The Applicant acknowledged that while the proposed RV would only create a limited number of new titles, it would not be 'entirely consistent' with the broader objective of Policy 7. However, it contended that it would align with the exemption criteria under clause 3.10 for the following reasons:²¹⁰

- a. Long-term constraints: As outlined above, the site is subject to constraints which limit its viability for primary production;
- b. Avoids fragmentation: The subdivision proposal is based on a comprehensive, master-planned urban framework, avoiding ad hoc or scattered lot creation and preserving larger productive land areas elsewhere in the district;
- c. Reverse sensitivity mitigated: The layout incorporates buffers and design controls to manage potential impacts on adjacent productive land; and,
- d. Balanced public benefit: The housing, infrastructure efficiency, and urban containment benefits outweigh the limited loss of productive potential on the site, which this proposal is able to deliver and to create a well-functioning urban environment with several environmental, social, cultural and economic benefits.

Solar farms

557 Regarding the solar farms, the Applicant assessed that the proposal would be an appropriate use and development of the land for the following reasons (with respect to policies 8 and 9):²¹¹

- a. The solar farm activity proposed meets the definition of 'specified infrastructure' in the NPS-HPL and therefore is consistent with clause

209 AEE, Volume 4, Retirement Village, Appendix 4K, at 12.

210 AEE, Volume 4, Retirement Village, Appendix 4K, at 15-16.

211 AEE, Volume 3, Solar Farms, Appendix 3K, 15-16.

3.9(2)(j)(i) of the NPS-HPL;

- b. The proposed activity will provide for the grazing of livestock within both sites, which will maintain the productive capacity of the existing livestock resource and is considered to be an appropriate use of HPL;
- c. The activity is provided for in the Rural zone under the MPDP; and,
- d. The proposed solar farm is not considered to be a sensitive activity that could constrain other land-based primary productive activities, and the use of the land for livestock grazing is considered to be in keeping with the activities that are anticipated within the surrounding rural context.

Residential subdivision and greenway

558 The Applicant's assessment of the residential subdivision and greenway was undertaken on the basis that the subject land was already zoned rural-residential, and therefore, the portion of land proposed for residential use was exempt from the requirements of the NPS-HPL.

559 This analysis was later proven to be incorrect, as outlined in the joint position statement subsequently agreed upon between the Applicant and the MPDC, which confirmed that 5.84ha of HPL land would be occupied by the residential subdivision and greenway component.

560 Consequently, the Applicant's response of 18 November to the MPDC comments that the residential activity involved only a 2.5ha corner adjoining the greenway and RV sites was also not correct (as far as it excluded the land used for the greenway itself).²¹² That response nevertheless contended that the technical inputs from Reece Hill (Land Systems) and Jeremy Hunt (AgFirst) "offer important, independent support that further substantiates our analysis and position regarding the application of the NPS-HPL, particularly as it relates to the Clause 3.10 exemption pathway".²¹³

MPDC comments and applicant's response

561 The comments from the MPDC's planning expert Mr Rademeyer in respect of the NPS-HPL, were:²¹⁴

212 Applicant's Response to Comments, Attachment 3, at p 3.

213 Applicant Response to Comments, Attachment 2, at p 3

214 Statement of Evidence of D Walker on Behalf of the Matamata-Piako District Council, Highly Productive Land (10 November 2025) at 1.5.

- 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 as 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.

562 Accordingly, the MPDC was of the view that 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 either clauses 3.8 or 3.10.

563 Through its response to comments, the Applicant acknowledged that the proposed subdivision associated with residential and RV activities located on HPL would not meet clause 3.8(1) – (2) when considered as part of the wider Proposal. Clause 3.8(1) is as follows:

(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.

564 Clause 3.9 also seeks to "avoid the inappropriate use or development of highly

productive land that is not land-based primary production".²¹⁵ It goes on to state that a use or development of HPL is inappropriate except where at least one of the specified activities at clause 3.9(2) apply:

- a. The Applicant's response to comments considered that the solar farms would meet one of the criteria (having an operational need for the proposed location), but in other respects, clause 3.9 had not been identified as applicable to the wider development. Instead, the Applicant had relied on clauses 3.8 and 3.10.
- b. The Panel considers that it must be primarily reliant on clause 3.10, given the Applicant's preceding acknowledgement (as referred to above) that the RV and residential subdivision (in part) do not satisfy clause 3.8.

565 The Applicant considered that the combined areas of the RV and residential activity comprise less than half the total application site, and that the exemptions under clause 3.10 are applicable to this activity. Accordingly, *it is considered that the identified inconsistencies with Clause 3.8 do not result in an inappropriate overall development outcome when assessed against the NPS-HPL as a whole*".²¹⁶

Extent of HPL affected

566 The effect of the use of HPL on the Panel's assessment of the proposal was a matter of particular contention, given the comments received from MPDC. It was also an issue on which the Panel sought further information from the Applicant and advice from its legal advisor. In particular, the Panel sought clarification on:

- a. The actual extent of HPL that would be affected by the proposal; and,
- b. whether the site-specific land use assessment provided by the Applicant was relevant in light of the decision in *Blue Grass*.²¹⁷

567 The Panel's overarching determination was then whether the perceived significance or positive benefits of the proposal were sufficient to outweigh the NPS-HPL's clear 'avoid' objectives, having regard to the extent of HPL affected and the considerations outlined above.

568 The first matter was addressed through the Applicant's response to comments and

215 National Policy Statement for Highly Productive Land, clause 3.9, objective 1.

216 Applicant's Response to Comments, Attachment 3, at 2.

217 *Blue Grass Limited v Dunedin City Council* [2024] NZEnvC 83.

the MPDC's response to Minute 3 of the Panel.²¹⁸ Their agreed position was conveyed via Attachment 1 to the Applicant's response of 27 November, and recorded the following agreements:

- a. That the total area of the application, as shown on the Day 0 Scheme Plan, is approximately 125.49ha.
- b. Of the land proposed for residential use, 40.04ha is zoned Rural-Residential and 0.24 hectares is zoned Residential, both of which are exempt from the NPS-HPL. Approximately 3.79 ha of proposed residential land is zoned Rural-Residential and is therefore subject to the NPS-HPL.
- c. That the northern solar farm (12.74ha) and southern solar farms (30.35ha) are on Rural-zoned land and are therefore subject to the NPS-HPL.
- d. That a pathway exists through the NPS-HPL for specified infrastructure under clause 3.9 of the NPS-HPL (subject to the Panel's satisfaction on the clause 3.9 criteria being met).
- e. That the RV (20.13ha) is on Rural-zoned land and is subject to the NPS-HPL.
- f. That the proposed greenway (approx. 2.0 ha) is on Rural-zoned land and is subject to the NPS-HPL.
- g. That Easement E (wastewater disposal area of 4.54ha) is on Rural-zoned land and is subject to the NPS-HPL.
- h. That an exemption pathway exists under clause 3.10 for HPL subject to permanent or long-term constraints being demonstrated to the Panel's satisfaction with respect to (e) – (g) above).

569 The response also noted that the balance lot, Lot 2 of 13.91 ha (9.37 ha excluding the wastewater disposal field easement) on the Day 0 Scheme Plan is zoned Rural-Residential and is also subject to the NPS-HPL. However, no issues arise in this regard because the Applicant had confirmed that this balance lot would not be developed and would continue to be used for rural purposes.

570 Overall, the Panel notes that of the 125.5ha total site area:

- (a) 73.8ha is subject to the NPS-HPL (solar farms, RV and wastewater disposal

218 Minute 3 of the Expert Panel (21 November 2025).

field, residential and greenway);

- (b) The solar farms involve 43.09ha of HPL;
- (c) The RV involves 24.67ha of HPL (i.e., 33% of the HPL on the site); and
- (d) The residential and greenway involve 5.84ha of HPL (i.e., 7%).

Independent advice received

571 The Panel requested legal advice from Mr Brabant regarding the relevance of site-specific reports. He advised on 28 November 2025 that:²¹⁹

It is clear from the text of the NPS – HPL and the subsequent interpretation in Blue Grass that a site-specific land productivity assessment or soil report cannot be used as a method to avoid the application of the transitional definition of “highly productive land” or the application of the NPS-HPL to land identified as being highly productive at the date of commencement of that instrument. Blue Grass remains good law. Nothing in the FTAA changes that position.

572 Mr Brabant therefore considered that the Applicant would not be greatly assisted by its site-specific report, although its conclusions would be a matter for the Panel to consider in terms of assessing adverse effects and the Site’s ‘real world’ constraints. He went on to outline the weight to be exercised to be undertaken by the Panel (in terms of section 81 FTAA), which requires the greatest weight to be given to the FTAA’s purpose, but does not enable the NPS-HPL to simply be disregarded. Overall, he advised:²²⁰

...while the FTAA does not provide a pathway to simply put aside the implications of Blue Grass, and therefore the engagement of the NPS-HPL, the FTAA could provide a way forward through, or past the directives of the NPS-HPL if, where effective conflict arises between the NPS-HPL and the purpose of the FTAA, the greatest weight is given to the purpose of the FTAA.

573 In its Memorandum dated 17 December 2025, the Applicant noted that Mr Brabant’s advice was consistent with that set out in its own memorandum of 18 November 2025, and that any conflict between the NPS-HPL and the purpose of the FTAA is outweighed when greatest weight is given to that purpose. This was for the reasons that:

219 J Brabant, Legal Advice to the Panel (25 November 2025) at 9.

220 J Brabant, Legal Advice to the Panel (25 November 2025) at 18.

(a) the solar farm component of the Proposal meets the exemption in Clause 3.9(2) of the NPS-HPL, which means that the proposed use or development of highly productive land is not inappropriate;

(b) if the Panel concludes, contrary to (a) above, that the Proposal does not fully meet the exemption in Clause 3.9(2) of the NPS-HPL, the Proposal is consistent with and will serve the purpose of that exemption;

(c) where [HPL] is proposed to be used for solar farm activities, the land will continue to be used for highly productive purposes;

(d) the ability to use the property for productive uses is limited due to the soil and hydrological characteristics and fragmentation of the remainder of the site; and,

(e) the Total Economic Value of the Proposal's various land uses – housing, retirement living, solar farm, and supporting commercial activities – far exceeds the long-term agricultural output of the same land.

574 A further consideration in respect of the Panel's evaluation of the NPS-HPL was the evidence and comments in respect of the economic value of the HPL within the Site, as relevant to the exemption criteria at clause 10.1(a). The MPDC comments considered that while drainage and topography limitations restrict the productive potential of parts of the site, it was considered that these factors do not preclude the land's continued productive use as they can be addressed through appropriate drainage, grazing and cropping practices. The Applicant's response in this regard was that:²²¹

...the nature of the constraints present on the site are inherent to the characteristics of the soils and will remain long term. For the land with soil wetness limitations, the wetness limitations exist despite the presence of current drainage. These limitations will limit the range of land use options as well as the time of the year when the land can be used for cropping due to high water tables reducing trafficability access of heavy cropping machinery. Cropping land when cultivated will still have potential for erosion if the soil is bare soil exposed. Although cropping practices may be used to reduce the risk of erosion, the potential erosion risk still remains because the slope is unchanged.

In addition to the above, the current landowners through the comments from invited parties confirm the significant constraints they face currently which makes primary production activities including dairy farming economically and practically unsustainable. Urban expansion has placed the site on the edge of a growing township, creating unavoidable conflicts with residential development and limiting farming operations. Loss of access to land across a busy road has reduced the effective milking platform to well below viable size, with no scope for expansion. Intensification would require major capital investment and likely trigger odour complaints and compliance issues, while

221 Applicant's Response to Comments, Attachment 3, at 5-6.

current operations already face nitrogen limits and poor soil conditions. Proximity to homes makes farming impractical without impacting residents, and in some circumstances fragmented family ownership further reduces feasibility. The land is no longer profitable enough to justify reinvestment, and even modest improvements would require significant cost. These factors collectively reinforce the need for alternative land uses that deliver greater community benefit, such as residential development and agrivoltaics.

575 The Panel has considered the competing views on the matter of HPL and the relevant exemption criteria at clause 3.10, being the primary clause in respect of the use of HPL for the RV and residential subdivision and greenway (in part) and including whether the Stage 0 subdivision is contrary to the NPS-HPL as it seeks to enable these subsequent activities.

Minute 14 Response

576 The Panel received an extensive response from the Applicant to Minute 14, with further evidence addressing the issue of whether the Panel can find a pathway to enable the development of the RV on HPL.

577 The Applicant's planning consultant, Mr McNutt, emphasised that the site-specific soils assessment was not provided to suggest an alternative LUC classification, which confirmed the advice from Mr Hunt.²²² As stated in the Applicant's memorandum in response to Minute 14, the site-specific detailed mapping was included to demonstrate:

- a. The more versatile soils present across the relevant land are not located in large contiguous areas;
- b. There are limitations on the productive uses of the parts of the relevant land classified as LUC 2; and

c. The relevant land is not economically viable for productive use.

578 Mr Hunt and Mr McNutt plainly acknowledge and agree that the residential component and the RV activities within the Rural zone do not satisfy the tests in clauses 3.8 and 3.9 of the NPS-HPL. By relying on the detailed assessments, however, the Applicant considers that clause 3.10 is satisfied because there are long-term constraints that materially limit the economic viability of land-based primary production. Thus, the proposal is not inconsistent with, nor contrary to, the NPS-HPL.

222 J Hunt, AgriBusiness, Memorandum of Response on Behalf of the Applicant, Highly Productive Land (13 February 2026).

579 The Panel accepts that the Applicant's evidence was produced not to change the classification but to show that the land will not be economically viable for at least 30 years. That advice is also consistent with the comments from the landowner of the RV land who has addressed the Panel regarding the economic shortcomings and non-viability of the land for primary production. For the reasons set out below, however, the Panel is not persuaded that the claim of long-term economic non-viability for the subject area of rural land is sufficiently made out for the purposes of an exemption under clause 3.10 NPS-HPL.

580 On behalf of the Applicant, Jeremy Hunt, an agribusiness and land resource consultant, sought to address the evidence of the Council's expert, Mr Walker, who stated that the HPL is economically viable by reference to positive operating profit, excluding the cost of capital associated with the land.

- a. It is Mr Hunt's view that, notwithstanding the LUC 2 classification, the Ashbourne land was subject to numerous permanent or long-term constraints.
- b. Mr Hunt concludes:

I accept the NZLRI LUC classification and do not seek to re-categorise the land. My conclusion does not rely on the economic value of the primary production uses, nor on landholding size alone, but on the inherent biophysical, operational and commercial realities of the site and how this land can perform in a productive way in its constrained environment.

- c. It is his opinion that the land is not economically viable for land-based primary production over a 30-year term.

581 Mr Walker, referring to the detailed and methodologically sound evaluation of the site's productive characteristics', nonetheless noted:

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-zone area remains classified as LUC 2 (HPL).

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.

Independent Planning Advice

582 To further assist, the Panel received independent planning advice on the NPS-HPL from Ms Tait in her memorandum dated 3 February 2026.²²³ Ms Tait advised, largely in agreement with Mr Rademeyer:

Residential and retirement village

I agree with Mr Rademeyer that the residential and retirement village activities are subject primarily to Clauses 3.8 and 3.9, and I agree with Messrs McNutt and Rademeyer that there is a pathway under Clause 3.10 if the highly productive values of the site are constrained.

I have based my following assessment on the legal advice of Mr Brabant, specifically '...Blue Grass remains good law. Nothing in the FTAA changes that position. The implication of Blue Grass is that a site-specific soil survey or productivity report cannot be used to re-categorise whether land is properly regarded as LUC 1, 2 or 3'. Accordingly, the site has a LUC-2 soil classification (as shown on the New Zealand Land Resource Inventory) and the small portion of the site identified as LUC-3 in the Landsystems Land Use Capability Assessment is not captured by Clause 3.5(7)(iii) (introduced to the NPS-HPL in January 2026).

*Clause 3.8 is an "avoid" directive with two threshold tests. Firstly, Clause 3.8(1) lists the exempt subdivisions that may be undertaken on HPL, and Clause 3.8(2) lists the restrictions that will apply to any exempt subdivisions on HPL. Because of the use of the conjunctive "and" in Clause 3.8(2), I consider that Clause 3.8(2) only applies if the subdivision is provided for in Clause 3.8(1). **I do not consider the proposal satisfies any of the subdivision exemptions listed in Clause 3.8(1), specifically the lots will not retain the productive capacity of the land, the site is not specified Māori land, nor is the subdivision (of the residential and retirement village uses) specified infrastructure.** Accordingly, the proposal is contrary to Clause 3.8. **I note that Mr Rademeyer reaches the same conclusion using a slightly different method.***

Clause 3.9 is an "avoid" directive with three threshold tests. Firstly, Clause 3.9(1) directs that "inappropriate" use or development that is not land-based primary production must be avoided. Clause 3.9(2) sets out a number of exemptions to what could be considered "inappropriate" (i.e. use and development that is deemed to be inappropriate). None of the exemptions listed in Clause 3.9(2) relate to the provision of additional housing (including housing to provide sufficient capacity, this is addressed in Clause 3.6 that relates to the rezoning of HPL). Lastly, Clause 3.9(3) requires that any actual loss or potential cumulative loss of HPL to be mitigated or managed. While not explicit, I read it that Clause 3.9(3) only applies to "appropriate" use and development (that have found a pathway through Clause 3.9(2), much the same way as Clause 3.8 is

223 S Tait, Planz, Planning Position, 3 February 2026.

managed). Accordingly, **Clause 3.9(3) is not triggered for consideration. I note that Mr Rademeyer agrees that the proposal does not meet the exceptions in Clause 3.9(2).**

Lastly, Clause 3.10 provides for use, development and subdivision of HPL where the land is subject to permanent or long-term constraints. Clause 3.10(1) (a), (b) and (c) are conjunctive, meaning that (b) and (c) are not relevant if (a) is not satisfied. **Like Mr Rademeyer, I am persuaded by the evidence of Mr Duncan Walker that the site's productive capacity can be maintained through appropriate drainage, grazing and cropping practices.** The report goes on to say: *'...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...'*¹⁹ As such, I consider that Clause 3.10(1)(a) has not been satisfied and therefore no further consideration of subclauses (b) and (c) is necessary, Clauses 3.10(2), (3), (4) and (5) and a reader's interpretation/assessment of Clause 3.10(1). **Overall, I do not consider that the residential or retirement village components (proposed on HPL) have satisfied the requirements of the NPS-HPL, noting that these require avoidance in such circumstances...**

I obviously reach a different position to Mr McNutt on Objective LF-03 (and related Policy LF-P11) regarding the loss of HPL. Specifically, he has directed that a decline in available HPL (high class soils) due to inappropriate use, development and subdivision should be avoided. Through the NPS-HPL direction, it has been established that the proposed residential and retirement village uses, development and subdivisions are inappropriate. **The WRPS entrenches this position by stating *'...Inappropriate subdivision, use and development may limit access to such resources and hence the ability for primary production activities to be undertaken...'*** (Panel's own emphasis added).

583 The Panel prefers the agricultural evidence of Mr Walker, and the planning conclusions drawn by Ms Tait and Mr Rademeyer. While we accept that there may be limitations on areas of HPL in this location, we do not consider that this necessarily, on the evidence before us, creates long term or permanent economic non-viability for at least 30 years and thus a pathway to satisfy clause 3.10 of the NPS-HPL.

584 As discussed below, upon receipt of the Draft Decision, the Applicant continued to see a pathway through clause 3.10, which could be determined via expert conferencing. The Panel disagrees with this view, and declined their request for conferencing for the reasons provided in Minute 26.

December 2025 Amendments

585 The NPS-HPL was amended in December 2025 with new directions coming into force on 15 January 2026. Of relevance to the Proposal is the addition of new clause 3.5(7)(b)(iii):

(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:

(a) is:

- (i) zoned general rural or rural production at the commencement date; and
- (ii) LUC 1, 2 or 3; but

(b) is not:

- (i) identified for future urban development at the commencement date; 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 at the commencement date; or
- (iii) subject to a resource consent application for subdivision, housing or development on LUC 3 land for any activity other than rural lifestyle, where that consent has been lodged at or after the commencement date.

586 The restrictions on urban rezoning of HPL in clause 3.6.6 have been amended such that they no longer apply to urban rezoning of LUC 3 land in accordance with new clause 3.6.6:

(1) Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:

- (a) the urban zoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and
- (b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and
- (c) the environmental, social, cultural and economic benefits of rezoning 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.

(2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:

- (a) greater intensification in existing urban areas; and
- (b) rezoning of land that is not highly productive land as urban; and
- (c) rezoning of other highly productive land that has a relatively lower productive capacity.

(3) In subclause (1)(b), development capacity is within the same locality and market if it:

- (a) is in or close to a location where a demand for additional development capacity has been identified (through a Housing and Business Assessment or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and
- (b) is for a market for the types of dwelling or business land that is in demand (as determined through a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).

(4) Territorial authorities that are not Tier 1 or 2 may allow urban rezoning of highly productive land only if:

- (a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land in the district; and
- (b) there are no other reasonably practicable and feasible options for providing the required development capacity; and
- (c) the environmental, social, cultural and economic benefits of rezoning 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.

(6) Clauses 3.6(1), 3.6(2), 3.6(3) and 3.6(4) do not apply to urban rezoning of LUC 3 land.

587 The effect of these amendments is that the updated NPS-HPL does not materially change the Panel's assessment, as the new directions apply only to the limited parts of the Proposal classified as LUC 3. Because the majority of the site comprises LUC 2 soils, the amended NPS-HPL continues to require that inappropriate subdivision, use, or development of highly productive land be avoided in the first instance.

Sunfield Decision

588 I also draw attention to the *Sunfield*²²⁴ decision, which although is not determinative in the context of this Panel's deliberations, provides some relevant parallels to the Proposal:

- a. In *Sunfield*, the land was predominantly LUC 2 and 3, with productive areas fragmented across the site. A site-specific LUC assessment concluded that the land had limited productive viability and was impractical for sustained primary

224 *Decision of the Sunfield Panel under the Fast-track Approvals Act 2024 (10 March 2026)*.

production.²²⁵ There are resemblances between those and the characteristics of the Proposal's own, however, the Sunfield Panel went on to find:²²⁶

(a) *The land in question comprises LUC 2, rather than LUC1 land. It is not what is considered to be prime land (in contrast, perhaps, with lands used for vegetable growing in Pukekohe);*

(b) *With the removal of LUC 3 land from the protection of the NPSHPL, the remaining LUC 2 classed land on the site is more limited, fragmented, and isolated; and*

(c) *No large or geographically cohesive areas of LUC 2 land now exist on the site.*

- b. Both this Panel and the Sunfield Panel have applied the principle articulated in *Blue Grass* and consider that the irreversible loss of HPL, being a finite resource, is to be treated as an adverse effect and weighed accordingly within the statutory framework of the FTAA.
- c. We note that both Panels have been working to similar decision timeframes and have developed their reasoning independently. The *Sunfield* decision provides further confirmation that this Panel's interpretation aligns with that of other decision makers and reflects a reasonable and orthodox application of the NPS-HPL within the bounds of the FTAA.
- d. The divergence between our two assessments emerges only at the later stage of weighing adverse effects, including this loss of HPL, against benefits. The *Sunfield* Panel concluded that the benefits of that (significantly larger scale) proposal outweighed the loss of HPL. Having undertaken its own evaluative judgment, this Panel reaches a different conclusion, as set out in detail in Part O.

Concluding comment

589 As a preliminary point, we record our finding that we are satisfied that the solar farms are consistent with the relevant exception provisions at clause 3.9.

590 While the Panel has acknowledged that there may be discrepancies between the NZLRI-derived LUC units and the conclusions in the Applicant's reports, the question of whether the Panel accepts and agrees with the results of bespoke assessments has been addressed in detail above.

225 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026) at [290]-[291].

226 *Decision of the Sunfield Panel* under the Fast-track Approvals Act 2024 (10 March 2026) at [782].

591 The Panel's detailed assessment of the application, including its findings on the effects of the NPS-HPL on the Proposal, is set out at Part N of this Decision.

National Policy Statement on Urban Development 2020

592 In general, the NPS-UD seeks to ensure that New Zealand's towns and cities are well-functioning urban environments that meet the changing needs of its diverse communities. It defines the MPDC as a 'Tier 3' local authority. In this regard, the following objectives and policies of the NPS-UD are considered to be relevant to the Application and the matters of contention:

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 2: Planning decisions improve housing affordability, support competitive land and development markets.

...

Objective 4: New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

...

Objective 6: Local authority decisions on urban development that affect urban environments are: integrated with infrastructure planning and funding decisions; and strategic over the medium term and long term; and responsive, particularly in relation to proposals that would support significant development capacity.

...

Objective 8: New Zealand's urban environments:

(a) support reductions in greenhouse gas emissions; and

(b) are resilient to the current and future effects of climate change.

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

(a) have or enable a variety of homes that:

(i) meet the needs, in terms of type, price, and location, of different households; and

...

(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and

(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and

(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and

(e) support reductions in greenhouse gas emissions; and

(f) are resilient to the likely current and future effects of climate change.

Policy 2: Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.

...

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

(a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement

(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and

(ii) are not, of themselves, an adverse effect

(c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)

(d) a relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity

(e) the likely current and future effects of climate change

593 As the Application is for a resource consent, it is considered a 'planning decision' for the purposes of the NPS-UD and Policy 6.²²⁷ Overall, the Applicant has stated that the proposed development of the proposal will assist the Council to fulfil its functions and responsibilities with respect to providing for urban growth and is consistent with the

227 National Policy Statement on Urban Development (NPS-UD), clause 1.4, definition of "planning decision".

outcomes anticipated by the NPS-UD.

594 In particular, the AEE considers that the RV component of the Application is consistent with the NPS-UD because:²²⁸

- a. The delivery of 218 retirement units will contribute to meeting housing needs and increasing housing supply and choice for the community. By providing opportunities for retirement living, the proposal provides a broad variety of housing types, and is likely to have a positive effect on facilitating housing supply within the wider area as a result of households relocating to the area;
- b. The proposal has been developed in partnership with Tangata Whenua and is considered to align with mana whenua aspirations around environmental sustainability and intergenerational wellbeing, in a way that is consistent with iwi values and long-term planning goals; and,
- c. The proposal takes into consideration climate change and urban resilience, particularly through the management of flood hazards and the stormwater management strategy. The wider Ashburton development incorporates measures to support the reduction of greenhouse gas emissions through low-carbon transport options, and the proposal aims to further support national decarbonisation objectives.

595 Similarly, the AEE in respect of the residential subdivision describes why this component of the Application is also considered to be consistent with the NPS-UD:²²⁹

- a. The Proposal will support the delivery of a well-functioning, master planned urban environment that supports the social, economic, cultural, and environmental well-being of the Matamata community. Overall, the proposal includes a diverse mix of housing, a retirement precinct, a neighbourhood commercial centre, and an integrated open space network, providing for a range of community needs, lifestyles, and ages;

The delivery of 518 new residential dwellings will contribute to meeting housing needs and increasing housing supply and choice for the community in a high demand area adjacent to Matamata's urban edge. By delivering new opportunities for residential living, the proposal provides a broad variety of housing types, and is likely to have a positive effect on facilitating housing

228 AEE, Volume 4, at section 6.2.2.

229 AEE, Volume 5, at section 6.2.2.

supply within the wider area and placing downward pressure on housing prices;

- c. The proposal delivers a walkable layout, greenway connections, and local amenities which support changing lifestyle preferences and mobility needs. A balance is struck between maintaining the existing character with future-focused design, enabling the urban environment to adapt and remain liveable, inclusive, and resilient over time;
- d. The residential staging approach enabled the strategic and coordinated rollout of housing and infrastructure, ensuring development occurs in line with changing demand;
- e. The Proposal has been developed in partnership with Tapata Whenua, and is considered to align with mana whenua aspirations around environmental sustainability and intergenerational wellbeing, in a way that is consistent with iwi values and long-term planning goals; and,
- f. The Proposal takes into consideration climate change and urban resilience, particularly through the management of flood hazards via the stormwater management strategy and greenway. The wider development incorporates measures to support the reduction of greenhouse gas emissions through low-carbon transport options, and two solar farms to further support national decarbonisation objectives.

596 The MPDC's comments, via Mr Rademeyer, set out the reasons why it considered the proposal to be contrary to its growth strategy established through its Future Development Strategy (FDS) which incorporated an Urban Enablement Area. Mr Rademeyer advised that the FDS "sets out how the Council will achieve well-functioning urban environments in its existing and future urban areas, provide sufficient development capacity over the next 30-years to meet demand, and integrate land use, infrastructure and funding decisions".²³⁰ He went on to say, in respect of the NPS-UD specifically, that while the proposal would not be inconsistent with Objective 1 (as it will augment housing supply and options, and support competition in this sector):

...the application is inconsistent with Objective 6 in that it is not integrated with MPDC's infrastructure and funding decisions, because the development is in the "Rural" and "Rural Residential" zones that are not currently served, or planned to be served by public infrastructure. The proposal is also inconsistent with MPDC's strategic growth

230 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council (11 November 2025), Annexure B, Memorandum 1, at 5.

planning as outlined in Memorandum 1, which signals that future development should occur within the vacant "Residential" zoned land and "Future Residential Policy Area" at the opposite (eastern) periphery of town where:

- adequate land has been set aside to provide sufficient development capacity to meet the expected future demand; and:
- structure planning makes provision for the staged development of an integrated network of reticulated services and well-connected active and passive transport routes and open spaces.

MPDC's current forward planning as embedded in the District Plan provides adequately for the expected housing demand, in an integrated and well-planned manner that supports the Matamata community's wellbeing and can accommodate a variety of housing options. The Ashbourne development represents a major shift from MPDC's current strategic landuse and infrastructure planning, to create housing capacity that is stated in the evidence of Tim Heath is unlikely to be required and is inconsistent with the outcomes envisaged under the NPS-UD.

597 The Applicant's response (prepared by Mr McNutt) on the issues raised by the MPDC are summarised below. With respect to the issues of MPDC's FDS:²³¹

*I note that the FDS sets direction for the region's future growth and the relevant growth strategy for MPDC would give effect to this. These documents are important to consider and direct growth, they do not hold the same amount of weighting as it would under an RMA consenting or plan change process when making a decision under the FTAA. Within the FTAA it sits with section 227(1)(c) as a lower weighted document for assessment. I [cite] the higher order consideration that the FTAA sets as the greatest weighted consideration being the Act's purpose - **to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.** (Applicant's response)*

598 In terms of the NPS-UD provisions, Mr McNutt states that:

The proposal will integrate with MPDC reticulated wastewater, water and roading networks. Further solidified by a [Private Development Agreement] with MPDC.

The proposal integrates with the existing urban environment with well-connected streets and alignment with the [ESSP]. It does not preclude future connectivity i.e. Firth Street and accelerates and provides for a particular demand (as described in Insights response).

We disagree that it's a 'Major Shift' in MPDC's strategic planning. While the proposal is not specifically in a location that may have been identified, it's one that can be delivered at scale efficiently and in suitable proximity to the urban edge of the township. The

231 Applicant's Response to Comments, Attachment 2, at 2.

outcomes that will be realised by the development are comparable and will improve Matamata community's wellbeing.

599 Through Minute 9, the Panel sought further and specific comment from the Applicant in respect of the way in which the Proposal addresses (a), (c), (e) and (f) of Policy 1 of the NPS-UD. Mr McNutt's response addressed the affordability aspect of proposed future dwellings (with 5% to be 'affordable'), in accordance with the relevant threshold measurements and agreement with Nga Iwi. The accessibility of the Proposal was addressed by reference to the shared path proposal (and further clarified in this regard through the response to Minute 11). It also addressed the way in which the solar farms would address greenhouse gas emissions reductions and the resilience of the proposal to climate change, and in particular with regard to proposed mitigation of the 'heat island' effect.

600 As previously noted, the Panel received advice in respect of the NPS-UD from Ms Tait. Having regard to the competing positions of Messrs Rasmeyer and McNutt, her conclusion was that:²³²

I consider that the NPS-UD provides for the 'right' development, in the 'right' place, at the 'right' time. I do not consider that the application is the 'right' development, in the 'right' place, at the 'right' time. There is no housing supply shortfall that needs to be addressed; the location is not serviced by public transport and does not service a key employment centre; lastly, the proposed housing typology offers 'more of the same' (which can be satisfied in other parts of the town).

601 Ms Tait did go on to acknowledge that the Application's "inconsistencies with the NPS-UD are finely balanced" but remained concerned that "if the proposal results in a redistribution and dilution of growth this could undermine a well functioning urban environment."²³³ In her view, this could represent a significant effect.

602 The Applicant responded to Ms Tait's advice through its response to Minute 14. It's overall position, as expressed by Mr McNutt, was that her conclusions:²³⁴

...appear to be based on a misinterpreted assessment and application where the policy provisions are applied too narrowly. The proposal aligns with the overarching objective and policy direction in the NPS-UD and positively contributes to a well-functioning urban environment.

603 There were aspects of Mr McNutt's response in respect of the NPS-UD that the Panel has had to view with some caution. For example, in acknowledging that the Proposal

232 S Tait, Planz, Planning Advice to the Panel (3 February 2026) at 9.

233 S Tait, Planz, Planning Advice to the Panel (3 February 2026) at 12.

234 S Tait, Planz, Planning Advice to the Panel (3 February 2026) at 2.

does not align with the zoning framework under the MPDP, this was not determinative in his view because there is nothing to preclude the granting of a resource consent. That, however, is something of a non sequitur because a grant of consent of this nature requires consideration of its alignment with documents such as the NPS-UD. It is also not enough to say that the zoning does not prevent the initiation and approval of a plan change to enable the same outcome, as that is subject to different requirements and is not a process currently before us. Mr McNutt also contends that the NPS-UD “requires decision-makers to be responsive to proposals that would add significant development capacity, even where such proposals are unanticipated or out of sequence with planned growth”.²³⁵ In the Panel’s view, that is a misreading of Policy 6 which expressly provides for the consideration of ‘planning documents’, while the requirement for decision-makers in respect of unanticipated or out-of-sequence is, via Policy 8, a consideration that is limited to plan change processes.

604 We also record that we are satisfied that the MPDC, as a Tier 3 local authority, has provided for sufficient development capacity to meet expected demand for housing into the long term (30 years), per Policy 2. Further, we do not disregard the effects on the amenity values of local residents, because in Policy 6 terms, as referred to above, the proposed outcome does not represent a development that is anticipated by any RMA planning documents (nor achieved through a plan change process referred to through Policy 8). We instead must be satisfied that the benefits of the proposed development would be consistent with a well-functioning urban environment.

605 In that regard we note our acceptance of Ms Tait’s advice as to the potential effects associated with a delay in the completion of residential developments within the district generally and the extent to which this may impact on that policy outcome. The Applicant contends that the proposal would effectively give rise to increased demand such that concerns of this nature do not arise. However, we are more persuaded by the evidence of Mr Heath for the MPDC in this regard and consider from the perspective of Matamata generally, the Proposal is likely to affect the overall realisation of a well-functioning urban environment at least into the medium term.

606 However, the Panel also recognises, in line with Mr McNutt’s further commentary, that the release of further lots into the local market may also improve housing affordability through greater competition and does provide for a variety of lot sizes and, as a result, the size of future homes enabled by the proposed standards. We are also satisfied that the location is reasonably proximate to the Matamata town centre and that access in this regard will be assisted through the development of shared paths

235 F McNutt, Barker & Associates, Memorandum on Behalf of the Applicant in Response to Minute 14 of the Expert Panel, Planning (13 February 2026), at 21.

including on Station Road (in part).

- 607 Overall the Panel agrees with Ms Tait that the consistency of the Proposal (being the residential subdivision and associated greenway) with the NPS-UD is finely balanced, while noting that this policy statement, as a matter for us to have regard to (via section 104(1)(b)) is more evaluative than the NPS-HPL in terms of its policy language. We reach an overall finding that the residential component will be broadly consistent with the NPS-UD, while noting that its outcomes in terms of being well-functioning on a site specific basis will be dependent on the outcome of amendments required in response to our findings on the NPS-HPL. That is in addition to our requirements to address the amenity and interface issues to existing residential areas.

National Policy Statement for Renewable Electricity Generation 2011

- 608 The NPS-REG supports the development of renewable energy in New Zealand. It seeks to:
- a. Recognise the national significance of renewable electricity generation;
 - b. Enable the development, operation, maintenance, and upgrading of renewable energy infrastructure;
 - c. Provide for a consistent approach to planning and decision-making on renewable electricity across regions; and
 - d. Increase the production of energy from renewable sources, in line with climate and energy targets.
- 609 The NPS-REG is of particular relevance to the solar farm components of the Application. Volume 3 of the Application addresses the requirements of the NPS-REG, noting with respect to Objective 1 that the construction and operation of the solar farms will provide for a new source of renewable electricity generation, and contribute to increasing the proportion of New Zealand's electricity that is generated from renewable energy sources.
- 610 With reference to particular locational and reverse sensitivity considerations inherent in Policies C1 and D, the Applicant's assessment comments that:²³⁶

236 AEE, Appendix 3K, pages 3-4.

The solar farm sites are suitable for the proposed activity given it is a large expansive piece of land and relatively flat in topography; and

The proposal provides for the grazing of livestock below the new solar panels, which will mitigate potential adverse effects on existing soils and rural character and amenity, while also reducing the potential for reverse sensitivity effects between other rural production activities within the surrounding rural environment; and

Upon maturity, all buffer planting proposed within the sites will be viewed as a shelterbelt which will be in keeping with the surrounding rural context.

...

While the proposal is not for a sensitive activity that could constrain other renewable electricity generation activities, the proposed solar farms will minimise the potential for reverse sensitivity effects from other sensitive activities by creating physical and visual separation with adjacent residential activities through the proposed layout and landscaping strategy.

- 611 The Panel agrees and accepts the Applicant's assessment, and finds that the proposal will be in accordance with the NPS-REG.

National Policy Statement for Freshwater Management (2017)

- 612 The NPS-FM sets out a framework under which local authorities are to manage freshwater (including groundwater).²³⁷
- 613 The objective of the NPS-FM is to ensure that natural and physical resources are managed in a way that prioritises the:²³⁸
- a. health and well-being of water bodies and freshwater ecosystems;
 - b. health needs of people (such as drinking water); and,
 - c. ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- 614 This objective reflects the hierarchy of obligations in Te Mana o te Wai.²³⁹
- 615 The Applicant in the AEEs has assessed the Project against the objective and policies of the NPS-FM in terms of the direction that local government manages water in an integrated and sustainable way while providing for economic growth within set water

237 National Policy Statement for Freshwater Management (NPS-FM), clause 1.5.

238 National Policy Statement for Freshwater Management (NPS-FM), clause 2.1.

239 National Policy Statement for Freshwater Management (NPS-FM), clause 1.3.

quantity and quality limits.²⁴⁰ The Panel has considered this analysis and agrees with it.

National Policy Statement for Indigenous Biodiversity 2023

616 The objective of the NPS-IB is:

to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

to achieve this:

through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

617 The AEE notes that there are no Significant Natural Areas (**SNAs**) within the Site. On that basis, Clause 3.16 of the NPS-IB relating to indigenous biodiversity outside SNAs is relevant, and requires that:

Any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy; and

All other adverse effects of any activities that may adversely affect indigenous biodiversity, that is, outside an SNA, must be managed to give effect to the objective and policies of this National Policy Statement.

618 The AEE considers that the proposed development is in accordance with the relevant objectives and policies of the NPS-IB for the following reasons:²⁴¹

- (a) Policies 1 and 2: the proposal manages indigenous biodiversity in a way that gives effect to the decision-making principles and takes into account the principles of Treaty of Waitangi by way of the pre-application engagement and on-going hui with the key iwi groups for. Iwi are supportive of the proposed

240 AEE, Appendix 5N, at s 2.3.

241 AEE, Attachment 5N, at s 2.4.

riparian and enhancement planting that will be achieved across the proposal as a whole, and engagement is ongoing.

- (b) Policies 6, 7, 8 and 14: The Proposal will result in ecological gains, relative to the current state of the Site, through provision of native landscaping and riparian vegetation through the greenway, and in summary, that it avoids *“adverse effects on potentially significant biodiversity values and embedding protective measures into its design and staging”*.

619 The Councils did not express a contrary view on this issue.

620 The Panel considers overall that the Application and proposed conditions adopt a precautionary approach as necessary and appropriate to avoid outcomes for indigenous biodiversity on the Site that would otherwise be contrary to the objective of the NPS-IB.

621 The Panel is satisfied that the proposal is consistent with the NPS-IB.

Hauraki Gulf Marine Park Act 2000

622 The MPDC considered that (in its comments on the Application) the Te Ture Whaimana o Te Awa o Waikato - Vision and Strategy for the Waikato River is not relevant (as discussed later below), and that the Site sits within the Hauraki catchment. Therefore, section 7 of the Hauraki Gulf Marine Park Act 2000 (**HGMPA**), that has the status of national policy statement under the RMA, was assessed as being relevant, and stated that this should be assessed by the Applicant.

623 The HGMPA recognises the national significance of the Gulf, including its life-supporting capacity and the interrelationship between its catchments, water, soil, and ecosystems.

624 The Applicant through its response acknowledged that the Project lies within a catchment that ultimately drains to the Hauraki Gulf, thereby triggering obligations under the HGMPA. It noted that these obligations are addressed through the Application via comprehensive stormwater management, greenway design, and ecological impact mitigation measures, consistent with the requirements of section 7 of the HGMPA.

625 It makes the following further points in this regard:

- a. The incorporation of multi-functional greenways and stormwater devices and management of runoff demonstrates a commitment to protecting the water resource and minimising the adverse effects of terrestrial development on

downstream coastal and marine environments.

- b. The inclusion of large areas for solar farms and planned native vegetation plantings indicates a longer-term contribution to environmental sustainability, aligning in part with the HGMPA objective of “protection and, where appropriate, enhancement” of the natural and physical resources of the Gulf’s catchments.
- c. The Project would align with the objectives in section 8 of the HGMPA in several meaningful ways:
 - i. Its native planting and open-space greenways contribute to ecological resilience, enhancing habitat connectivity and potentially improving soil and water stability.
 - ii. The inclusion of solar farm land use also reflects a long-term sustainable approach to land development, contributing to low-carbon infrastructure while retaining portions of productive land.
 - iii. The proposal includes amenity and recreational green spaces which can positively contribute to community wellbeing.

626 The Applicant considers that overall the Project:²⁴²

...demonstrates meaningful recognition of HGMPA obligations. Given its integrated design and mitigation strategies, the project can be considered broadly consistent with the HGMPA’s purpose, provided that the proposed environmental safeguards through conditions are implemented effectively and monitored over time to manage downstream effects on the Hauraki Gulf.

627 The Panel agrees with the Applicant’s assessment in this regard, and accordingly finds that the proposal will be consistent with the purpose of the HGMPA and will not adversely impact on its catchment.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011)

628 The purpose of the NES-CS is to provide a nationally consistent set of planning controls and soil contaminant values. It seeks to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed

242 Applicant’s Response to Comments, Attachment 2, at 11–12.

and, if necessary, the land is remediated or contaminants contained to ensure the land is safe for human use.

- 629 The AEEs show that all five components of the Application require controlled activity consent under Regulation 9 of the NES-CS. The AEEs advise that the subdivision and proposed change of use within the site can be appropriately managed to avoid adverse effects on human health and the environment. As previously referred to, the AEE for the Stage O subdivision addressed the PSI and DSI reports prepared by SLR Limited (included as Appendix 1R), which advises that “[h]eavy metal concentrations in soil samples were above the predicted background soil concentrations but below NESCS SCS concentrations” (thereby confirming that Regulation 9(3) applies).²⁴³ The SLR report also advises that the site does not meet the definition of ‘Contaminated Land’ under the WRP, and therefore its rules do not apply.
- 630 The AEE (Volume 4) therefore concludes that the overarching purpose and objective of the NES-CS to protect human health is achieved by the application.
- 631 The Panel has considered the AEE where the Applicant has stated that the actual and potential adverse effects on the environment and human health can be appropriately managed via the Applicant’s draft conditions such that they will be less than minor.²⁴⁴ No comments from the Councils were received in respect of this issue.
- 632 The Panel concludes that, subject to implementation of the recommended conditions, the excavation, handling and disposal of contaminated materials will be able to be managed in a way that protects human health and the environment and therefore the localised effects of contamination can be appropriately managed to ensure the overall site is safe and suitable for the proposed development.
- 633 The Panel therefore concludes that the proposed development will be consistent with the intent and purpose of the NES-CS.

National Environmental Standard for Freshwater Management (2020)

634 The National Environmental Standard for Freshwater 2020 (**NES-FM**) provides a national set of requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. It seeks to:

- a. protect existing inland and coastal wetlands;

243 AEE, Volume 1, Appendix 1R, at iii.

244 AEE, Volume 2, at 20.

- b. protect urban and rural stream from in-filling; and,
- c. ensure connectivity of fish habitat (fish passage).

635 The NES-F was addressed by the Applicant in response to comments from the MDPC, which had identified the need for earthworks to occur within 10m of a wetland, associated with the greenway outlet structures adjacent to the Oxbow wetlands near the Waitoa River. No specific issues were raised in respect of this matter in the MDPC's comments. The WRC also advised that adverse effects from proposed earthworks, including from the greenway, "can be suitably avoided and/or minimised with suitable consent conditions".²⁴⁵

636 The assessment of the proposed works on the wetland was addressed in detail for the Applicant by Ecological Solutions. Their memorandum of 18 November notes that the works would involve the clearance of c. 21m² of wetland riparian vegetation within 10m of the wetland, but concluded that:²⁴⁶

the proposed earthworks within 100m and vegetation clearance within 10m of Oxbow Wetland 2 is not expected to have significant adverse effects on ecosystem health, indigenous biodiversity or hydrological function of Oxbow Wetland 2.

Similarly, the effects of the proposed stormwater discharge on the ecological health, indigenous biodiversity and hydrological function of the Waitoa River are expected to be low as concluded in the EcIA.

637 The Panel accepts that expert advice and concludes that the proposal will not be inconsistent with the provisions of the NES-F.

National Environmental Standards for Sources of Human Drinking Water (2007)

638 The Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 (**NES-DW**) aim to protect the quality of water used for human drinking water supply by setting mandatory requirements for regional councils and consent authorities.

639 For the RV, water supply will be provided for irrigation and potable supply from a bore, with water storage and treatment proposed on the site as set out within the applicable Infrastructure Report (Appendix 4D). The AEE advises that this will ensure a safe standard of water supply to service the RV. In addition, the proposal, including the proposed discharges of sediment-laden water during construction and

245 Statement of S Roa on Behalf of the Waikato Regional Council (11 November 2025) at 4.9.

246 Applicant's Response to Comments, Attachment 25A, at 6.

wastewater, will not compromise the safety of other existing water supplies. Overall, the Applicant considers that the proposal is consistent with the intent of the NES-DW.

640 The comments on the Application from the WRC advised that there are no issues with respect to water availability from the bore, subject to conditions, including to the effect that *“the location of the bore/groundwater take must be located no closer to any existing bores on neighbouring properties and waterways that the assessment was undertaken under”*.²⁴⁷

641 Having regard to our previous findings with respect to servicing for the proposal including the use of bore supply for the RV, and noting that the WRC has not raised any issues in respect of this matter, it is concluded that the proposal will be in accordance with the NES-DW.

Amendments to National Direction 2026

642 The Panel notes that the new and amended National Direction instruments which took effect on 15 January 2026 have limited implications on its assessment of the Proposal. As set out in the Applicant’s response to Minute 11.²⁴⁸ Of these, the National Policy Statement for Natural Hazards (**NPS-NH**) and National Policy Statement for Infrastructure (**NPS-I**) are considered and therefore require consideration in this decision, given their relevance to natural hazard management and infrastructure components of the residential subdivision and RV.

National Policy Statement for Natural Hazards 2025

643 The NPS-NH must be applied to use, development and subdivision when there is an exposure to the risks of flooding, landslips, coastal erosion, coastal inundation, active faults, liquefaction and tsunamis. The response from the Applicant provided on 30 January noted that the Site is subject to flooding hazards as well as potential geological hazards, including landslip, active faults, and liquefaction, and the provisions of the NPS-NH are therefore applicable.

644 A further assessment by Mr McNutt²⁴⁹ addressed the potential hazards, and provided his view in respect of the relevant matters, in terms of Policy 1 of the NPS-NH, as follows:

247 Statement of S Roa on Behalf of the Waikato Regional Council (11 November 2025) at 4.16.

248 F McNutt, Barker & Associates, Memorandum in Response to Minute 11 of the Expert Panel, National Direction (30 January 2026).

249 F McNutt, Barker & Associates, Memorandum, Planning, 6 March 2026.

- a. Detailed flood modelling for the residential subdivision has not identified any flooding risks, including under a worst-case scenario of all devices reaching their capacity, and that under this condition the development maintains flood immunity, with minor exceedances that can be mitigated through detailed design refinements. Minimum freeboard requirements will also be complied with for all proposed buildings. For the RV, it has been identified that 100-year ARI secondary flows will be contained to the road corridors, swales, and proposed wetlands and will not affect the proposed buildings. Minimum freeboard requirements will also be complied with proposed buildings. Solar farms were also noted to be compliant with the 10-year and 100-year ARI storm events. Further, and on the basis that the NPS-NH does not apply to infrastructure and that no buildings or residential activities are proposed within the solar farms, the effects of flood event are considered to be negligible.
- b. In terms of landslip, it is noted that the landform is generally near level to gently sloping, such that the likelihood of a slope stability event is expected to be rare, with a consequence level of 4 (major). This is considered to result in an overall medium level of risk under the NPS-NH matrix, whereby no mitigation is required and existing and residual risks are the same.
- c. For active faults, the Applicant advises that the nearest active fault is approximately 5km from the site. The likelihood of a fault event is assessed to be rare, but with a 'catastrophic' consequence level, resulting in an overall medium level of risk under the NPS-NH matrix, such that no mitigation is required, and existing and residual risks are the same.
- d. The potential for liquefaction is noted for some soil layers during a ULS earthquake event. In the ultimate limit state earthquake cases, the liquefaction results indicate a high risk of liquefaction occurring at the site. Mitigation measures include the incorporation of specific foundations (TC2). Following investigation, CMW Geosciences identify the residual likelihood of this event to be moderate, with a residual consequence level of 2 (minor), equating to a likelihood level of 'possible' and an overall medium level of risk under the NPS-NH matrix.

645 Ms Tait's review²⁵⁰ referenced the outcome of the JWS relating to active fault risk²⁵¹ to inform her view that the information available at that time regarding active fault risk was "*wholly inadequate to determine the presence (or location) of an active fault*

250 S Tait, Planz, Planning Advice to the Panel (3 February 2026).

251 Joint Witness Statement, Geotechnical Seismicity and Active Faulting (11 December 2025).

risk (despite a clear understanding of what the mitigation response is if the risk was present)". She considered that in this regard the risk profile differed from the flooding and liquefaction risks. This was because while the mitigation method is clearly understood, the presence of the risk has not been identified, nor confirmed to be free from risk. Accordingly, Ms Tait recommended that a report from GNS be provided prior to granting consent so that the active faulting risk can be managed appropriately as anticipated by the NPS-NH.

646 The Panel notes the Applicant's response to this issue set out in its letter from Mr McNutt²⁵² where he notes that the geotechnical and engineering experts have confirmed that risks related to active faults can be fully mitigated through conditions, consistent with accepted RMA risk-management practices. With reference to Policy 5 of the NPS-NH, he notes that the conclusions drawn by experts regarding active faults is based on best available information, with risk being managed on-plot at building consent stage.

647 The Panel also refers to the concerns that it held with respect of stormwater and flood management for the residential subdivision. However, through the recent JWS process, as referred to previously, we are satisfied that this issue has been addressed such that flood risks associated with the use of stormwater basins have been appropriately mitigated.

648 Accordingly, the Panel finds that the Proposal is in keeping with the overarching objectives and policy framework of the new NPS-NH.

NPS-I

649 In terms of the NPS-I, the Panel adopts the comments of Ms Tait, that the relevance of the NPS-I to the Proposal is limited. While the Proposal includes infrastructure to service the residential, commercial and RV activities, it is not an infrastructure project that benefits from the policy 'tailwind' provided by the NPS-I.

Remaining Amendments

650 The amendments to the NPS-HPL and NPS-REG affect limited parts of the Proposal but do not substantively alter the assessment already undertaken, as:

- a. the site is predominantly underlain by LUC 2 soils; and,

252 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026).

b. the Solar Farms have been assessed against the NPS-REG framework.

651 All other amended NPS's and NES's, including the NZCPS, NPS-IB, NPS-FM, NPS-EN, NES-F and NES-DMRU, are not applicable to the Proposal and require no further assessment. The Panel accepts the Applicant's summary of these instruments and has taken the new and amended directions into account.

Panel's conclusions

652 For the detailed reasons we have set out above, the application of the NPS-HPL is a significant issue and, in conclusion, the Panel considers that, notwithstanding the weighting we must give in favour of the FTAA, and aside from other adverse impacts, the strict directives contained in the NPS-HPL weigh in favour of declining the proposal and part of the residential subdivision.

653 Similarly, the NPS-UD has had a significant influence on the Panel's decision-making process, and the decision has been finely balanced in terms of the residential proposal being consistent with its objectives and policies.

654 With regard to the NPS-NH, NPS-REG, NPS-FM and the NPS-IB, the Panel is satisfied that the Proposal will not be inconsistent with the objectives and policies of those national directives.

655 Turning to the NES-CS, NES-F and NES-DW, the Panel finds that, subject to appropriate conditions, the Proposal will be in accordance with those standards.

PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK

656 An assessment of the relevant statutory plans has been included within the AEEs as is required by Schedule 5, clause 5(1)(h).

657 The Panel has reviewed and considered the assessment provided by the Applicant and the comments provided by the Council and its advisors. We outline the key matters in the following sections (as well as adding further considerations and assessment).

Waikato Regional Policy Statement

658 The relevant sections of the Waikato Regional Policy Statement (**WRPS**) are noted in the AEEs as those applying to Land and Freshwater (Chapter LF) and Urban Form and Development (Chapter UFD). These introduce similar themes to those addressed in respect of the NPS-HPL (including protection of soil productivity and versatility), and the requirement (under Policy UFD-P1) for subdivision to occur in a planned and coordinated manner that addresses potential cumulative effects, is based on sufficient information to understand long-term effects, and has regard to the existing built

environment.

659 The AEE Volume 1 considers that the Project is consistent with the WRPS for the following reasons:

- a. The proposed subdivision will facilitate a range of uses as part of the wider Ashbourne development as identified above, consistent with Objective LF-04;
- b. The proposed subdivision is not inappropriate on balance, and with consideration to the site's zoning, constrained productive capacity, and other land uses; and,
- c. The wider Ashbourne development delivers a well-planned and considered masterplan for urban growth that is comprehensively coordinated with infrastructure delivery, land use strategy, and the existing built environment. The proposal is underpinned by a suite of technical assessments that provide a robust understanding of long-term effects and cumulative impacts.

660 With further regard to Chapter UDF, the Volume 4 AEE states that the RV "avoids inefficient, ad hoc expansion into the rural environment and instead contributes to a compact sustainable settlement pattern, reinforcing the urban form and infrastructure investment of Matamata".²⁵³ Volume 5 concludes that the "residential development and greenway is located adjacent to the urban boundary, an identified location for urban growth that is planned for within the [ESSP]".

661 Overall, the AEEs conclude that the proposal is consistent with the overall strategic direction of the WRPS (and the relevant objectives and policies of the WRP).

662 Further detail in respect of the WRPS is provided in respect of each component of the Application in the Volume 3, 4 and 5 AEEs.

663 The WDC disagreed with the Applicant's assessment. It describes the ESSP as providing low density rural-residential development at the urban edge of Matamata, in order to form an appropriate interface to the adjoining Rural Zone. It goes on to say:

The low density land-use provided for in the [ESSP] responds to the geotechnical constraints of the area. The road network identified in the [ESSP] is based on the low traffic volumes commensurate with the planned future low-density rural-residential settlement, comprising narrow carriageways with open swales within the berm, as

253 AEE, Volume 4, at 53.

opposed to an urban road typology featuring wider carriageways, on-street parking, and footpaths.

Consistent with MPDC's established approach to development within the District's "Rural Residential" zones, no provision has been made to provide public reticulated services for the [ESSP] Area. As for most of the District's "Rural Residential" zones, on-site servicing is envisaged for the [ESSP] Area. It follows then that the [ESSP] Area is not "an identified location for urban development" as stated by the applicant. The urban-style development proposed by [the Applicant] is also contrary to MPDC's infrastructure delivery and land use strategy, and in conflict with the character of the existing/emerging rural-residential built environment.

- 664 The MPDC comments conclude in this regard that the proposal would not reinforce the urban form and infrastructure investment of Matamata, as contended by Applicant, and is contrary to its own planning and investment strategy.
- 665 The Applicant's response considers that the MPDC's comments were made through an "RMA lens" and that the information held by the MPDC on the site is now outdated, such that *"updated engineering and specialist hydrology, including planning, traffic and geotechnical advice provides suitable grounds to consider and consent development that aligns with the intent of the FTAAs with supporting infrastructure"*.²⁵⁴ It otherwise re-states its overall assessment with respect to the WRPS, including the view that the Project promotes *"a compact urban form and efficient use of land"*, thereby avoiding sporadic development patterns, and that *"it is designed to integrate with existing infrastructure, transport routes, and natural features"*.
- 666 Ms Tait's advice to the Panel noted that at the time of Mr Rademeyer's assessment he did not have visibility of the PDAs being worked through between the Applicant and the MPDC. Accordingly, it was her view that *"as the Applicant is proposing to privately fund the infrastructure upgrades/extensions required to service the residential and commercial development, I consider that the issue of integrating with infrastructure and existing decisions is a moot point"*.
- 667 Overall, however, Ms Tait considered that the Proposal would be inconsistent with the urban form, HPL and natural hazard outcomes sought by the WRPS. This was primarily for the reasons that:
- a. Policy UFD-P19 requires that any unplanned or out-of-sequence development should have regard to the criteria in Appendix 14, which requires inter alia that any unplanned development makes a significant contribution to meeting a demonstrated need or shortfall. In her view, the MPDC's Residential Capacity

²⁵⁴ Applicant's Response to Comments, Attachment 2, at 15.

Assessment shows that there is no housing supply shortfall that needs to be addressed.

- b. Objective LF-05 (and related Policy LF-P11) direct that a decline in available highly productive land due to inappropriate use, development and subdivision should be avoided, noting that in her view and via her assessment of the NPS-HPL, the proposed RV and parts of the residential subdivision would be inappropriate.
- c. In terms of natural hazards, she was of the view that the active faulting for the Site had not been adequately addressed.

668 The Applicant's response to Minute 14 did not agree with Ms Tain's analysis, with Mr McNutt again contesting her view and that of the MPDC that there is no housing shortfall, and expressing his opinion therefore that the Proposal would align with Policy UFD-P19 and the Appendix 14 criteria for the reason that *[the proposal provides a significant contribution to meeting a demonstrated need or shortfall by providing a range of housing choice, type and density at scale]*.²⁵⁵

669 In our consideration of this matter, we have determined that Policy UFD-P19 ('Being responsive to significant unintended and out-of-sequence growth within tier 3 local environments'), seeks to give effect to Policy 8 of the NPS-UD. The policy provides that:

Where alternative urban land release patterns are promoted through district plan and structure plan processes, either out-of-sequence or unanticipated by a council-approved growth strategy or equivalent council strategies and plans, justification shall be provided to demonstrate consistency with the principles in APP11, and particular regard shall be had to the proposed development capacity only where the local authority determines that the urban development proposal is significant, by assessing the proposal for consistency with the criteria in APP14.

670 The Proposal does not involve a district plan or structure plan process, and so while it is of interest, we have not had further regard to Policy UFD-P19.

Panel Finding

671 The Panel notes that the WRPS contains similarly directive language to the NPS-HPL in terms of the management of HPL, and given our findings in respect of that national direction, as pertaining to the RV and parts of the residential subdivision, we also find that the Proposal will be contrary to those related provisions of the WRPS. As set out

255 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026) at p 26.

elsewhere in this decision, we are not satisfied that a shortfall of provision for housing in Matamata has been demonstrated. Mr McNutt's response to Minute 14 refers to the explanation from Insight Economics "*that there is no certainty as to whether there is sufficient housing capacity in Matamata, as the actual feasible housing capacity may be significantly lower than the theoretical estimates referred to by Ms Tait*".²⁵⁶ The equivocal nature of that statement serves to demonstrate the uncertainty as to the extent of any alleged shortfall, and we have previously expressed our acceptance of Mr Heath's view that such a shortfall does not exist.

672 Nevertheless, the Panel considers that issues associated with unplanned infrastructure delivery are able to be addressed for the Proposal through the PDAs, and this appears to largely address the otherwise significant inconsistency with those provisions of the WRPS that were of concern to Mr Rademeyer. For the reasons set out above, we do not consider that the Proposal is subject to Policy UFD-PL19.

673 In terms of natural hazard risks, we accept Mr McNutt's comment that the mitigation of fault hazards, being a key concern of Ms Tait in respect of the 'Hazards and risks' section of the WRPS, has been addressed in the Applicant's previous RFI responses.²⁵⁷ That information has been prepared in accordance with MfE guidance on planning developments near active faults, and the findings from recent research conducted by GNS/University of Waikato staff presented in a paper from 2025.

674 Overall, we find that the Proposal was inconsistent with the WRPS in terms of the impact of the RV and part of the residential subdivision on HPL. It would otherwise be consistent with those provisions related to built environment outcomes sought for the Waikato region, with particular reference to Objective UFD-01.

Matamata-Piako Co-operative District Plan

675 The AEEs address the provisions of the MPDP, and in particular Section 2.4 'Sustainable Management Strategy' as well as those sections relevant to the particular activity addressed in each AEE (e.g., Section 3.4, Subdivision).

676 Section 2.4 of the MPDP is broadly applicable, where the objectives seek to avoid inappropriate residential and rural-residential growth in the rural environment. This is in order to protect rural land resources for rural production and for land use, subdivision and infrastructure to be planned in an integrated manner. The policies

256 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026) at p 26.

257 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026).

seek that residential development is located and consolidated within appropriate existing zone boundaries subject to the availability of infrastructure, and to manage the orderly and programmed expansion of residential areas consistent with the relevant structure plan. The policies also anticipate that new development and the expansion or intensification of existing development takes place where infrastructure can be appropriately provided for and the adverse effects on the natural and physical environment can be appropriately avoided, remedied, and mitigated.

- 677 The AEE (Volume 2) considers that the proposed Stage 0 subdivision is consistent with the relevant objectives and policies under Chapter 2.4 for the following reasons:²⁵⁸

The subdivision will primarily facilitate rural-residential growth within the [ESSP] area, which is anticipated and in accordance with Policy 2;

While the subdivision will also provide for some residential development within the Rural Zone, including a small proportion of the residential development and the retirement village, this is located on land that is immediately adjoining the [ESSP] area and forms a logical extension of this land;

The subdivision and future land use activities can be appropriately serviced by infrastructure, as further detailed within Volume 2;

As demonstrated in section 5.0 and in Volumes 3-5, it is considered that the actual and potential effects of the proposed subdivision and future land use activities can be appropriately avoided, remedied, and mitigated.

- 678 The comments of the CRD provide a concise summary of the Applicant's assessment of the relevant provisions with respect to the various components of the Project, which are generally adopted as follows:²⁵⁹

- a. The Applicant notes that the proposal provides for residential development in the Rural Residential and the Rural zones, and for retirement living in the "rural" zone, but considers that the location is appropriate given that the development is located partly within the ESSP and otherwise adjoins the structure plan area "where infrastructure and strategic planning support its suitability for urban development" and "where urban residential development is anticipated under the [MPDP]. Due to the locational context of the site, it is considered that the proposal enables a logical extension of the existing and

258 Excluding reference to Lots 8 and 9, which have now been deleted from the Proposal.

259 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council, Planning (11 November 2025) at 10.

*planned urban area”.*²⁶⁰

b. In terms of the Amenity provisions in the MPDP, the Applicant considers that *“the proposal ensures the rural landscape, character, and amenity values are maintained by incorporating low-scale buildings, setbacks, and landscaped buffer zones along the rural interface”*. Furthermore, the Applicant considers that the proposed RV which *“is located at the interface between denser residential areas and rural zoned land...will provide for a transition between these zones”*.²⁶¹

c. Regarding the Transportation provisions, the Applicant argues that the *“proposed RV has been designed to connect to the Ashbourne residential development located to the east. This will ensure that the overall Ashbourne development can achieve a highly connected and integrated layout”*.²⁶²

d. With respect to the residential component, the Applicant states that:²⁶³

The proposal will encourage active modes of travel, in particular walking, through the provision of new footpath facilities and a highly integrated pedestrian friendly layout. Provision has also been made for pedestrian connections to the proposed greenway facility, which will enable recreational walking for residents.

679 Mr Rademeyer, on behalf of the Applicant, expressed the reasons why he disagreed with the Applicant’s assessments of the Project in terms of the MPDP as follows:²⁶⁴

Sustainable management strategy: The application is contrary to the provisions that seek to:

protect highly productive land because it withdraws additional highly productive land from the District’s finite resource. This is the case as adequate land that is excluded from the NPS-HMA has already been set aside for residential development within the zoned “Future Residential Policy” overlay;

*ensure the integrated planning of landuse and infrastructure; because it proposes development in an area not planned to be served by reticulated infrastructure or urban-
roadway;*

260 AEE, Volume 4, at section 6.6.

261 AEE, Volume 5, section 6.6

262 AEE, Volume 5, at section 6.6

263 AEE, Volume 5, at section 6.6

264 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council, Planning (11 November 2025) at 11.

consolidate residential development within existing zone boundaries; because it proposes out-of-zone development;

Amenity: The application is contrary to the provisions that seek to:

maintain character and amenity values; because it proposes development that is inconsistent with the emerging and planned character and amenity values of the "Rural Residential" zone.

Transportation: The application is contrary to the provisions that seek to:

ensure a well-connected transport network; because the Ashbourne development lacks integration with the Town's wider roading network and pedestrian/ cycling connectivity and thus is unlikely to support active modes of transport beyond the limits of the Ashbourne site itself.

In addition to being contrary to the MPDP strategic growth provisions as outlined in Memorandum 1, the proposal is inconsistent with many of the objectives and policies in the MPDP, as outlined in Table 1 attached to this Memorandum.

680 The Applicant's response to the MPDC comments were as follows:²⁶⁵

- a. In terms of the sustainable management strategy, the Applicant acknowledged that the proposed RV in particular would not be consistent with the provisions relating to the protection of HPL and the location of residential development in respect of existing zone boundaries. It is considered, however, that "*on balance*", the Project "*does not represent an inappropriate development outcome, particularly given the locational context of the wider site adjoining the [ESSP] area and existing urban area of Matamata*". It also referred to its assessments to the productive constraints of the land and its ability to be considered as HPL. Overall, and as set out previously, the Applicant considers that the Project is consistent with the exception provisions of the NPS-HPL, and therefore that "*the benefits of the Ashbourne proposal outweigh the impact of consistency with the HPL provisions*".

The Applicant also highlights that the Project can be adequately serviced by transportation and three waters infrastructure as the development progresses, which "*will ensure potential adverse infrastructure effects can be appropriately managed and that land use is integrated with the delivery of infrastructure*".

- c. With respect to amenity, the Applicant refers to the Urban Design Response Memorandum which identifies proposed design features to avoid and mitigate

265 Applicant's Response to Comments, Attachment 2, at 17-18.

potential effects on character and amenity values for adjacent sites, including larger setbacks, planting, fencing, and height and coverage controls. These have been designed to *“deliver a considered and appropriate transition between the Ashbourne site and existing environment, including the Rural Residential zone”*. On that basis, the Applicant considers that *“the proposal will achieve a high standard of amenity in the built environment, in keeping with the relevant objectives and policies under the MPDP”*.

- d. With regard to transportation, the Applicant notes the proposed new road connections to the existing network, including to Station Road and Peaked Drive, and that *“[n]ew roads will include provision for new pedestrian and cycling connections within the Ashbourne site, and the proposal does not preclude the upgrading of transport infrastructure within the wider network and beyond the limits of the Ashbourne site to enhance pedestrian and cycling amenity, access, and connectivity”*. The Panel notes that the Applicant’s response to Minute 13 included the details related to shared paths, including that proposed for Station Road.

681 Ms Tait’s advice again noted that Mr Rademeyer’s comments pre-dated the work undertaken in respect of the PDAs, but was otherwise in agreement with his assessment of the objectives and policies related to urban growth and design, appearance and character objectives and policies, which direct that residential development should occur within *“...state existing zone boundaries”*, and that development in the rural zones should *“maintain[s] or enhance[s] the rural character, landscape and amenity of the zone”*. She also noted her agreement with Mr Rademeyer’s assessment of the objectives and policies related to HPL (Part A.3.3.2.1).

682 Ms Tait also considered that additional MPDP objectives and policies were relevant to an assessment of the Proposal:²⁶⁶

- a. Part A.3.2.2.5 Objective 1 and Policy 1: These direct a precautionary approach to development in suspected earthquake hazard areas.
- b. Part A.2.4.8, Objective 1 (and related policies): These support the development of renewable energy developments.
- c. Part A.3.8.2: The amendments to the transportation network and internal layout agreed by the Applicant will satisfy the relevant transportation

266 S Tait, Planz, Planning Advice to the Panel (3 February 2026) at p 10.

objectives and policies.

683 It was Ms Tait's overall conclusion that the Proposal would be inconsistent with the urban form, HPL and natural hazard outcomes sought by the MPDP, but would be consistent (or has the potential to be) with the renewable energy and transport outcomes anticipated by the MPDP.

Applicant Minute 14 response

684 The Applicant's response to Minute 14 addressed Ms Tait's analysis of the proposals of the MPDP. It was Mr McNutt's view that both the RV and the residential subdivision *"generally aligns with the MPDP objectives and policies"* because:²⁶⁷

- a. For the RV, this alignment related to coordinated urban form, infrastructure integration, housing supply, and environmental outcomes. It was noted that the proposal also incorporates active transport links, stormwater management, ecological enhancement, and engagement with tangata whenua, contributing to social, cultural, and environmental wellbeing outcomes sought in the MPDP.
- b. The residential subdivision is considered to align with the strategic direction of the MPDP *"for consolidated, infrastructure-served urban growth by providing a comprehensively planned urban extension contiguous with Matamata's existing urban area"*, and because *"[i]t supports the creation of a well-functioning urban environment through increased housing supply and diversity, integrated open space and greenway networks, active transport connections, and coordinated infrastructure delivery"*.

685 Mr McNutt acknowledged that *"there is some misalignment with objectives and policies relating to high class soils"*. In this regard, he highlighted the expert advice for the Applicant from Reece Hill and Jeremy Hunt that the Site is subject to a series of constraints and is of limited productive capacity.

686 The Panel notes that Mr McNutt's commentary in respect of the MPDP contrasted with his earlier references to the MPDP as part of his response on the NPS-UD (regarding Objective 4 and Policy 6 considerations), where he had *"accepted that the Ashbourne application does not align with the operative zoning framework under the MPDC District Plan"* (before going on to explain why that was not 'determinative', as

267 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026) at 28-29.

previously discussed).²⁶⁸

687 The Panel has had regard to the relevant objectives and policies of the MPDP as cited by Mr Rademeyer and Ms Tait, and from our own review we note the emphasis within those provisions on avoiding *“inappropriate residential and rural-residential growth in the rural environment so as to protect the use of the District’s rural land resource for rural production”*,²⁶⁹ as well as those relating to integration of land-use and infrastructure, protection of amenity values and the avoidance of flooding.

688 We also note that Ms Tait had considered it important, in the context of an assessment of the MPDP, to acknowledge the Matamata Town Strategy 2018 – 2030 (**Town Strategy**) which identifies the potential for the rural-residential zone portion of the application site to be developed in the future for residential purposes. However, she highlighted that MPDP (published in 2015) does not include any provisions that would facilitate this long-term strategy (either through the ESS or inclusion in the Future Residential Policy Area Overlay). Accordingly, she did not consider that the Matamata Town Strategy can be relied upon to support the classification outcomes in the ESSP area. In response, Mr McNutt considered that the absence of a corresponding zoning in the MPDP *“does not negate, diminish, or invalidate the strategic intent expressed in those Council-adopted documents”*. He also did not consider that it provides *“a sound basis to disregard them in the assessment of a resource consent application”*. While he did not seek to place significant weight on the either the Town Strategy of ESSP, he considered that they *“provide useful background to the planning thinking for this area and reinforce that residential development in this location is not inconsistent with the district’s longer-term strategic direction”*.²⁷⁰

Panel Finding

689 The Panel prefers the analysis provided by Mr Rademeyer and Ms Tait, and accordingly, we find that the Proposal is inconsistent, to the extent that it is contrary to those provisions related to the use of highly productive land and associated strategic planning objectives, while also being inconsistent with those related to the amenity outcomes anticipated within the Rural and Rural Residential zones. We think the latter conclusion might also be shared by Mr McNutt, insofar as his acceptance of the point in his discussion of the NPD-UD might represent his overall view, rather

268 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026) at 21.

269 Matamata-Piako District Plan 2015, Objective A.2.4.1.01.

270 F McNutt, Barker & Associates, Memorandum in Response to Minute 14 of the Expert Panel (13 February 2026) at 30-31.

than as set out later in that same memorandum. However, we adopt Ms Tait's advice that the Proposal would be consistent with the renewable energy and transport provisions of the MPDP.

690 For completeness, we do not place any significant weight on the provisions of the Town Strategy. To the extent that this may be relevant or have any influence since 2013 (e.g., as an 'other matter' under section 104(1)(c) of the RMA), then we would have expected it to have informed the subsequent provisions of the MPDP and the relevant sections of the ESSP. As we understand them, those statutory documents do not indicate that greater intensification is to be provided for in the subject area, and we therefore have no further regard to the Town Strategy.

Planning documents recognised by a relevant iwi authority and lodged with the Council

691 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.²⁷¹

692 The AEE identifies that the following planning documents recognised by relevant iwi authorities have been lodged with the Council:

- a. Ngāti Hinerangi Deed of Mandate;
- b. Te Rautaki Tāmata Ao Ture o Hauā – Ngāti Hauā Environmental Management Plan;
- c. Te Ture Whakamānā Te Awa o Waikato (Vision and Strategy for the Waikato River), and
- d. Waikato-Tairārahi Environmental Plan.

693 The AEE (Volume 1) sets out the reasons why the Project is considered to be in compliance with these documents. This includes that observation that the site is not noted as a specific site of cultural significance, but nevertheless accidental discovery protocols will be adhered to, and that the Applicant will enable cultural monitoring of works and cultural awareness training as required. In particular, the AEE conclude:

- a. The Ashbourne proposal can occur in a manner that is consistent with the environmental outcomes sought by Ngāti Hinerangi as expressed in the Deed

271 Schedule 5, clause 5(1)(h) and clause 5(2) (g).

of Mandate. Furthermore, the applicant has committed to ongoing engagement with Ngāti Hinerangi.

- b. The Project reflects and respects the principles set out in Te Rautaki Tāmata Ao Turoa o Hauā by embedding cultural narratives, fostering iwi partnerships, and promoting ecological and cultural wellbeing. Through design responses and continued engagement, the project supports the mana, identity, and environmental aspirations of Ngāti Hauā. Furthermore, the applicant has committed to ongoing engagement with Ngāti Hauā.
- c. The Project gives effect to the Vision and Strategy for the Waikato River by embedding water-sensitive urban design, celebrating the cultural and ecological significance of the Waitoa River, and supporting kaitiakitanga and restoration-led development outcomes. These commitments ensure the Project contributes positively to the mauri of the Waikato River and its tributaries, consistent with the Vision's purpose and direction.
- d. Through meaningful engagement with iwi, respect for cultural heritage, enhancement of the natural environment, and the promotion of sustainable living, the Project will contribute positively to the mauri of the land and waterways, in a way that supports current and future generations. It will therefore be consistent with the intent and direction of the Waikato-Tainui Environmental Plan – Te Tūhono Tei Pari, Tai Ao.

694 Overall, the AEE considers that the Project can occur in a manner that is consistent with the environmental outcomes sought by planning documents recognised by relevant iwi authorities and the Cultural Impact Assessment (CIA) prepared on behalf of Ngāti Hauā iwi Trust, Ngāti Hinerangi Trust and the Raukawa Charitable Trust.

695 The MPDC noted that the Site is also within the takiwā of Ngāti Raukawa, and as such Te Rautaki Taiāpā Raukawa – Raukawa Environmental Management Plan is a relevant planning document (which it also highlights is referred to in the CIA).²⁷²

Treaty settlements

696 As noted in Part D, sections 7 and 8 FTAA state:

7 Obligation relating to Treaty settlements and recognised customary rights

272 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council, Planning (11 November 2025) at 2.

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
- (a) the obligations arising under existing Treaty settlements; and
 - (b) customary rights recognised under—
 - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
 - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

8 Te Ture Whaimana

- (1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā rivers and activities within their catchments affecting the rivers (see the legislation referred to in subsection (3)).
- (2) Te Ture Whaimana—
- (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
 - (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana.
- (3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—
- (a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
 - (b) Schedule 1 of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and
 - (c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.

697 The AEE identifies that the following Settlement Acts (and associated Treaty settlement deeds) are of relevance to the Application area:

- a. Ngāti Hauā Claims Settlement Act 2014;
- b. Ngāti Hinerangi Claims Settlement Act 2021;

- c. Raukawa Claims Settlement Act 2014;
- d. Waikato Raupatu Claims Settlement Act 1995 (Lands Claim); and,
- e. Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

698 The section 18 report notes that the Project does not include the Waikato River or its catchment and so will not interact with the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (item (e) above). It does, however, refer to the Pare Hauraki Collective Redress Deed 2018, for the reason that this “provides for access over the entire Piako River catchment, which extends south beyond the areas of interest of Hauraki iwi to include the project area”.²⁷³

699 The AEE (Volume 1) advises that, “[t]he Treaty settlement legislation for Ngāti Hauā, Ngāti Hinerangi, and Raukawa is relevant to the Ashbourne development in so far as they affirm the cultural and historical interests in the area and establishes statutory obligations for engagement, and recognition of values”.

700 As noted in Part B the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under section 72 FTAA. Minister Potaka, as Minister for Māori Development and Minister for Māori Crown Relations: Te Arawhiti, has advised he has no comments or concerns with this application.

PART I: PRINCIPAL ISSUES IN CONTENTION

701 The principal issues in contention following receipt of the parties’ initial comments and prior to the Applicant’s responses to the section 67 requests and the expert conferencing are:

- a. Effects on HPL and inconsistency with the NPS-HPL.
- b. Economic effects and the extent to which the proposal is ‘regionally significant’;
- c. Effects on hydrogeology and stormwater/flooding; and,
- d. Visual and landscape amenity effects.

702 The Panel’s findings on these principal issues in contention as substantively set out

273 Section 18 Report, at 30.

274 AEE, Volume 1, at section 15.5.

above in Part E, are summarised as follows:

- a. HPL/NPS-HPL: The Panel finds that the parts of the Proposal located on mapped HPL are inconsistent with the NPS-HPL. This inconsistency cannot be remedied by site-specific assessment and the evidence has not demonstrated that the use of HPL is enabled through the relevant clauses of the NPS-HPL, and the loss of HPL is given significant weight as an adverse effect.
- b. Economics and regional significance: The economic evidence from the Applicant and the JWS eventuating from expert conferencing did not materially assist the Panel overall. The Panel preferred Mr Heath's evidence that the claimed economic benefits would largely be displaced rather than additional, and that the need for the scale of residential development was not demonstrated. Overall, the economic evidence did not reliably establish significant regional or national benefits for the Project as a whole, but the Panel acknowledges the regional significance of both the solar farms and residential subdivision Project Parts.
- c. Hydrogeology, stormwater, and flooding: As set out earlier in this Decision, the Panel found that key hydrogeological and stormwater issues remained unresolved until reviewing the JWS dated 16 March. The Panel therefore finds that both construction-related dewatering effect and groundwater-level controls are ultimately addressed by the significant further technical assessment requested by the Panel, and subject to conditions.
- d. Visual and landscape amenity: The Panel preferred the evidence of MPDC's experts, particularly Mr Munro, and concluded that the proposed residential subdivision would not maintain or enhance anticipated character and amenity without substantially larger lots and wider interface buffers being introduced as mitigation measures.

PART J: PANEL DELIBERATIONS AFTER DRAFT DECISION

703 This Decision has summarised all of the Minutes issued, and correspondence received, throughout the course of the application, including those prepared after the Draft Decision was issued.

NPS-HPL

704 Upon receipt of the Draft Decision, the Applicant's Counsel issued a memorandum on 16 March requesting conferencing of the experts in HPL to seek a pathway through Clause 3.10 of the NPS-HPL and to address the predicted adverse impacts of the loss of productive capacity of HPL if the proposal proceeds in full.

705 Thereafter an exchange of correspondence through further memoranda of counsel and Minutes 24, 25 and 26 followed, summarised as follows (and above at Part B):

- a. The Panel responded in Minute 24, questioning how such conferencing could proceed where, pursuant to section 69, if the Panel issues a Draft Decision declining approval, the Applicant may only offer conditions or modifications, and that conferencing would be unlikely to reach a solution as conditions would be unable to address non-compliance with NPS-HPL.
- b. On 17 March, the Applicant responded by reference to section 67 which, it said, would enable the Panel to direct conferencing notwithstanding that a Draft Decision had issued because it would help the Panel to understand the evidence before it.
- c. In response the Panel issued Minute 25 wherein the Panel replied that it had received a great deal of expert evidence on NPS-HPL, and that it had preferred the evidence on behalf of MPDC. The Panel did not seek any further evidence or clarification to help it understand the issues. The Panel also sought input from MPDC and WRC as to how it regarded the request for expert conferencing bearing in mind the constraints of section 69.
- d. Counsel for both Councils responded with reference to the Guidance which refers to conferencing prior to deliberations, which had occurred, and that the request ought to be declined on that basis that there was no compelling justification to confer.
- e. Almost immediately after receipt of the Councils' memo, the Applicant again responded, rejecting the relevance of the Guidance and again urged the Panel to direct expert conferencing.
- f. The Panel's Minute 26 accepted the relief sought by the Councils. The Panel addressed the Applicant's submission that deliberations were not in train, and that the Panel should remain open to receiving more information on an iterative basis. The Panel reminded the Applicant of the onerous timelines, receiving comments on a Draft Decision is not an iterative process, and that sections 69 and 70 deliberately constrained the information which the Panel could receive.

706 The Panel drew attention to the fact that it had issued a significant number of Minutes, and that as far back as Minute 14 it had provided the Applicant with a clear signal as to the likelihood that approvals for the development of HPL land would be declined.

707 Memorandum 26 also addressed an unsolicited comment on behalf of one of the Applicant's vendors regarding HPL, which claimed that section 70 enabled comments on the Draft Decision, which we disagree with, and is irrelevant as in the case of a Draft Decision to decline, section 70 does not apply.²⁷⁵

708 The Panel also rejected the claim of unfairness for not holding a hearing or enabling conferencing on the NPS-HPL and observed that it was not enough to say that because the Panel did not approve the RV, that an iterative process of conducting a hearing or providing more evidence should occur. The Panel already had all the evidence it required to make a robust decision.

709 We were also able to carefully review the Applicant's AEE regarding the HPL and LUC classification and the comments from some neighbours who, at the outset, were able to observe that the land was not constrained from land-based primary production for 30 years, notwithstanding the comments from the vendor of the RV land that it was economically non-viable for land-based primary production.

Boundary adjustments

710 The Panel has been concerned from the outset that the amenity effects on the owners of rural residential lots adjoining the residential subdivision will be significant. This was an issue raised with obvious concern in many of the comments received, both before and after the Draft Decision issued. The comments clearly preferred that we decline the residential subdivision and as expressed previously, we have considerable sympathy for their concerns. We acknowledge that they did, however, produce some suggested conditions, and we have incorporated those requested changes where we considered them to be in accordance with condition principles (as described in Part K below). As a result we have achieved a more robust condition structure that aligns with the overall conclusions reached in this decision.

711 The Draft Decision sought to address that via boundary 'softening', including:

- a. Larger lot sizes (the average being 1,500m²), an 8m setback with 3m side yards, and a 4m-wide landscape buffer.
- b. With regard to development controls, a height control of 6m was imposed in respect of the southern lots adjoining Rural zoned land.

²⁷⁵ Section 69 is engaged when a Panel makes a Draft Decision to decline.

- c. A condition requiring 1.5m fencing along the boundary was also considered necessary by the Panel.

712 While there was no landscape evidence, there was urban design evidence from Mr Munro on behalf of the MPDC, who gave carefully reasoned support for the importance of the 4m-wide planted buffer. We consider that it would not be more onerous than necessary to continue to require the 4m-wide landscape buffer, given the significant adverse impacts of the proposal on rural residential neighbours notwithstanding the Applicant's strong opposition in favour of 3m.

713 We further conclude that there is a need for the buffer planting to be maintained by the Applicant for three years, after which a bond will be set in favour of the Council for a further three years.

714 We accept that the 6m height control is no longer necessary, given the larger lots, yard and landscape buffer now required, and have set a new height control at 8m (i.e., the same as the remainder of the residential subdivision).

715 The Panel has also imposed a condition requiring a 3m setback from all JOALs, regardless of lot size.

716 With regard to fencing, the Panel has imposed a condition requiring 1.5m temporary hoardings for the duration of the construction period. Thereafter, property owners may manage their own fencing choices pursuant to the Fencing Act 1978. The Panel reasoned that there was a diverse range of submissions on the fencing issue, with some seeking, for example, 1.8m fences and others post-and-rail fencing. With the presence of a 4m-wide landscape buffer, some owners may choose to have no fence at all. We therefore consider that protection of amenity is necessary during construction, and that thereafter boundary fencing should be at the landowners' discretion, subject to the Applicant being responsible for the reasonable costs of whatever fencing option the neighbours consider appropriate.

717 It is clear, some sites, namely Lots 10, 44, 45, 324 and 329, have side yards that have a common boundary with the rural residential neighbours. Those side yards require 4m of planting and a setback of 4m.

718 There are two lots, 45 and 389, which have both side and rear yards abutting rural residential lots. They will need to comply with both the rear and side yard conditions addressing the landscape planting.

Lot sizes (west)

- 719 As noted above, the Draft Decision required revised (increased) minimum and average lot sizes for those lots abutting the external boundaries (other than those that have a residential zoning at the end of Peakedale Drive). This was applied in the Applicant's revised plans for the Proposal, except in respect of the western boundaries abutting the southern solar farm and the area adjacent to the former part of Stage 6.
- 720 A memorandum of counsel from MPDC advised that MPDC considers the application of the larger lot sizes along all Rural and Rural-Residential zone interfaces, including where the adjoining land remains under the Applicant's control, would serve an important and enduring mitigation function and a meaningful spatial buffer that reduces the potential for reverse sensitivity effects arising from established or future rural activities. In MPDC's view, this would support the long-term compatibility between residential development and adjoining rural land uses. To compare the two approaches in figures attached to the memorandum as Annexure A.
- 721 The Panel's Minute 28 issued on 27 March confirmed MPDC's interpretation of the Panel's Draft Decision (specifically at paragraph 448), and revised as follows:
- a. The larger slot size requirements is to be applied to all boundaries with a Rural or Rural-Residential Zoning, and irrespective of ownership; and
 - b. The exclusion of the lots at the end of Peakedale Drive is the only exception to this requirement.
- 722 Further clarification was provided by the Panel to advise that the remaining zone interface treatments (shown in MPDC's Annexure A) apply to the Rural-zoned land controlled by the Applicant rather than in respect of the 4m planted buffer. The latter was due to the fact that the southern solar farm incorporated a 7m buffer to the subject boundary area, and because there was no sensitive (residential) land use activities being undertaken in the Rural (HPL) area.
- 723 The Panel further considered its previous direction in this regard, with reference to the Applicant's amended subdivision plan, and concludes that a requirement for larger lots at the interface to the southern solar farm and adjacent HPL is not necessary to address any particular impact on sensitive land uses, given that they are or will be controlled by the Applicant. In the case of the southern-most land, this will be appropriately insulated from the southern solar farm by the aforementioned landscape buffer required in this area. The use of the land adjacent to residential area to the north will, as noted, be controlled by the Applicant and can be appropriately screened and managed so as to minimise any adverse interface effects for future residents in this location. The Panel therefore accepts the revised subdivision plan in this regard.

Stormwater, groundwater and flooding

- 724 Following the release of the Draft Decision, the Panel considered further comments from adjoining property owners relating to groundwater and stormwater, including concerns based on their experience of flooding and groundwater levels at the site. The Panel notes that these matters are technically complex and acknowledges the lived experience of those commenters.
- 725 In response to these comments, we have summarised how the matters of stormwater management including interaction with groundwater have been addressed, as follows.
- 726 The Panel notes that the Applicant had previously modified aspects of the proposed stormwater management approach, including in response to requests for further information from the Panel and comments from MPDC and WRC which criticised the Applicant's initial stormwater management approach.
- 727 To assist with its deliberations, the Panel engaged experienced independent hydrogeologist Jon Williamson to review the technical information and advise on groundwater and stormwater issues. Expert conferencing sessions were held on these matters, involving Mr Williamson and stormwater and groundwater experts for MPDC, WRC and the Applicant.
- 728 The Panel's evaluation has taken into account additional information provided following the Draft Decision and the outcomes of the expert conferencing, including matters addressed in three JWS'. On this basis, the Panel is satisfied that sufficient technical information is now available to enable the formulation of consent conditions providing for the detailed design of a stormwater system, including provision for flood effects. That system includes disposal to groundwater at some locations and will be fit for purpose, including allowing for future increases in rainfall associated with climate change.
- 729 The Panel's conclusions are informed by the following key aspects of the proposed water disposal methodology:
- a. The proposed residential area is divided into Catchment Areas A, B, C and D, as shown on the Stormwater Basin Catchment Overview Plan, which is included as **Appendix C**. The extent of Catchment B has now been reduced from that shown in the plan to exclude NPS Highly Productive Land. Stormwater disposal is proposed as follows:
 - i. Area A: Further work has developed a synthetic hydrograph for groundwater levels at this location, enabling a conservative assessment

of groundwater depth together with a conservative assessment of soakage capacity. This shows that Basin A is able to dispose of the 100-year ARI rainfall event, including climate change. These results were tested through expert conferencing and were accepted by all experts.

- ii. Area B: Stormwater will be managed by a lined pond with outflow to the Greenway and the Waitoa River and does not rely on soakage.
 - iii. Areas C and D: Stormwater will be managed by constructed wetlands with outlets to an existing channel beneath Station Road and does not rely on soakage.
- b. Piped networks and soakage devices are proposed within Catchment Areas A, B, C and D. These will be sized for the 10-year ARI event, with flows exceeding that event accommodated via overland flow paths, generally along roads, to the respective basin or wetland.
 - c. The detailed design, extent and configuration of pipes and soakage devices within Catchment Areas A, B, C and D will be finalised through an updated Stormwater Management Plan, informed by further groundwater monitoring and detailed assessment.
 - d. A key principle to be applied at the detailed design stage is that soakage disposal for up to the 10-year ARI event will only be used where adequate clearance above the groundwater table can be demonstrated. Where this cannot be achieved, piped stormwater conveyance will be required. The land allocated to basins and wetlands allows for all contributing catchments to be fully piped, if necessary.

730 The Panel notes that the above set out stormwater management methodology was accepted as appropriate by all stormwater and groundwater experts involved in the expert conferencing, including Mr Williamson. The consent conditions provide for a certification process requiring MPDC and WRC, through stormwater and hydrogeological expert input, to be satisfied that the detailed design will deliver fit-for-purpose and resilient stormwater infrastructure, including provision for climate change.

PART K: CONDITIONS

FTAA general requirements for conditions

731 Section 81 provides that the Panel must set any conditions to be imposed on the

approval. The statutory requirements on what conditions are set is determined by what approvals are being sought.

732 Section 83 must be complied with and provides:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

733 How the Panel has complied with this section is discussed below in relation to the conditions that have been set. Panel has sought technical assistance in relation to the key effects anticipated to arise from the Proposal, and how such effects can be appropriately managed in a manner as least onerous as possible in order to ensure the condition is effective in managing the anticipated effects.

734 If a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval then section 82 applies. This section provides:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 83.

In this section, **document**—

- (a) means any document, arrangement, or other matter; and
- (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

FTAA requirements for conditions

Resource consent

735 For a resource consent, clause 18 of Schedule 5 applies:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

736 Generally speaking, a resource consent condition must:²⁷⁶

- 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.

737 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.²⁷⁷

738 Conditions must also be certain and enforceable.²⁷⁸

739 A condition must also not delegate the making of any consenting or other arbitrary decision to any person but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.²⁷⁹ Such authorisation is subject to the following:

- a. The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.
- b. The power of certification does not authorise the making of any waiver or abatement or departure from a policy statement or plan except as expressly authorised under the FTAA (per section 84 of the RMA).
- c. This power of certification does not authorise any change or cancellation of a

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

277 *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] NZEnvC 31 at [156].

278 *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

279 *Turner v Allison* (1970) 4 NZTPA 104.

condition except as expressly authorised under the FTAA (per section 127 of the RMA).

740 Section 220 of the RMA specifies the conditions that may be imposed on a subdivision consent.

Project conditions

741 The parties only have an opportunity to comment on the draft conditions circulated by the Panel together with its Draft Decision pursuant to section 70 of the FTAA, rather than on the substantive findings in the Draft Decision. The Panel has taken these comments into account, including:

- a. Comments from the Applicant, as received on 23 March, and incorporating changes to the proposal in accordance with the directions provided in the Panel's Draft Decision.
- b. A number of comments from individual landowners and occupiers, as well as from DOC and the MPDC and WRC, as received by 23 March. We note that the Applicant has provided a summary of comments received and response to the matters raised by the parties (as attached to its memorandum of 30 March), with all comments also readily available on the Fast Track Website. The Panel generally agrees with the Applicant's responses to individual commenters, subject to certain amendments arising to conditions through the subsequent joint witness conferencing process and other amendments that we have referred to below. The comments from the Councils were addressed through the WSR and our findings on those matters remaining in dispute are discussed below.
- c. We have carefully considered the large number of comments on stormwater and flooding from individual landowners and occupiers and requests for additional conditions to address their concerns. We refer to our discussion on stormwater and flooding in paragraphs 724 to 730 above. We are satisfied that the proposed conditions regarding stormwater, groundwater and flooding, which will be principally implemented through preparation of an updated SMP will be sufficient and the additional conditions proposed by individual landowners are not necessary, with the exception of a condition requiring access to be provided to WRC managed drains at the Northern Solar Farm.
- d. Comments from the Minister for Māori Development and Minister for Māori Crown Relations (received on 1 April).

742 Following receipt of the parties' comments on the draft conditions, the Panel has made amendments to the conditions, and an updated final condition set is attached to this decision at **Appendix A**.

743 The Panel's findings and reasons for those changes are addressed at Part J of this decision. The parties' comments on the draft conditions have not caused the Panel to alter its substantive findings on the principal issues in contention outlined in its Draft Decision, although some modifications have been made to details of the interface of the residential subdivision to neighbouring sites (as described in Part J). The Panel's findings on these principal issues in contention have been discussed in the foregoing analysis of effects and statutory provisions and are summarised below.

Consent notices pursuant to section 221 of the RMA

744 It is our opinion that the FTAA does not provide for the change or cancellation of consent notices (otherwise provided for pursuant to section 221 of the RMA). Accordingly, the Applicant (Consent Holder) will need to seek the cancellation of existing consent notice/s on properties purchased from Eldonwood Limited through the normal avenue. We have noted this and identified the relevant consent notices by way of an advice note to the Day 0 subdivision conditions.

745 Consent notices are necessary to require the following conditions to be complied with on an ongoing basis as set out in the subdivision consent conditions (at Appendix A), related to:

- a. The restriction of future land use and development, limiting activities to those permitted in the District Plan or already authorised via registration;
- b. The operation, maintenance and inspection of private stormwater management devices;
- c. The retention and maintenance of the landscape buffers within the residential lots;
- d. The restriction of sprays and treatments, limiting the use of substances to those that comply with organic farming practices on adjoining land;
- e. Preventing future owners from objecting to lawful farming activities on adjoining land; and,
- f. Ensuring integration and a staged development and delayed construction of dwellings until the relevant stage of the wider development is underway.

746 The consent notices are targeted and appropriate to ensure that there is ongoing

compliance with these requirements beyond the completion of the relevant stage of subdivision and that all future owners of each residential lot are fully informed as to their obligations with respect to these matters.

- 747 While some commenters sought the inclusion of consent notices to restrict any future access between the residential subdivision and Eldonwood and Highgrove, the Panel did not consider this to be necessary, as no such access is envisaged, and any change in this regard would require a formal amendment to the Proposal.

Conditions - joint witness conferencing

- 748 As set out above, a joint witness conference was convened after the Panel issued its Draft Decision and conditions.²⁸⁰ The joint witness conference was attended by Mr McNutt and Ms Wilson for the Applicant, Ms Roa for WRC, Mr Radcliffe and Mr Sutherland for MPDC, Ms Tait as appointed by the Panel, and Jennifer Green as the EPA-appointed independent facilitator.

- 749 The Panel has considered the matters of contention identified in the JWS. Where all conferencing participants reached agreement on an issue, the Panel records that agreement and does not make any further substantial findings. Where matters required confirmation or determination, the Panel's rulings are set out below to enable finalisation of the consent conditions.

- 750 The Panel's determinations on the matters raised in the JWS are as follows (*in excess of the boundary adjustment and groundwater/stormwater conditions discussed above at Part J*):

- a. Separation of consents: The conference established an agreed approach to separating the consents, including the sequencing and associated lapse periods. The Panel approved the separation of consents in the manner set out in the JWS.
- b. Deemed certification provisions: The Panel approved the revised deemed certification provisions for management plans and related documents as settled in the JWS.
- c. Management plans and consent notices: The Panel accepted the approach proposed by Ms Tait that management plans be separated from the overarching land use consent notice, with matters relating to implementation of

280 This was held on 31 March 2026, with the resulting JWS dated 2 April 2026.

management plans addressed through separate consent notices.

- d. Deed of assignment: The Panel noted the Councils' position that no deed of assignment condition was necessary, provided that the conditions made allowance for an alternative wastewater arrangement if required. The Panel agreed with that position.
- e. Bonding: Accounting for the discussion of such in the JWS, the Panel agreed that bonding for civil infrastructure, landscaping, and buffer planting was appropriate.
- f. Conditions precedent: The experts disagreed as to whether preparatory activities should be prevented until conditions precedent relating to the EDA, fault hazard assessment, and groundwater matters were completed. The Panel determined that construction works should not commence until the relevant management plans were certified and the necessary pre-conditions were satisfied. However, the Panel accepted that non-physical pre-construction activities, including detailed design and preparatory work, could proceed at the consent holder's own risk prior to satisfaction of those matters.
- g. Advice notes: The Panel agreed that the notes should be included to clarify expectations around engagement with Council in relation to the development and certification of management plans.
- h. Long-tailed Bat Management Plan: The Panel considered the points raised regarding long-term responsibility for monitoring and maintenance of long-tailed bats. The Panel has accepted advice from Ms Tait that the responsibility for monitoring of bat roosts should be limited to the same obligation of the consent holder for a five year maintenance period for the greenway, and we have not determined that it is then necessary for ongoing responsibility to transfer to the MPDC.
- i. Ecological Restoration Management Plan: The Panel agreed with the JWS that a separate ecological restoration management plan was unnecessary and recognised that the greenway would serve both ecological and stormwater functions.
- j. Lot numbering in conditions: The Panel acknowledged that the subdivision layout and lot numbering may change and determined that conditions would proceed based on the current plans. Any subsequent reconfiguration affecting lot numbering would require engagement with Council.
- k. Haul road: The Panel noted agreement that a haul road was to be constructed

to Station Road from Stage 0 and approved that requirement.

- I. Solar farm decommissioning: The Panel determine that the decommissioning of the solar farms should be secured by way of a bond.

751 The Panel has proposed multiple amendments to the conditions for the reasons outlined above, having considered the views and the suggested wordings put forward by multiple commentators. The Panel advises that it has made such decisions with respect of the many different viewpoints presented to it.

Conclusion regarding conditions

752 The Panel considers that the conditions imposed are lawful, certain and enforceable, and not more onerous than necessary to address the purpose of the relevant condition.

753 To the extent the final set contains minor errors, the Panel notes it has powers under section 89 of the FTAA to make minor corrections.

PART L: RMA 1991

754 As noted in Part C, Schedule 5, clause 17 sets out how the application is to be accessed under various provisions of the RMA.

755 As explained in Part C, the Panel has assessed the Application taking into account the relevant provisions of the RMA relating to decision making on consent applications and particularly the matters identified as relevant under section 104 RMA. It is noted that while the RV and residential subdivision components are a non-complying activity overall, we do not need to address the threshold tests for non-complying activities under section 104 (under clause 17 of Schedule 5 FTAA).

756 Following the guidance established in *RJ Davidson*,²⁸¹ it is the Panel's understanding that the consent to which reference to Part 2 may be required when considering an application for resource consent will depend on whether the relevant plan(s) have been prepared having regard to Part 2 and with a coherent set of policies designed to achieve clear environmental outcomes. If not, or if in doubt, it will be appropriate and necessary to refer to Part 2, that being the implication of the phrase "*subject to Part 2*" at the outset of section 104.

281 *RJ Davidson v Marlborough District Council* [2018] NZCA 316.

757 Based on the Application materials and evidence that was received, the Panel did not understand there to be any suggestion that the MPDP was not the primary planning document, nor that there was any question as to whether it had been competently prepared with respect to Part 2, and so the Panel may not need to make findings in terms of this part of the RMA. However, we received competing comments from the planning experts for the Applicant and the MPDC that addressed particular sections of Part 2, and which concluded in line with their analysis against the provisions of the MPDP. We set out those competing positions below.

758 The AEE (Overview Report) provided an analysis of Part 2, stating that²⁸²

Overall, as the effects of the proposal are considered to be consistent with all of the above sections of the RMA, and the proposal accords with the relevant [RPP] and [MPDP] objectives, policies, and assessment criteria, it is considered that the proposal will not offend against the general resource management principles set out in Part 2 of the RMA.

759 Mr Rademeyer, for the MPDC, expressed the reasons why he disagreed with the Applicant's assessment of Part 2, and considered that the proposal would be contrary to Part 2:²⁸³

Memorandum 1 shows that the proposal will result in long-term adverse effects that are more than minor, and that cannot be avoided, on the planned, funded, and integrated delivery of infrastructure and job growth for the town of Matamata;

Memorandum 1 shows that the MPDP provides adequately for the future growth of Matamata in an integrated manner and that the Ashbourne proposal will displace planned development to an unplanned location without creating additional social, economic, or cultural benefits for the community;

The proposal to zone "Rural" zoned land for residential and retirement living is not an efficient use of the District's finite resource of highly productive land;

The proposal does not maintain or enhance the planned and emerging character and amenity of the rural and rural residential receiving environments.

Except for vesting of the esplanade reserve (for which MPDC does not currently have the standing in place), the application does not include any initiatives for preserving and enhancing the natural character, ecological values, and function of the Waitoa River corridor, nor does it enhance public access along the River.

282 AEE, Overview Report, at section 17.5.

283 Statement of Evidence of M Rademeyer on Behalf of the Matamata-Piako District Council, Planning (11 November 2025) at 12.

Taking the above into account, it is my assessment that, except for the solar farms, the rest of the Ashbourne proposal is inconsistent with the sustainability purpose of the RMA. There is no functional need for the solar farms to establish in the location applied for (there are numerous options elsewhere in the District). Therefore, the addition of the solar farms to the overall Ashbourne proposal does not provide a basis for condoning the inconsistency of the other components of the integrated application with the purpose of the RMA.

760 The Applicant's response addressed the following matters raised by the MPDC, and concluded that, for the reasons set out within the AEEs, the Proposal would achieve the sustainable management of natural and physical resources, for the reasons that:²⁸⁴

- a. The Project "*provides for the use, development, and protection of natural and physical resources that will deliver significant regional benefits in terms of housing delivery and increasing housing supply and choice, promoting economic uplift, and contributing to renewable energy generation*", and so will provide for the social, economic, and cultural well-being of people and communities.
- b. The Project will "*provide for the protection of natural resources, including freshwater systems, to meet the reasonably foreseeable needs of future generations*".
- c. The Project locates "*the majority of urban residential development on land that is located within the existing urban environment*", while the proposed solar farms will also provide for ongoing productive land uses to occur. In addition:

While there is a limited extent of urban activities proposed to be located on land which is defined as highly productive soils, this land is subject to permanent and long-term constraints which limit productivity. For these reasons, it is considered that Ashbourne will safeguard the supporting capacity of soil resources. The proposal also includes ecological enhancement and careful stormwater management measures to safeguard the supporting capacity of water and ecosystems.

- d. The Project "*incorporates a range of measures to adequately avoid and mitigate adverse effects on the environment*" that have been integrated into the proposal and will be secured through conditions of consent.

Panel finding

761 The Panel has previously expressed its view as to the concerns we hold in respect of the consistency or otherwise of the Proposal with respect to the objectives and

284 Applicant's Response to Comments, Attachment 2, at 20-21.

policies of the WRPS and the MPDP, and in that regard consider that Mr Rademeyer's evidence in response to the Applicant's assessment is to be preferred. For the reasons set out earlier in this decision, we also have difficulty accepting Mr McNutt's response as to the necessity of the proposal in terms of the need for greater housing supply, and more particularly, that the majority of the proposal is located on land located within the existing urban environment.

762 We note Ms Tait's view that the application does not give effect to the purpose of the RMA.²⁸⁵ This was for the reason that the proposal does not meet an unsatisfied housing supply need and accordingly seeks to utilise HPL unnecessarily (thereby safeguarding the life supporting capacity of the HPL and not sustaining the soil resource for the reasonably foreseeable needs of future generations). She also did not consider the proposal to be an efficient use of the finite soil resource given that there is sufficient zoned and planned land for housing supply. She also noted concerns with respect to natural hazards, which we have previously determined to not weigh against a grant of consent.

763 Mr McNutt's response on Part 2²⁸⁶ set out the reasons why he did not agree with Ms Tait. He was of the view that the use and protection of HPL must be appropriately balanced against the need to enable social and economic wellbeing, expressed here through *"a logical and efficient response to growth, delivering integrated infrastructure, higher density outcomes relative to rural-residential development, accessible neighbourhood services, and renewable energy generation in a coordinated and sustainable manner"*. In section 2 terms, he considered that *"[t]he change to rural amenity is justified when considering the housing need and that the development clearly assists with achieving a well-functioning urban environment"*.

764 We have previously recorded our findings with respect to the RV and those elements of the residential subdivision located on HPL, and our concerns as to the interface of proposed urban development with adjacent rural residential environments. The changes we have determined to be necessary in respect of the latter align with the advice of the Council as to the way in which a more acceptable outcome can be achieved with respect to that interface and will require changes to the Proposal to provide for a consentable subdivision design.

765 The Panel has considered the Application in light of the purpose and principles of the RMA (in Part 2). Our findings in this regard are somewhat 'coloured' by the statutory requirement for us to give greater weight and primary to the purpose of the FTAA. We

285 S Tait, Planz, Planning Advice to the Panel (3 February 2026).

286 F McNutt, barker & Associates, Memorandum on Behalf of the Applicant in Response to Minute 14 of the Expert Panel (13 February 2026).

cannot say that the Application, as presented, accords with the purpose and principles of Part 2. We note in particular that the MPDP is the current expression of Part 2 for the Matamata district, and the way in which the social, economic and cultural well-being of the community will be best served.

766 However, based on our findings to decline consent to those Project Parts located with HPL, and our decision to require changes to the interface components of the residential subdivision, we conclude that, on balance, the Proposal does not offend Part 2. We reiterate that this conclusion is only reached in reliance on the amendments set out earlier in decision and that the residential Project Part would not have satisfied Part 2 absent those modifications.

767 As will be apparent from the above findings, the Panel has not given greater weight to the RMA considerations than to the overall purpose of the FTAA as required by clause 17.

PART M: FTAA, SECTION 3

768 The Panel's decision is subject to the purpose of the FTAA contained in section 3, which is to facilitate the delivery of infrastructure and development projects that provide significant regional or national benefits. The Panel notes that the Act requires benefits at either scale to be demonstrated and that both are not required. For completeness, the Panel records that no aspect of the Proposal meets the threshold for national benefits as understood under section 3.

769 Having assessed the regional or national benefits in Part F of this Decision, the Panel finds that:

- a. The solar farm component of the Proposal will deliver significant regional benefits and accordingly meets the purpose of the FTAA.
- b. The portion of the proposed residential development located off LUC 2 land will also provide significant regional benefits, subject to specific and targeted conditions, and on that basis is capable of satisfying section 3.
- c. The RV component does not demonstrate regional benefits sufficient to outweigh its potential adverse effects or the "avoid" directive in the NPS-HPL.

PART N: OVERALL ASSESSMENT

770 Per Part C of this Decision, the Panel may decline an approval if, in complying with section 81(2) of the Act, 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.²⁸⁷

(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).

771 This test differs from that under the RMA as set out in *King Salmon*.²⁸⁸ The approach previously taken by both the Court and local authorities of adopting an overall judgment approach to environmental decision-making under the RMA was incorrect. In contrast, the FTAA clearly envisages an overall judgment or balancing approach to decision-making. The Panel must balance the adverse impacts against the regional or national benefits of the project.

772 With reference to the principal issues of contention set out at Part I, the Panel's findings on adverse impacts and regional benefits are set out below.

773 The FTAA directs the Panel, when considering the Proposal, to give the greatest weight to the purpose of the Act, which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits

774 Throughout the Panel's decision-making process, the Applicant was required to respond to numerous Panel minutes, most of which were requests for further information. A number of amendments to the application materials and offered conditions were made during this process.

Solar Farms

775 The Panel finds that both proposed solar farms fulfil the purpose of the FTAA, for the reasons set out in Part F of this Decision.

- a. Generating 29 MW of renewable electricity, equivalent to powering approximately 7,000 dwellings, is, at the very least, of regional significance.

287 Fast-track Approvals Act 2024, s 82.

288 *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38.

- b. Any adverse effects on neighbours will be satisfactorily addressed through the Applicant's boundary treatments and the conditions imposed.

Residential subdivision

- 776 In respect of the residential subdivision, we accept that, at first instance, the provision of over 500 lots to accommodate dwellings of varying typology qualifies for consideration as being of regional significance.
- 777 The Panel received close to 50 comments from neighbours who were invited to respond. A significant number of comments were comprehensive and demonstrated a high degree of local knowledge. Most expressed strong opposition to the Proposal, particularly the residential component.
- 778 There was a clear and consistent sentiment of concern and dismay about the prospect of medium-density housing on land zoned rural or rural residential. Having undertaken a site visit, the Panel has sympathy for this position.
- 779 As discussed earlier in this Decision, the Panel has agreed with Mr Munro's advice that the external boundary between the residential zone and the rural residential properties requires lot sizes averaging 1,500 m² (between 1,200m² and 1,800m²) with 8m setbacks and with a 4m wide landscape buffer.
- 780 There were several issues in dispute which we have referred in the body of this Decision, such as flooding, traffic, and productivity, degree of regional significance and displacement.
- 781 The Panel finds that the residential component can only meet the regional benefits threshold if it does **not** include residential development on highly productive land. Accordingly, the portion located on LUC 2 land must be excluded (*with reference to retirement village, below*). A careful balancing exercise was undertaken when reaching this decision, and the weighing of both benefits and adverse effects led to the approval of the residential development **in part**, subject to carefully curated conditions, and the reduction of the number of lots to 430 as provided for following the Draft Decision.

Retirement Village

- 782 While the Panel accepts that the RV would offer a range of economic benefits, none of those benefits depend on it being located on land subject to the NPS-HPL.
- 783 We accept the Council's evidence that Matamata has land available elsewhere for the development of a retirement village, and that there is no current or medium-term

need for further retirement villages.

784 A pathway through the NPS-HPL is available for the solar farms, but no such pathway exists for the RV.

785 We acknowledge that clause 17(4) of Schedule 5 does not compel the Panel to decline an application merely because it is contrary to a provision that might otherwise require decline. However:

- a. The Applicant has repeatedly referred to the significant economic benefits of the RV relative to the economic benefits of grazing stock. This argument could be made for any proposal on HPL and reflects precisely the concern that led Parliament to promulgate the NPS-HPL.
- b. We do not consider that the NPS-HPL can be ignored and we have referred earlier to the legal advice obtained, which confirms that position.
- c. We do not consider the FTAA to be a licence to override the higher-order status of a National Policy Statement, particularly given the strong directive to “avoid” development such as a RV on rural HPL where alternative appropriately zoned and serviced land exists elsewhere.
- d. The Panel found that the evidence purporting to find a pathway to consent through clause 3.10 of the NPS-HPL was not persuasive and the evidence on behalf of the MPDC was preferred.

786 The Panel was also concerned about placing a high-density residential activity between rural and rural-residential land. The fact that the land was entirely unserviced and required private servicing underscored the unanticipated nature of the proposal.

PART O: FINAL DECISION

787 The Panel has considered the Application and supporting information, as well as the comments received on it and on the draft conditions, and the further information provided following comments from participants. We thank all those who contributed, particularly the numerous neighbours and community members who provided highly valuable, detailed comments and local knowledge.

788 Overall, the Panel is satisfied that the matters set out in section 81 of the FTAA have been addressed appropriately and that the purposes of the FTAA are achieved by this decision, including:

- a. **Approval** of the solar farms;

- b. **Approval** of the residential subdivision to the extent that it is not located on HPL and is amended to address the boundary interface issues that we have identified; and,
- c. **Decline** of the retirement village.

789 In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity as set out above. The Panel has also had regard to all relevant planning documents.

Final determination

790 The Panel determines to grant the solar farm approvals and to grant, in part, residential development approvals sought, subject to the Conditions attached as Appendix A to this Decision.

791 Further, the Panel determines to decline the retirement village and the associated approvals sought.

792 As required by section 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 14-working day period from the day that the final Decision is published under section 88(3).

793 In concluding, the Panel wishes to acknowledge and thank;

- a. Local Residents and Communities for their participation in the process. The Panel has had very close regard to your concerns which have been informative to our decision-making.
- b. Mr Brabant, Mr Williamson, Mr Denne and Ms Tait whose independent advice to the Panel was invaluable. We appreciate the efforts to assist the Panel.
- c. Applicants for providing information as required and MPDC and WRC for their contributions to the decision-making process and the setting of conditions.
- d. Our EPA Application Lead, Jessie Richardson and our Scribe Alexandria Solly for excellent support throughout the Fast Track process.



Sue Simons (Chair)



Richard Blakey (Member)



Nigel Mark-Brown (Member)

SUPERSEDED

APPENDIX A: CONDITIONS OF CONSENT

SUPERSEDED

APPENDIX B: RESOURCE CONSENT TRIGGERS

SUPERSEDED