

Before the Expert Consenting Panel

**In the matter** of an application for approvals under section 42 of of the  
Fast-track Approvals Act 2024 (**Act** or **FTAA**)

**and**

**In the matter** of Ashbourne

**FTAA-2507-1087**, a referred project under section 21 of  
the FTAA

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**MEMORANDUM OF COUNSEL ON BEHALF OF MATAMATA DEVELOPMENT  
LIMITED**

**19 January 2026**

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**MAY IT PLEASE THE PANEL:**

1. This memorandum is filed on behalf of the applicant, Matamata Development Limited (**MDL**), and provides:
  - (a) an overview of MDL's response to the Expert Consenting Panel's (**Panel**) Minutes 8, 9, and 10, which were issued on 17, 18, and 22 December 2025 respectively; and
  - (b) commentary regarding the amendments to the Act made by the Fast-track Approvals Amendment Act 2025 (**Amendment Act**) and which are relevant to:
    - (c) the Private Developer Agreement (**PDA**), that MDL is seeking to agree with the Matamata-Piako District Council (**Council**); and
    - (d) the assessment of the regional and national benefits of the Ashbourne project (**Proposal**).

**Overview of MDL's response to Minutes 8-10**

*Response to Minute 8*

2. In its eighth Minute the Panel requested 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 certain comments from Mr Tim Denne of Resource Economics in his economic review dated 28 November 2025.
3. To date the Panel has received economic analysis from:
  - (a) Insight Economics (on behalf of MDL);
  - (b) Property Economics (on behalf of the District Council); and
  - (c) Resource Economics (appointed to assist the Panel).

4. MDL has engaged an additional consultant, Mr Lawrence McIlrath of Market Economics, to respond to Resource Economics' review with a particular focus on the economic benefits of the Proposal's solar farm component. Market Economics' analysis is attached as **Appendix A**.
5. In summary, the analysis concludes that the solar farms will deliver substantial benefits to both the Waikato region and New Zealand by adding electricity generation capacity (estimated at between \$95m and \$141.5m to the wholesale market), making the electricity supply network more resilient, potentially deferring broader infrastructure investment, and contributing to New Zealand's decarbonisation and emissions reductions goals (including avoiding emissions valued at \$6.2m).

*Response to Minute 9*

6. In its ninth Minute the Panel requested information to demonstrate how the Proposal would contribute to a "well-functioning urban environment" in terms of Policy 1 of the National Policy Statement on Urban Development 2020 (**NPS-UD**). It also indicated that it would seek legal advice on whether displacement effects should be accounted for when considering whether the Proposal has 'significant regional or national benefits'.
7. Barker & Associates (**Barkers**) has prepared a detailed planning response to each of the Panel's queries regarding NPS-UD Policy 1. Barkers' planning memorandum is attached as **Appendix B**. In summary, Barkers' analysis is that the Proposal will contribute to a well-functioning urban environment in terms of each of the different components of policy 1 of the NPS-UD. In particular:
  - (a) in terms of sub-paragraph (a) of policy 1, Market Economics' commentary regarding the affordability of dwellings provided as a part of the Proposal for non-owner (rental) households evidences that the Proposal will help to ensure that a variety of

homes that “meet the needs, in terms of type, price, and location, of different households” are provided within the Matamata urban area;

- (b) in terms of sub-paragraph (c) of policy 1, there will be active transport connections available between the development and the Matamata Town Centre;
- (c) all resource consents are enabling and there is no guarantee any aspect of a consented development will be delivered in part or in full. It is therefore not feasible or appropriate to include further conditions that would provide certainty that the solar farm component of the Proposal will be constructed. That said, the solar farms are an integral component of the Proposal and have been carefully and thoroughly analysed to ensure they are economically viable. In addition, MDL has partnered and entered into commercial arrangements with Lightyears Solar, an established developer and operator of grid-connected solar projects. MDL submits that those arrangements should give the Panel comfort that it intends to implement the solar farm component of the Proposal without the need for conditions. Those solar farms, along with features of the residential components of the development, will support reductions in greenhouse gas emissions in terms of sub-paragraph (e) of policy 1; and
- (d) although the Proposal has the potential to result in some degree of temperature increase in its vicinity, the urban heat island effects of the Proposal have been minimised through landscaping and design requirements. This will ensure that the development is resilient to the likely current and future effects of climate change in terms of sub-paragraph (f) of policy 1.

*Response to Minute 10*

8. In its tenth Minute the Panel granted an extension of the deadline for MDL to respond to the information requests in Minutes 8 and 9, from 19 December 2025 to Monday 19 January 2026. MDL has provided the relevant information in accordance with this revised deadline.

**Implications of the Amendment Act for the Panel’s assessment of this Proposal**

*Imposition of conditions relating to the PDA*

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.<sup>1</sup> 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.<sup>2</sup>

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.

12. Additionally, and as the Panel will be aware, it may only decline the approvals sought of the Proposal if:<sup>3</sup>

- (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

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1 See also: FTAA, section 81(2)(ea).

2 The day after the Amendment Act received Royal Assent: Fast-track Approvals Amendment Act 2025, section 2(1).

3 Fast-track Approvals Act 2024 (FTAA), section 85(3).

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.

13. Mr Denne has suggested that there was insufficient evidence that “the developer could pay for the infrastructure [required for the Proposal] and still have a viable project”.<sup>4</sup> 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 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”.

*Regional and national benefits of the Proposal*

14. As the Panel will recall, the memorandum of counsel on behalf of MDL dated 17 December 2025 (**December Memorandum**) set out five principles derived from previous panel decisions as to determining the “regional significance” of the Proposal.
15. The Amendment Act has amended Schedule 2 of the Act to clarify that that the projects listed in that schedule have significant regional or national benefits. The Minister explained at the first reading of the Fast-track Approvals Amendment Bill that the purpose of this amendment was to “allow expert panels to focus on the adverse impacts and whether or not they outweigh the projects’ benefits and reduce unnecessary litigation”.<sup>5</sup> In MDL’s submission, this overturns the first of the principles it identified paragraph 14(a) of its December Memorandum.

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4 Economics joint witness statement (11 December 2025) at [101].

5 (6 November 2025) 787 NZPD.

16. Despite the Proposal not being listed in Schedule 2 of the Act, it is of significance that the Proposal has been the subject of substantive assessment that has concluded that it will “have significant regional benefits” as a part of the decision by the Minister of Infrastructure to refer it to the Panel. Arguably that assessment was more exhaustive and thorough than the scheduling process and in MDL’s submission, the amendments made by the Amendment Act suggest that the “forensic” approach taken by other panels in determining whether projects have significant national or regional benefits is not considered by Parliament to be appropriate.<sup>6</sup>

**DATED** at Auckland this 19<sup>th</sup> day of January 2026



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<sup>6</sup> See for example, Record of Decision of the Maitahi Village Expert Consenting Panel at [84].

## Appendix A: Market Economics analysis

**Appendix B: Barker & Associates planning memorandum**