



**GREEN STEEL FAST TRACK APPLICATION - RESPONSE TO MINUTE 1 AND MINUTE
2 OF THE PANEL CONVENER**

This response is filed for Waikato-Tainui by:

Te Whakakitenga o Waikato Incorporated

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INTRODUCTION

1. This response is made on behalf of Te Whakakitenga o Waikato Incorporated (formerly known as Waikato-Tainui Te Kauhanganui Incorporated) in relation to Minute 1 and Minute 2 of the Panel Convener.
2. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is the governing body for the 33 hapuu and 68 marae of Waikato (see Appendix A) and manages the tribal assets for the benefit of over 97,000 registered tribal members. It is also:
 - a) The trustee of the Waikato Raupatu Lands Trust, the post-settlement governance entity for Waikato-Tainui for the purposes of the Waikato Raupatu Lands Deed of Settlement 1995 and the Waikato Raupatu Claims Settlement Act 1995;
 - b) The trustee of the Waikato Raupatu River Trust, the post-settlement governance entity for Waikato-Tainui for the purposes of the Waikato-Tainui River Deed of Settlement 2009 and the Waikato Raupatu Claims (Waikato River) Settlement Act 2010;

BACKGROUND TO WAIKATO-TAINUI

3. Waikato-Tainui entered into a Deed of Settlement with the Crown in 2008 regarding the Waikato River claim under Te Tiriti o Waitangi, followed by a revised Deed in 2009 and the enactment of the Waikato-Tainui Raupatu (Waikato River) Settlement Act 2010 (the River Settlement Act). This settlement marked the Crown's formal recognition of Te Mana o te Awa and established a co-management framework between Waikato-Tainui and the Crown to restore and protect the Waikato River.
4. The Waikato River is central to the region's identity, cultural wellbeing, and environmental policy. Its protection and enhancement are governed by the River Settlement Act and implemented through Joint Management Agreements (JMAs) with Waikato Regional Council (WRC), Waikato District Council (WDC), and other relevant local authorities. This framework is guided by Te Ture Whaimana o Te Awa o Waikato (Te Ture Whaimana) - which sets elevated expectations for both water quality and cultural outcomes.

5. Te Ture Whaimana is recognised as the primary direction-setting policy for the Waikato River. Case law has established that activities subject to Te Ture Whaimana must provide for the protection and restoration of the river. This requires “betterment” in a manner proportional to the scale of the activity and its effects on the Waikato River.
6. In addition, under the Kiingitanga Accord - a collateral deed signed between the Crown and Waikato-Tainui on 22 August 2008 - the Crown agreed, under clause 3.4, that:
 - a) *in the development and drafting of any new legislation, the Crown will consider whether, by analogy with the nature and subject matter of the statutes in which Te Ture Whaimana has been given statutory recognition under the Waikato River Settlement, such new legislation should also include express legislative recognition of Te Ture Whaimana in the same or substantially similar form to that provided under the settlement; and*
 - b) *where appropriate, any such new legislation when it is introduced into Parliament shall include express legislative recognition of Te Ture Whaimana in the same or substantially similar form to that provided under the Waikato River Settlement.*
7. It is Waikato-Tainui’s firm position that the Fast-track Approvals Act 2024 (FTAA) must recognise and give effect to the River Settlement Act.

SCHEDULE 1 – MATTERS TO CONSIDER WHEN PREPARING FOR THE CONFERENCE

APPROVALS

8. The Applicant's assessment of the overall activity status as non-complying is supported, given the need to bundle consents and the hierarchy of activity classifications across the relevant planning instruments. This status should inform the appropriate decision-making framework and threshold for assessing effects and policy alignment.
9. For the purposes of the conference, Waikato-Tainui defer to Waikato Regional Council and Waikato District Council, as the authorities with jurisdiction over the site and the relevant planning expertise, in relation to the detailed application of the Waikato

Regional Plan and the Waikato District Plan (operative in part). This deference applies specifically to the pre-hearing phase, and to the assessment of the appropriateness of the activity status under each respective plan.

COMPLEXITY

10. As to the specific types of complexity referred to in the Minute:
 - a) Legal Complexity: the application does raise legal complexity, particularly given the newness of the FTAA and the uncertainty around how its provisions will be applied in practice. This is especially relevant as this is to be the first application to be considered within the Waikato River catchment, which has unique legal and policy settings under the River Settlement Act and Te Ture Whaimana. These are not standard or routine matters.
 - b) Evidentiary Complexity: the evidentiary record is moderately complex due to the number of technical reports provided, including in areas such as ecology and hydrology, where expert opinions differ. Careful consideration will be required where methodologies or assumptions diverge, particularly given the application's location within the Waikato River catchment and the need to interpret effects in light of Te Ture Whaimana.
 - c) Factual Complexity: the application involves factual complexity due to the volume of supporting material, including environmental and cultural assessments, and the need to interpret specialised subject matter. This includes matters of significance to the Waikato River catchment, where understanding of mana whenua values and alignment with Te Ture Whaimana is essential.
11. Given the combined legal, evidentiary, and factual complexity, the proposal may benefit from a decision-making approach that allows for adequate testing of technical matters and ensures sufficient time for the panel to fully consider areas of uncertainty or contention.

ISSUES

12. The Application includes provision for two monofils to manage floc waste from end-of-life vehicle processing. While framed as a temporary or recoverable solution, the scale, design, and long-term nature of the proposed containment raises questions about the actual potential for future recovery and the adequacy of long-term environmental safeguards. This is an issue Waikato-Tainui wishes to see addressed through further clarification and evidence at hearing.

PANEL MEMBERSHIP

13. Section 16 of the FTAA requires that any relevant Treaty settlement obligations must be given effect to within the fast-track approvals process.
14. In this case, the River Settlement Act and Te Ture Whaimana are directly applicable and must inform both the decision-making framework and the composition of the panel. Accordingly, we set out the following key considerations:
 - a) Waikato-Tainui reiterates that the composition of the panel must give effect to the intent and requirements of section 28 of the River Settlement Act, including the appointment of an equal number of members by the Crown and the Waikato River Authority (WRA) (excluding the Chair).
 - b) This requirement is further reinforced by Schedule 3, clause 5 of the FTAA, which provides that panel members are to be appointed via the River Settlement Act process unless an alternative arrangement is mutually agreed.
15. Waikato-Tainui's clear preference is for the panel to be appointed in accordance with section 28 of the River Settlement Act. While we are open to alternative arrangements, any agreements must ensure robust coverage of all aspects of the application, including cultural, environmental, technical, and strategic matters relevant to the Waikato River and its management framework. Given our role in the settlement, any such decision would be made in collaboration with the WRA.

TIKANGA

16. The Ngaa Muka Development Trust (Ngaa Muka) Cultural Indicator Report provides guidance on appropriate tikanga. As mana whenua of the area where the steel recovery plant is proposed, Ngaa Muka have responsibility for ensuring cultural values are upheld. Waikato-Tainui defers to and supports any additional recommendations around tikanga made by Ngaa Muka.

PROCEDURAL REQUIREMENTS

17. We are open to engaging directly with the panel where necessary to ensure that our interests, values, and concerns are fully understood and addressed. Any such engagement will be considered in light of the timeframes and resourcing available, and with a view to ensuring meaningful participation.

18. Given the legal, factual, and evidentiary complexity of this application, and its significance within the Waikato River catchment under the Waikato River Settlement Act and Te Ture Whaimana, it is possible that a hearing process will be required. This may involve disputed facts or opinions, clarification of key issues, proposed conditions, and legal matters. Any hearing should allow sufficient time for thorough consideration and robust participation to ensure that concerns are adequately addressed.

SCHEDULE 2 - REQUIREMENTS

TIMEFRAME FOR COMMENTS

19. Given the nature and scale of the application, and the significant cultural and environmental matters it engages, we seek flexibility to extend the allowable timeframe for comments where necessary, to ensure that responses from mana whenua and other relevant parties are appropriately informed and robust.

TIMEFRAME FOR DECISION MAKING

20. Waikato-Tainui supports exercising the maximum discretion available under the FTAA with respect to the decision-making timeframe. This flexibility is critical to ensuring that the decision is informed, robust, and appropriately reflects the unique Treaty settlement context in which this application sits.

MINUTE 2 – PREPARATION FOR CONFERENCE – WAIKATO RIVER AUTHORITY, WAIKATO REGIONAL COUNCIL, AND WAIKATO DISTRICT COUNCIL

RESPONSE TO [4](a):

21. As outlined above, Waikato-Tainui supports the application of the co-management framework established under the River Settlement Act and recognise the role of the WRA (alongside Waikato-Tainui) in any panel appointment process relating to the FTAA, where it relates to fast-track applications within the Waikato River Catchment.

RESPONSE TO [4](b)

22. While the FTAA introduces a new consenting pathway, there appears to be no legal or procedural barrier to accommodating the JMA processes within the fast-track framework.

RESPONSE TO [4](c)

Any modifications must uphold the intent and principles of the JMAs and must not dilute the purpose or standing of Te Ture Whaimana.

RESPONSE TO [4](d)

23. Complying with the joint management processes under the JMAs may require additional time, given the technical complexity and mana whenua resourcing constraints. Waikato-Tainui supports the Panel exercising maximum discretion under the FTAA to ensure the timeframe allows for proper application of the JMAs and full consideration of the co-management framework under the River Settlement Act.

CONCLUSION

24. Waikato-Tainui thanks the Panel Convener for the invitation to attend the pre-hearing conference and welcomes the opportunity to participate in the process.

DATED

3rd September 2025

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APPENDICES

APPENDIX A – Waikato-Tainui 68 Marae

