

BEFORE THE FAST-TRACK PANEL CONVENER

IN THE MATTER

An application for approvals under section 42 of
the Fast-track Approvals Act 2024 (“Act” or
“FTAA”)

AND

IN THE MATTER

Delmore, a project listed in Schedule 2 to the FTAA

MEMORANDUM OF COUNSEL FOR THE APPLICANT

28 April 2025

MAY IT PLEASE THE PANEL CONVENER

1. Introduction

- 1.1 This memorandum addresses the matters set out in Schedule 1 to the panel convener's 10 April 2025 Minute ("**Minute**"), and the panel convener's decision on panel appointments and decision timeframe.

2. Schedule 1 matters

Approvals

- 2.1 The approvals sought are in section 8 of the assessment of effects lodged with the application.¹
- 2.2 Three types of approvals are sought:²
- a. Resource consent under:
 - i. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020.³
 - ii. The Auckland Unitary Plan.⁴
 - b. Change of a resource consent condition, particularly the conditions of three consent notices.
 - c. Archaeological authority, including an application for approval for a nominated person to undertake the activities authorised by the authority.⁵

Complexity

Legal complexity

- 2.3 As one of the first projects to be considered by a panel under the FTAA the potential for novel legal issues to arise is unavoidable.
- 2.4 That potential is minimised in this case because the project is a master-planned residential development located on land that is earmarked for that purpose. Delmore is not a project that is inherently controversial.

Evidential complexity

- 2.5 41 appendices are attached to the assessment of effects.
- 2.6 19 of the appendices are technical reports, prepared by experts whose advice underpins the project's design and/or methods adopted for managing effects.
- 2.7 The balance of the appendices are architectural or engineering plans; draft management plans; consultation records; information supporting the planning

¹ Which begins on pg 38

² FTAA, s 42(4)(a), (b), and (i)

³ regulations 45 and 71

⁴ Under 18 different AUP chapters covering district and regional consents

⁵ FTAA, sch 8 cl 7. The person nominated in the application is Ellen Cameron of Clough Ltd

analysis in the assessment of effects; or provide information about the project, applicant, or project site.

- 2.8 Although the number of documents is reasonably high, the information provided is typical of a large, master-planned residential development and is not overly complex when considered in that way.

Procedural complexity

- 2.9 The application is for three types of approvals, which are typical approvals for a master-planned residential development.
- 2.10 The applicant has applied for all approvals it understands are required for the project that can be sought under the FTAA, except for approvals under the Freshwater Fisheries Regulations 1983.
- 2.11 The applicant has opted to work directly with its neighbour, the Department of Conservation, on any approvals required under the regulations. Approvals under the regulations are focused on discrete effects and activities, and any concern about ensuring alignment between them and the approvals sought under the FTAA can be managed through conditions.

Panel membership

- 2.12 Any complexity issues at play in this case would likely be overcome by appointment of panel members with experience in large, master-planned residential development projects.
- 2.13 The applicant does not consider there are factors warranting the appointment of more than four panel members.

Tikanga

- 2.14 The applicant does not comment on tikanga.
- 2.15 It is simply noted that the applicant has worked closely with Ngāti Manuhiri, Ngaati Whanaunga, and Te Kawarau ā Maki, to understand their views and respond to any concerns through the project's design and/or how effects are managed. .
- 2.16 It is committed to continuing to work with ngā iwi going forward in a way consistent with tikanga and kawa.

Procedural requirements

- 2.17 The applicant is willing to engage directly with the panel as necessary to advance the application.
- 2.18 The applicant considers a hearing is not required.
- 2.19 The application is typical of a master-planned residential development in an area earmarked for that activity. It is not itself overly complex, and it is submitted that any complexity associated with this application being one of the first considered by a panel under the FTAA, can be managed through the time allocated to the panel for making a decision.

2.20 Similarly:

- a. Any matters in respect of which the panel requires clarification can be addressed through requests for further information.
- b. Any matters relating to conditions can be addressed through the statutory process for providing comments on draft conditions.
- c. The applicant has already undertaken extensive engagement which it has responded to through the project's design and/or effects management measures. It continues to keep the lines of communication open. Differences in view on matters not already addressed by the applicant can be set out by those invited to comment on the application, and responded to by the applicant, as part of the statutory process.

3. Time for making decision

- 3.1 As a starting point, a panel has up to 60 working days to decide an application.⁶
- 3.2 If the Delmore panel is set up on the Monday after the conference, this results in the following timeframe:
 - a. Panel set up Monday 5 May 2025.
 - b. Invitation for written comments 19 May 2025.⁷
 - c. Comments in response to invitation 17 June 2025.⁸
 - d. Panel decision 30 July 2025.⁹
 - e. Any High Court appeals filed 27 August 2025.¹⁰
- 3.3 The panel may direct the EPA to request further information or for a report to be commissioned at any time during this 60 working day period.¹¹
- 3.4 Adopting the full 20 working day period for providing comments provides opportunity for the applicant to meet and work with those invited to provide comments to try and address any concerns.
- 3.5 With the timeline at para 3.2, the factors at paras 3.3 and 3.4, and the factors in section 2 of this memorandum in mind, the applicant respectfully submits that a timeframe which gives the panel an extra 5 working days to make its decision is appropriate.¹²
- 3.6 This would see the 30 working day timeframe in s 79 of the FTAA extended to 35 working days, and would require a decision to be issued 6 August 2025.

⁶ FTAA, ss 53, 54, 79

⁷ FTAA, s 53(1) – 10 working days after panel set up

⁸ FTAA, s 54(1) – 20 working days after invitation. Date accounts for Kings Birthday on 2 June 2025

⁹ FTAA, s 79(1) – 30 working days after responses. Date accounts for Matariki on 20 June 2025

¹⁰ FTAA, s 100(1) – 20 working days after decision

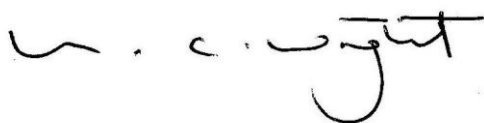
¹¹ FTAA, s 67

¹² FTAA, s 79(2)(b) - having regard to the scale, nature, and complexity of the application, and to the fact that it is one of the first applications considered under the FTAA

- 3.7 This would provide the panel with sufficient time to make an informed decision and be consistent with the principles in s 10 of the FTAA.

4. Conclusion

- 4.1 The applicant thanks the panel convener for the opportunity to attend the conference about panel membership and the timeframe for deciding the application.
- 4.2 It is committed to assisting the panel and the panel convener as needed going forward.



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