

**Before the Fast-track Panel Convener**

**FTAA-2503-1038**

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

**And**

**In the Matter** of an application for resource consents and an archaeological authority by Fulton Hogan Land Development Limited – Milldale stages 4C and 10 to 13

---

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

**Dated 28 May 2025**

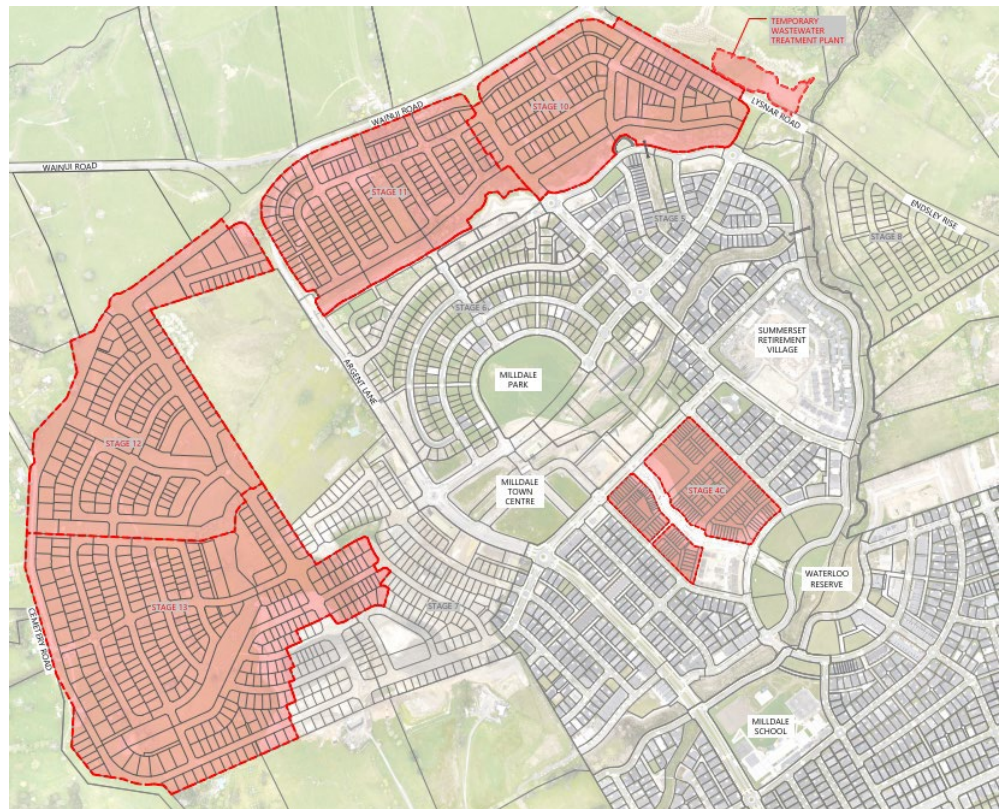
---

Jeremy Brabant  
Barrister  
Foundry Chambers  
Level 4, Vulcan Buildings  
PO Box 1502, Shortland St  
Auckland  
021 494 506  
Email: [jeremy@brabant.co.nz](mailto:jeremy@brabant.co.nz)

## 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 26 May 2025.
2. Minute 1 identifies matters to be considered at a Convener's Conference to be held on 3 June 2025. The information sought is set out in Schedules 1 and 2 of the Minute.
3. As a preface to comments below with respect to matters in Schedules 1 and 2, this application relates to works which will enable residential development and a supporting Neighbourhood Centre. The proposal forms part of the large-scale Milldale development which is already underway. Thus, the proposal is on land zoned for the uses for which consent is sought, and it adjoins earlier stages of the Milldale development which have been completed, or which are currently under construction.



4. It follows from the above, that while the development is of significant size (capacity for approximately 1155 detached and terrace dwellings and a supporting Neighbourhood Centre) reflecting its regional significance, it does not raise novel or unusual issues.

## **Schedule 1**

### ***Approvals***

5. The approvals sought are summarised at section 9 of Volume 1: Milldale Evaluation & Overview Report.
6. Resource consents are required which would otherwise be applied for under the RMA under the provisions of the AUP(OP), NES-FM, and the NES-CS.<sup>1</sup>
7. They encompass standard matters one would expect for a large subdivision development, being consent for land use, earthworks, subdivision, stream works, groundwater diversion and discharge and air discharge.
8. Milldale Stages 10 – 13, 4C and the Waste Water Treatment Plant proposed through this Application also require an archaeological authority described in Section 44(a) or (b) of the HNZPT Act<sup>2</sup> that would otherwise be applied for under that Act.

### ***Complexity***

9. I address matters contributing to the level of complexity:
  - a. Legal Complexity:
    - i. The matter does not involve novel or difficult legal issues other than to say that at the time of writing aspects of the FTAA are untested. Some of these matters will likely have been the subject of commentary by other Panels prior to

---

<sup>1</sup> Auckland Unitary Plan (Operative in Part); National Environmental Standards for Freshwater; National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

<sup>2</sup> Heritage New Zealand Pouhere Taonga Act 2014.

those issues being the subject of consideration in this application.

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.

***Issues***

- 10. FHLD has undertaken consultation as summarised in section 14 of Volume 1: Milldale Evaluation & Overview Report.
- 11. In addition, FHLD is undertaking ongoing consultation with Auckland Council after lodging the application with the EPA with a view to identifying and narrowing issues. FHLD proposes to undertake jointly with Council prior to any project overview conference convened by the Panel once appointed:
  - a. Further collaborative discussions about the draft set of conditions proffered by the Applicant;
  - b. One version of the draft conditions will be maintained between the Applicant and Council for consistency as part of this process. This will be dated and issued with a version number.
- 12. FHLD has also sought to engage with iwi after lodgement, but no response has been received to date.

13. With respect to issues arising, FHLD understands from consultation with Council to date that there are no unique or significant matters. Various detail issues have been identified and are being proactively worked through by FHLD.

***Panel membership***

14. 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 expertise.

***Procedural requirements***

15. FHLD is willing to engage directly with the panel as necessary to advance progress of the application.
16. 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.

**Schedule 2**

17. Turning to the timeframe for a decision, I submit:
  - a. Timeframe for comments (s53):
    - i. The nature of the application, my observations above regarding the relative absence of complexity, and the ongoing consultation with Auckland Council, all suggest a significant extension to the timeframe for comments from relevant parties is not required.
    - ii. However FHLD acknowledges the volume of material supporting the application is a relevant factor.
    - iii. As a consequence, FHLD proposes the timeframe for comments be extended from 20 working days to 25 working days.

iv. I note that in my submission this timeframe allows for material comments to be made, and the response from parties within this timeframe should not be limited to identification of issues only.

b. Timeframe for decision:

i. FHLD is of the view that, for similar reasons to those already identified in this memorandum in relation to the timeframe for comments, a modest extension to the timeframe for a decision is appropriate.

ii. FHLD also acknowledge that:

1. This is likely to be one of the first panels to be set up under the Act;
2. Preparation of the decision will require careful application of a new statutory decision making test (including weightings in respect of various approvals);
3. Comments on, and consequential refinement of, draft conditions may require additional time.

iii. FHLD propose that the timeframe for release of a decision is extended from 30 working days after comments are received to 40 working days.



---

**Jeremy Brabant**  
Counsel for Fulton Hogan Land Development Limited

28 May 2025