

BEFORE THE FAST-TRACK EXPERT PANEL

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

AND

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

MEMORANDUM OF COUNSEL FOR MATAMATA-PIAKO DISTRICT COUNCIL

Dated: 17 December 2025

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MAY IT PLEASE THE COURT

1. INTRODUCTION

1.1 Further to the Joint Memorandum of Counsel dated 11 December 2025, these legal submissions are filed on behalf of Matamata-Piako District Council (the **Council**) to assist the Panel in determining the question of how regional significance should be considered and determined.

2. HOW SHOULD REGIONAL SIGNIFICANCE BE CONSIDERED AND DETERMINED?

2.1 Decisions to date under the FTAA indicate that Fast-track Panels apply a contextual interpretation of “regional significance”.

2.2 The decisions on the projects discussed in **Section 3** below illustrate how the Panels have consistently turned to section 22(2) of the FTAA for guidance in interpreting “significant” regional or national benefits.

2.3 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 Rangitooopuni, can also satisfy the regional significance threshold. However, the Delmore decision confirms that qualitative benefits alone are insufficient where critical infrastructure constraints remain unresolved and claimed benefits are aspirational rather than substantiated.

2.4 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.

2.5 The following contextual considerations arise in relation to Ashbourne:

(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.¹

(b) The Applicant has overstated the demand for housing at this location. As noted by Tim Heath, the Ashbourne development is unlikely to stimulate significant additional demand.² A range of broader factors

¹ [JWS Economics](#) at [93].

² *Ibid* at [26].

drive housing demand, including household demographic trends, access to employment and amenity, and migration inertia.³

- (c) There are concerns about the potential impact of infrastructure costs on the project's viability and the broader implications for the Council's infrastructure system.

2.6 These contextual considerations indicate that the Ashbourne application calls for a more quantitative assessment rather than relying primarily on qualitative claims.

3. ANALYSIS OF DECISIONS UNDER THE FTAA

Waihi North – Draft Decision

3.1 Because “significant” is not defined in the FTAA, the Panel drew assistance from section 22(2), which sets out the criteria the Minister may consider when deciding to refer a project. Section 22(2) states:

- (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, 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:

³ Ibid at 28.

- (x) is consistent with local or regional planning documents, including spatial strategies:

3.2 Key points of assistance drawn from section 22(2) of the FTAA included:

(a) **Broad Scope of Significant Regional Benefits**

Section 22(2) lists various factors that can indicate regional or national significance, including economic benefits, supporting primary industries, and natural resource development. The Panel's draft decision acknowledges the limitations of the economic impact analysis but concludes that the 442 additional jobs for the Hauraki District will be a significant regional benefit. Interestingly, the Panel did not interpret 'regional' as referring to the boundaries of a regional council under the Local Government Act. Instead, it adopted a broader construction, treating the area in and around Waihi as the Hauraki District for its purposes.⁴ The Panel noted:⁵

The around 442 additional jobs associated with implementation of the WNP will represent a substantial portion of employment in the Hauraki District (in excess of 7 per cent of the current number of jobs).

The Panel addressed criticism of the Applicant's input-output multiplier analysis for assessing indirect and induced employment. The Panel, accepting the limitations, stated, "*We accept that input-output multiplier analysis of the kind used by Mr Equab is likely to overstate economic impacts*".⁶ However, the Panel found the methodology more reliable for local assessment, noting "*much of the criticism of input-output multiplier analysis has addressed its use to assess regional and national, as opposed to local, impacts*."⁷ The Panel concluded that for the Hauraki District specifically, "*most of the uncertainties that underpin the criticisms of input-output multiplier analysis fall away*."⁸ Accordingly, the Panel accepted the employment figures for the Hauraki District while applying greater caution to the regional and national figures.⁹

⁴ [Draft decision and conditions for Waihi North, Part F: Regional and National Benefits](#) at [93].

⁵ *Ibid* at [94].

⁶ *Ibid* at [56].

⁷ *Ibid* at [61(a)].

⁸ *Ibid* at [61].

⁹ *Ibid* at [64] – [66].

(b) **Economic Benefits as a Key Indicator**

The Panel treated economic benefits as a primary indicator of regional significance and addressed several methodological issues in its assessment. The Panel's consideration of economic benefits addressed the Applicant's use of nominal (2024) dollar figures rather than net present values, in relation to revenues and impacts that will occur over time. This approach was criticised by parties who commented under section 53. The Panel agreed with the criticisms, stating "*We agree with these criticisms*",¹⁰ and subsequently relied on discounted present value figures rather than nominal values.¹¹

The Panel clarified that reliance on economic benefits requires accounting for any corresponding disbenefits, stating:¹²

We agree that where economic benefits are relied on by an applicant, any economic disbenefits should be allowed for, particularly if the benefits and disbenefits are of the kinds that have market values against which they can be measured in money terms".

The Panel then dealt with a methodological debate about whether a full cost-benefit analysis was required (as opposed to economic impact assessment). The Panel rejected a full cost-benefit analysis as a requirement, stating:¹³

we do not accept that adverse environmental impacts must be monetised and factored directly into the assessment of economic benefits. Instead, we are of the view that we can assess the benefits relied on by OGNZL separately from any adverse environmental impacts.

The Panel gave several reasons for this:

- (i) There is no explicit requirement for either the 'benefits' or 'adverse impacts' to be quantified in monetary terms;¹⁴
- (ii) If adverse impacts have already been monetised and factored into the benefits assessment, there would not be

¹⁰ Ibid at [20].

¹¹ Ibid at [21].

¹² Ibid at [34].

¹³ Ibid at [34].

¹⁴ Ibid at [36(a)].

much point in a weighting exercise of the kind required by section 85(3);¹⁵ and

- (iii) The Panel concluded that this approach accords with the approach taken by the Supreme Court in *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board*, which “concluded that a ‘qualitative analysis of environmental, social and cultural benefits and costs’ had been open to the decision-maker.”¹⁶

The qualitative approach allowed the Panel to consider the benefits and adverse impacts without requiring all factors to be monetised.

(c) **Significance as an Indication of Scale**

The Panel interpreted “significant” in the context of the FTAA as an indication of scale rather than requiring “game-changing” effects. The Panel said:¹⁷

In the context of “deliver significant economic benefits” and “development of natural resources including mining”, it is not particularly likely that any one project will produce game-changing effects, certainly across the country as a whole. The same can be said of any one project to “increase the supply of housing”. Indeed, in a large city, even a substantial housing project is unlikely to make a material change to the supply of housing. All of this supports the view that “significance” is not to be determined by reference to whether implementation of the project will appreciably change national or “regional” gross domestic product or the annual tax revenue of the Government. Rather it is an indication of scale.

Milldale

- 3.3 The expert Panel for the Milldale project also drew assistance from the factors listed in section 22(2) of the FTAA. The Panel noted that the economic assessment provided in Appendix 2M to the Milldale Application¹⁸ provided a fulsome examination of the potential economic impacts of the

¹⁵ Ibid at [36(b)].

¹⁶ Ibid at [37] citing *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* [2021] NZSC 127.

¹⁷ Ibid at [91].

¹⁸ [Economic Assessment of Milldale Stages 4C and 10-13 Fast-track Application dated 27 March 2025.](#)

project.¹⁹ The Panel's decision notes that the economic assessment outlines that:²⁰

- 187.1 Under the medium growth scenario, Auckland's population is forecast to grow by a further 443,000 people in the next 30 years. This swells to nearly 827,000 additional residents under the high growth scenario. These translate to compound annual growth rates of 0.8% and 1.3% respectively.
 - 187.2 The proposal enables development at Milldale to continue to advance, including the creation of more than 1,100 new residential sections. This represents a highly significant boost in housing supply for the Auckland region.
 - 187.3 The significant boost in residential sections enabled by the proposal will help to narrow the gap between likely future supply and demand. All other things being equal, this supply boost will help the market to be more responsive to growth in demand, thereby reducing the rate at which Auckland's house prices grow over time (relative to the status quo).
- 3.4 The decision also notes that at a national level, the Milldale development is projected to contribute approximately \$492 million to GDP, generate 3,550 FTE years of employment, and deliver \$295 million in wages through construction and related industries. It also noted that the project will support Auckland's economic growth by facilitating more than 1,100 new households and contributing an estimated \$112 million in annual spending.²¹
- 3.5 The proposal addressed critical infrastructure constraints by providing a temporary wastewater treatment plan (WWTP) in the event that there are capacity constraints at the Army Bay wastewater treatment plant.²²
- 3.6 No party disputed the benefits of the Milldale project, and the Panel found that it will generate significant regional benefits.

Drury Metropolitan Centre

- 3.7 Although Drury was not a referred project, the Panel applied the same interpretive approach as Waihi North and Milldale by using the criteria in section 22(2) of the FTAA as guidance for determining "significant" regional or national benefits. Factors (relevant to this proposal) included:²³

¹⁹ [Decision report and conditions of consent for the Milldale application](#) dated 29 July 2025.

²⁰ Ibid at [187].

²¹ Ibid at [187.5].

²² Ibid at [3].

²³ [Decision for the Drury Metropolitan Centre – Consolidated Stages 1 and 2](#) dated 7 November 2025 at [271].

- (a) Identification as a priority project in government planning documents;
- (b) Enablement of new regional infrastructure;
- (c) Increasing the supply of housing supply and contribution to a well-functioning urban environment;
- (d) Delivery of significant economic benefits (including through increased employment); and
- (e) Consistency with local and regional planning documents.

3.8 The Panel considered the extent of the Drury project's benefits and had no difficulty in concluding that the project will generate significant benefits to the Auckland region.²⁴ The Panel did note that there was a criticism that the benefits might be overstated. However, in that context, the difference of opinion related to the perceived magnitude of effects. There was no question that benefits would not arise from the project.²⁵

Bledisloe North Wharf and Ferguson North Berth Extension

3.9 The expert Panel found without question that the Bledisloe North Wharf and Ferguson North Berth Extension will deliver significant regional and national benefits. The decision notes that:²⁶

Despite some misgivings about the methodology, the Council's Economist and Chief Economist state the Projects are likely to make a positive contribution to regional and national economy and deliver a net benefit to society assuming that the counterfactual would mean the Port would eventually face capacity constraints resulting in displacement of container/vehicle trade to Tauranga located further from the primary import market. Prior studies applying a cost-benefit analysis finding society to be materially worse off if vehicle imports are moved away from Auckland and shifting of container trade to an alternative location would be unlikely to result in a net benefit to society than if the activity remained at the Port.

3.10 The economic impact assessment provided a fulsome examination of potential impacts of the projects. Ultimately, the Panel concluded that the projects would deliver significant regional benefits based on their alignment with the FTAA's purpose, their economic contributions, their consistency with

²⁴ Ibid at [272].

²⁵ Ibid at [270].

²⁶ [Amended decision for the Bledisloe North Wharf and Fergusson North Berth Extension Application](#) dated 21 August 2025 (amended 8 September 2025).

planning documents, and support from stakeholders. These factors are all within the scope of the considerations in section 22(2) of the FTAA.

Rangitooopuni

- 3.11 The principal issues in contention identified by the Panel for the Rangitooopuni project included: *“i. Has the Application adequately justified that it will achieve a regional or national benefit?”*
- 3.12 This issue was resolved in the context of the Rangitooopuni project because it was accepted without dispute that the development will deliver regionally significant cultural, social, and environmental benefits for Te Kawerau ā Maki, thereby bringing the project within the scope of section 3 of the FTAA.
- 3.13 The Panel’s findings on this issue are set out in paragraphs 279 and 280 of the decision as follows:²⁷

[279] We do not want to ignore the economic analysis obtained by the Delmore panel on this significant issue, especially seeing it was obtained in the context of a housing project, albeit one with several differences to the Application. Nor do we simply want to dismiss Mr Stewart’s considered observations. If those analyses mean that housing projects utilising the FTAA require more far-reaching economic assessment in order to pass the FTAA benefit thresholds for approval, then that is for those projects to confront.

[280] In terms of this Application, however, we are satisfied that it will have significant regional and national benefits: regionally in the provision of more retirement housing options; and, significantly, regionally and nationally because of the social, cultural, economic and environmental benefits it will bring to Te Kawerau ā Maki.

- 3.14 The Panel’s reasoning reflects a contextual interpretation of “regional significance,” confirming that such significance under the FTAA may extend beyond economic metrics to include cultural, social, and environmental outcomes for mana whenua.

Delmore – Draft Decision

- 3.15 The draft Delmore decision provides an example of the Panel exercising its discretion to decline an application where the context includes unresolved infrastructure constraints and overstated demand.

²⁷ [Decision for Rangitooopuni](#) dated 26 November 2025 at [279]-[280].

3.16 The Panel determined, based on the evidence, that the Applicant had overstated the demand for greenfield residential land.²⁸ The Panel also identified significant water, wastewater, and transport infrastructure constraints and concluded that the proposed interim solutions were not feasible and could not be relied upon to address these infrastructure constraints. Ultimately, the Panel found that the adverse impacts (which were broadly in relation to ecological and transport effects and the lack of appropriate water services infrastructure) were so significant that they were out of proportion to the Project's regional benefits.

3.17 The Delmore decision explicitly called for a more quantitative assessment rather than relying primarily on qualitative claims. The Panel said:²⁹

Based on the reports by the four economists, the Panel agrees that the methodology adopted by Mr Thompson is not sufficiently robust to analyse and consequently value benefits. The Panel finds that in the absence of a detailed cost-benefit analysis, it would be imprudent to suggest that economic benefits of the proposed development are of such significance that it needs to be developed in advance of the timing and availability of appropriate supporting infrastructure. As such the Panel agrees with Messrs Stewart and Meade and Dr Denne that the benefits have been overstated.

3.18 The draft Delmore decision confirms that classification as a "listed project" under Schedule 2 of the FTAA does not guarantee approval. 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.

DATED the 17th day of December 2025



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²⁸ [Draft Decision for Delmore](#) dated 17 September 2025 at [491].

²⁹ Ibid at [500].