

Under the Fast-track Approvals Act 2024 (**FTAA**)

And

In the Matter of an application to create approximately 1,500 residential lots of stand-alone and terraced dwellings, together with a commercial centre, two neighbourhood parks, esplanade and drainage reserves and supporting infrastructure by Fulton Hogan Land Development Limited at Milldale North (Stages 14 – 17)

**Memorandum of Counsel on behalf of Fulton Hogan Land Development Limited
Responding to Minute 1 of the Panel Convener**

Dated 15 October 2026

Jeremy Brabant
Barrister
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PO Box 1502, Shortland St
Auckland

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May it please the Panel Convener:

Introduction

1. This memorandum is presented on behalf of the Applicant, Fulton Hogan Land Development Limited (**FHLD**). It responds to Minute 1 of the Panel Convener dated 29 September 2026.
2. Minute 1 identifies matters to be considered at a Convener's Conference to be held on 22 October 2026. The information sought is set out in that Minute.

Confirmation of Attendees

3. The following attendees will be present at the Convenor Conference on behalf of FHLD:
 - a. Greg Dewe (FHLD Representative);
 - b. Jeremy Brabant (Legal Counsel); and
 - c. Rachel Morgan and Charlotte MacDonald (Planning – Barker & Associates).

Approvals Sought

4. FHLD is seeking approval for resource consents that would otherwise be applied for under the Resource Management Act 1991 (**RMA**).

Engagement

Pre-lodgement

5. FHLD has engaged with relevant administering authorities and Iwi prior to lodgement and has continued to do so since lodgement.
6. The approach to and extent of the pre-lodgement engagement undertaken by FHLD is set out in Appendix 7 to the Substantive Application.¹ This details

¹ Attachment 7 Milldale Stages 14 – 17 Consultation Summary dated 17 August 2026.

consultation undertaken, correspondence sent and received, meetings, workshops and site visits.

7. Pre-lodgement consultation has been undertaken with the following parties:

- a. New Zealand Transport Agency Waka Kotahi (**NZTA**);
- b. Ministry of Education (**MoE**);
- c. Auckland Council (**Council**) including:
 - i. Healthy Waters;
 - ii. Auckland Transport (**AT**); and
 - iii. Watercare Services Limited (**Watercare**).
- d. The Rodney Local Board;
- e. Ngāti Manuhiri;
- f. Te Kawerau a Maki; and
- g. Ngāti Whanaunga.

8. A letter drop was also carried out to adjacent owners and occupiers of the site.

Post-lodgement

9. FHLD has been committed to ongoing consultation with an overarching objective to resolve outstanding issues and information gaps prior to the Expert Panel commencement. Since submission of the Substantive Application on 20 August 2026, FHLD has:

- a. Received feedback from, and met with, Auckland Council's experts (including Healthy Waters, Watercare and AT) on several occasions to narrow issues in contention. FHLD propose to make several amendments to the lodged documents, including the conditions, in response to this further feedback;

- b. Received feedback from and met with NZTA to narrow issues in contention. This has included discussing queries on the transport assessment and associated conditions, which FHLD is working through with NZTA.

Proposed Conditions and Management Plans

- 10. A complete suite of conditions for the Approvals sought was submitted with the Substantive Application.² Several draft management plans have also been provided in line with the Panel Convener's guidance note.³

Iwi Consultation

- 11. Significant consultation has occurred pre-lodgement, as referenced above.

Principal Issues in Contention

- 12. FHLD has continued to engage with Auckland Council's specialists following lodgement, with a view to resolving outstanding technical matters and narrowing the issues in contention. While progress has been made across a number of disciplines, the principal matters where differences of opinion remain relate to groundwater availability and the proposed private wastewater treatment and disposal arrangements.
- 13. In relation to groundwater availability, Auckland Council has not accepted the Applicant's assessment of the available groundwater allocation within the Ōrewa Waitematā groundwater management area and has requested further assessment. FHLD maintains that the proposed groundwater take can be appropriately supported by the technical assessments undertaken. A meeting between specialists is currently being arranged to discuss this matter.
- 14. In relation to wastewater, Council has raised concerns regarding the design and performance of the proposed private wastewater treatment system. FHLD considers that these matters have been appropriately addressed

² Appendix 52.

³ Panel Convener Practice and Procedure Guidance, section 21.1

through the technical assessments and proposed management measures. A meeting has been held between the respective specialists, and FHLD is continuing to work through Council's comments with a view to resolving the outstanding matters.

15. Notwithstanding the above, FHLD has also sought to retain the option of servicing the development through the public wastewater and water supply network and is currently awaiting confirmation from Watercare regarding the availability of capacity to accommodate the development. A meeting with Watercare is scheduled, and a further update may be provided at the Convener's Conference.

Complexity

16. I address matters contributing to the level of complexity:
 - a. Legal Complexity:
 - i. The matter does not involve novel or difficult legal issues.
 - b. Evidentiary Complexity:
 - i. There is a significant volume of expert reports/evidence given the size of the application.
 - ii. In all other respects the evidence addresses common matters arising in the context of land development and subdivision, and no special or unusual technical complexity is anticipated.
 - c. Factual Complexity:
 - i. As indicated above there is a reasonable volume of expert reports/evidence, but no special or unusual issues are anticipated.

Timeframe

17. The Convener sets a timeframe for the decision having had regard to the scale, nature, and complexity of the approvals sought (among other matters).
18. For reasons addressed later in the Memorandum, I submit:
 - a. FHLD is of the view that an extension to the timeframe for a decision is appropriate.
 - b. FHLD propose that the timeframe for release of a decision is extended from 30 working days after comments are received to 60 working days.
19. FHLD consider this reasonable considering the scale, complexity and approvals sought. I have taken note of decision timeframes of comparable residential development decisions made under the FTAA (including Milldale Stages 4C and 10), where timeframes range from 50 – 65 working days.⁴ 60 working days allows adequate time for the Panel to:
 - a. Read and evaluate this application of this scale, nature and complexity and any comments received;
 - b. Direct and hold expert conferencing and workshopping (if required);
 - c. Draft a decision and conditions; and
 - d. Finalise the decision having considered responses filed pursuant to Sections 70 and 72.

⁴ Minute 2 of the Panel Convener, Arataki, 24 September 2025, at [12] (55 working days), Minute 2 of the Panel Convener, Drury Metropolitan Centre, 10 June 2025, at [7] (50 working days), Minute 2 of the Panel Convener, Milldale – Stages 4C and 10 to 13, 6 June 2025, at [7] (50 working days), Minute regarding appointments and timeframe of the Panel Convener, Rangitoopuni, 21 July 2025, at [7] (50 working days) and Minute of the Panel Convener, Mount Iron Junction Housing Scheme, 29 April 2026 at [16] (65 working days).

20. The relevant dates, assuming a 60 working day timeframe, are calculated on an amended draft Schedule (**attached** to this Memorandum) to assist the Convener.

Changes made or proposed to be made to the application since lodgement

21. FHLD intends to update key application documents to address Council's comments. This includes the Assessment of Environmental Effects Report, proposed conditions and a number of supporting technical reports, drawings and scheme plans. It is anticipated that the updated documents will be available at or shortly following the Convener's Conference and prior to establishment of the Expert Panel.

Tikanga

In the circumstances of this application FHLD is of the view that it is not necessary for any panel member to have specific mātauranga Māori/ tikanga expertise, noting this view does not indicate any lack of recognition for the importance of these considerations. Rather FHLD considers that the Panel can seek appropriate expert guidance with respect to these matters if it determines that this is appropriate.

Panel membership

22. FHLD is of the view that three panel members will be sufficient. In addition to the Chair, it would be useful for panel members to have planning and civil engineering experience.

Procedural requirements

23. FHLD is willing to engage directly with the Panel as necessary to advance progress of the application. A briefing meeting with the Panel would be of benefit to provide a project overview, including how the application and conditions have been developed. The briefing meeting with the Panel can

occur at the FHLD site offices at Milldale in proximity to the Site, and therefore, if it suited the Panel, a site visit could follow immediately after.

24. Any mediation is unlikely to be required for any topics subject to receiving comments from invited parties.
25. It seems unlikely that any form of hearing process will be required based on information currently available. That may change based on comments received, or any topics or issues which the Panel raises in due course.

Conclusion

26. FHLD respectfully request referral of the Project to an Expert Panel in accordance with the matters set out above.



Jeremy Brabant / Shannon Darroch

Counsel for Fulton Hogan Land Development Limited

15 October 2026

Participants' Estimated Timeframe

Task	Working days	Date
Step 1. Panel commencement	N/A	2 November 2026 (nominal)
Step 2. Invite comment from relevant parties	10 W/D after Step 1.	16 November 2026
Step 3. Comments close (ss 53 & 54)	20 W/D after Step 2.	14 December 2026
Step 4. Comments close for applicants (s 55)	5 W/D after Step 3.	11 January 2027
Step 5A. Expert conferencing, mediation or other processes to resolve any matters of contention	10 W/D after Step 4.	25 January 2027
Step 5B. Any other procedural steps, evaluation and decision writing	10 W/D after Step 5A.	9 February 2027 (Waitangi Day observed on Monday 8 February)
Draft decision is to approve		

Step 6. Draft decision and conditions to Ministers (s 72)	5 W/D after Step 5B.	16 February 2027
Step 7. Response from Ministers. (s 72)	10 W/D after Step 6.	2 March 2027
Step 8. Applicant response to Ministers comments (if any)	10 W/D after Step 7.	16 March 2027
Step 9. Draft conditions and decision to participants (s 70(1))	5 W/D after Step 6.	23 February 2027
Step 10. Participant comments on draft conditions (s70(2))	5 W/D after Step 9.	2 March 2027
Step 11. Applicant response to participants on conditions (s 70(4))	5 W/D after Step 10.	9 March 2027
Step 12. If not agreed, procedural step in relation to draft conditions.	5 W/D after Step 11.	16 March 2027
Step 13. Evaluate and finalise decision	5 W/D after Step 12.	23 March 2027

Step 14. Decision release	55 W/D later	23 March 2027
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