

BEFORE THE PANEL CONVENER

IN THE MATTER

of an application for approvals ("Application")
under s42 of the Fast-track Approvals Act 2024
("FTAA")

AND

IN THE MATTER

of the construction and operation of a structural
steel manufacturing plant by Green Steel, being a
project listed in Schedule 2 to the FTAA ("Project")

**MEMORANDUM OF COUNSEL FOR THE APPLICANT FOLLOWING
CONVENER CONFERENCE OF 4 SEPTEMBER 2025**

5 SEPTEMBER 2025

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MAY IT PLEASE THE PANEL CONVENER:

Introduction

1. This memorandum, is filed on behalf of National Green Steel Limited (“Green Steel”), following the Panel Convener Conference of 4 September 2025.
2. The purpose of this memorandum is to address the process for the appointment and composition of the Panel following questions raised at the Conference, by reference to the relevant statutory framework.
3. The Applicant’s position is that the panel convener retains the power to appoint the panel, despite the provisions of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (“River Settlement Act”).

Statutory Framework

4. Part 2 of the River Settlement Act *inter alia* establishes the functions and powers of the Waikato River Authority. The Waikato River Authority’s powers include the appointment of hearings committees under s28 in conjunction with the Regional Council as the body obliged to hold a hearing. For the purpose of s28 the term “Council” is defined in the River Settlement Act (s6(1)) as “Waikato Regional Council”.
5. Section 28 provides that:

28 Hearing committees

(1) This section applies if the Council holds a hearing under the Resource Management Act 1991 on the application.

(2) The committee to hear and make a decision on the application must consist of—

(a) a number of members appointed by the Council who are Resource Management Act 1991 decision makers; and

(b) the same number of members appointed by the Authority who must be persons whose names are recorded in the register; and

(c) an independent chairperson jointly appointed by the Authority and the Council, who must be a Resource Management Act 1991 decision maker.

(3) The Authority and the Council must discuss the persons to be appointed to the hearing committee with a view to ensuring that the committee contains members with an appropriate mix of skills, expertise, and experience.

6. The options under s28 are to appoint an odd number of members, with Waikato Regional Council appointing one (or two or more) members, and Waikato River Authority appointing the same number of members, plus a chair who is jointly appointed.
7. For context, s26 of the River Settlement Act limits the application of s28 to resource consent applications -
 - (a) to take, use, dam, or divert water in the Waikato River:
 - (b) to be allowed to make a point source discharge to the Waikato River:
 - (c) to do any activity listed in section 13 of the Resource Management Act 1991 in relation to the Waikato River.
8. “Waikato River” has a broad definition under s6(3) of the River Settlement Act which, for the purpose of s26 includes tributaries, streams and watercourses flowing into the Waikato River (eg Waipapa Stream).

Fast Track Approvals Act considerations

9. Under s50 of the Fast Track Approvals Act 2024 (“FTAA”) the panel convener is responsible for setting up a panel in accordance with Schedule 3. Clause 5 of Schedule 3 governs the conduct of hearings and other procedural matters in the context of Treaty Settlements and other arrangements. This clause applies if any Treaty Settlement Act, Mana Whakahono a Rohe or joint management agreement includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters. This includes matters such as “any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under this Act” (cl 5(1)(d)). A hearing of a resource consent under the provisions of the Resource Management Act 1991 would be such a matter.
10. Under cl 5(2) the Panel Convener is required to:
 - a. comply with those arrangements *as if they were the relevant decision-maker (emphasis added)*; or
 - b. otherwise adopt a modified arrangement.

11. In this case the River Settlement Act contains procedural arrangements relevant to the appointment of a decision-making body for hearings. The Applicant is not aware of additional appointment processes arising under the joint management arrangements with the Waikato District Council or Waikato Regional Council.
12. As the panel convener must comply with the River Settlement Act procedural arrangements “as if they were the relevant decision-maker”, the panel convener effectively replaces the Waikato River Authority and Waikato Regional Council for the purpose of making the appropriate appointments. It is submitted that any suggestion that the panel convener is *functus officio* for the purpose of the appointment process - and replaced by the Waikato River Authority and Waikato Regional Council - is incorrect.
13. For context, if clause 5 of schedule 3 of the FTAA were not engaged, clause 3 provides that the panel convener may appoint up to four persons to the panel. One of these members may be nominated by the relevant local authorities. The statutory limit of four members may be exceeded in certain circumstances.
14. Clauses 4 and 7 of Schedule 3 set out qualifications required for panel members. These include that the Chair must be a suitably qualified lawyer or planner with experience in relevant law, and that other members must have collectively the relevant knowledge, skills and expertise. One member must also have an understanding of te ao Māori and Māori development. Clause 4(6) allows for these requirements to be modified where relevant iwi participation legislation prescribes alternative criteria. The relevant criteria set out in the River Settlement Act relating to qualifications are that:
 - a. members appointed by the Waikato River Authority must be recorded on their register,
 - b. the Chair must be qualified as a Resource Management Act 1991 decision maker; and
 - c. the Authority and Council must strive to ensure that the committee contains members with an appropriate mix of skills, expertise and experience.

15. As regards the qualifications required, there is general consistency between the two pieces of legislation.

Proposal

16. The Applicant submits that the panel convener is the sole appointee of the panel. Bearing in mind the provisions of s28, the Applicant proposes a three-member panel. For consistency with s28, this would comprise:
- a. One member nominated by the Waikato Regional Council and appointed by the panel convener;
 - b. One member nominated by the Waikato River Authority and appointed by the panel convener; and
 - c. The Chair appointed by the panel convener.
17. Between the members, the Chair should be a lawyer or planner, there should be a member familiar with te ao Māori, and a third member with appropriate skills etc.
18. The Applicant contends that if there is a perceived lack of specific technical expertise on the panel, such expertise may be separately commissioned as the process progresses.
19. If there is any doubt regarding the intersection between the provisions of the River Settlement Act and FTAA, the Applicant proposes as appropriate the adoption of the above arrangement as a “modified arrangement”. This approach would reflect a pragmatic reconciliation of the procedural provisions in both the River Settlement Act and the FTAA, and is consistent with the FTAA’s overarching objective of facilitating timely delivery of nationally significant projects.

DATED this 5th day of September 2025



G K Chappell
Counsel for National Green Steel Limited