

BEFORE THE PANEL

FTAA-2506-1074

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")

APPLICANT'S RESPONSE TO COMMENTS TO DRAFT CONDITIONS

12 MARCH 2026

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MAY IT PLEASE THE PANEL:

1. INTRODUCTION

1.1 This memorandum is filed on behalf of National Green Steel Limited (“Green Steel”) and responds to comments on conditions provided by other parties pursuant to s70(4) of the Fast Track Approvals Act 2024.

1.2 An updated set of conditions is attached as **Appendix A**. This includes:

- a. Those changes proposed by the Applicant in its response to the draft conditions to the Panel dated 5 March 2026;
- b. Changes recommended by other parties that are supported by the Applicant;
- c. Any further consequential changes proposed by the Applicant in response to comments from other parties.

1.3 These changes are shown as tracked changes comments to specific conditions in **Appendix A**.

1.4 This memorandum otherwise addresses those comments where the Applicant **does not agree** with a suggested change or condition.

1.5 As the Panel is aware, s83 of the FTAA provides that “when exercising a discretion to set a condition, the Panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.”

2. RESPONSE TO COMMENTS FROM WAIKATO REGIONAL COUNCIL

2.1 There is a high level of agreement between the Waikato Regional Council (“WRC”) and the Applicant. The only outstanding issues are addressed below:

General condition 4

2.2 WRC has said general condition 4 can be deleted as the lapse period will be recorded on the resource consent certificate. Green Steel does not support this suggested change as it is important that the Panel record in the conditions its decision to set a five year lapse. If WRC chooses to later

present the consents as “Certificates”, the lapse periods can be recorded within the header of the certificate.

All consents - general condition 1

- 2.3 WRC considers that Condition 1 of each consent duplicates information relating to the term of the consent and proposes amendments to remove the duplication. Green Steel does not support this suggested change. The Panel must release its decision on duration for each of the non-land use consents. WRC can subsequently present the consents as “Certificates” with the terms set out within the header of the certificates.

Authorisation for Earthworks and Overburden Placement - condition 7(c)

- 2.4 Condition 7(c) requires that the CMP must include (inter alia) “A construction methodology including construction and design details (including for the monofills and their construction quality assurance plan)”.
- 2.5 WRC’s comments assume that the *construction quality assurance plan* referred to in this condition should include the “Liner, Drainage and Final Cover Installation Quality Control Plan” for the monofills.
- 2.6 Green Steel does not agree: Condition 7 is part of the suite of Authorisation for Earthworks and Overburden Placement conditions and relates to the earthworks phase, including earthworks for the creation of the two monofills. On the other hand, the “*Liner, Drainage and Final Cover Installation Quality Control Plan*” is part of the Authorisation for Monofill conditions. Condition 2 of that authorisation requires a Liner, Drainage and Final Cover Installation Quality Control Plan (LDFCP), but this is distinct from the earthworks and overburden construction quality assurance plan that relates to both the earthworks and the monofill operations.

Authorisation for Earthworks and Overburden Placement – new condition after condition 20

- 2.7 Green Steel does not support a new condition addressing settlement predictions for earthworks. There are already conditions based on monitoring of actual subsidence/settlement, and there are trigger levels and a process for remedy if the trigger level limits are exceeded. Green

Steel's view is that predictive assessment is an inferior assessment/duplication to monitoring of actual effects as set out in the Draft Conditions. Further, earthworks, dewatering and ground movements are difficult to predict when there may be seasonal and climate related changes in conditions.

Authorisation for Earthworks and Overburden Placement – reinstatement of conditions 9, 11 and 12

2.8 WRC has requested reinstatement of conditions 9, 11 and 12 in its substantive response. Green Steel does not support this request.

2.9 As this matter was dealt with in the Panel's Draft Decision (para 364) WRC's response is outside the scope of its ability to comment.

2.10 Nevertheless, Green Steel has checked WRC's response (undated but received on 18 November 2025) to the Green Steel application as requested by Minute 1 of the Panel and the proposed conditions attached to it in the document entitled "Substantive Response from the Waikato Regional Council".¹ The "virtual" conditions in that document (rejected by the Panel) were conditions 8, 10, 11, and 13 (there was a virtual component of this latter condition which was removed by the Panel).

2.11 WRC has said in its comments on conditions (dated 5 March 2026):

"WRC notes that the provision of data recording a series of 0's on a daily basis is potentially simply implemented via a third party provider and does not necessitate the consent holder to put any instrumentation in place until it is in a position to take the water".

2.12 This is suggesting a different level of detail from the actual proposed virtual conditions WRC suggested. Furthermore, contrary to what WRC asserts, clearly instrumentation will be required.

2.13 For example, the original condition 8 recommended by WRC includes the following:

Within one month of the granting of the consent, the consent holder must implement a virtual water take measurement, recording and reporting system ("virtual system"). The virtual system must:

(1) generate 96 virtual measurement values per day representing 96 15-minute periods; and

¹ Pages 39-40 of Substantive Response from the Waikato Regional Council, undated.

(2) record a net take volume of zero cubic metres on a continuous basis in units of cubic metres for each 15-minute period; and

(3) be automated and auditable; and

(4) be capable of electronic daily reporting to Waikato Regional Council in accordance with Waikato Regional Council data standards and protocols; and

(5) continuously operate upon and from its implementation date;

- 2.14 The condition is requesting a complex suite of measurement values, daily electronic reporting etc, but for no clear resource management purpose. Green Steel stands by its response to the WRC submission – i.e that the conditions are not consistent with the Resource Management (Measuring and Reporting of Water Takes) Regulations 2010², and noting that it may be 2-3 years of development before groundwater is taken.

Authorisation for monofill activities - Condition 6 – monofill liner

- 2.15 This issue relates to the process for determining whether a double or single composite liner is required for the monofills.
- 2.16 In relation to the question of whether “liner selection needs to follow NEMP 3.0 and implications” the Joint Witness Statement (“JWS”) recorded that all parties agreed to:³

“include condition [sic] on adhering to NEMP 3.0 (or subsequent equivalent) requiring detailed design to determine whether single or double composite will be needed, and ongoing testing of floc being received as per NEMP3.0 on an ongoing basis (e.g, 6-monthly).”

- 2.17 As a follow up to the JWS, the Applicant provided revised conditions addressing the method for determining whether to apply a single or double composite liner.
- 2.18 GHD (through Anthony Dixon) and WRC (through Jonathan Caldwell) responded to the Applicant’s proposed draft conditions on or about 12 February 2026. GHD proposed significant revisions to the Applicant’s draft condition 6. The GHD version of the condition was adopted as condition 6 of the Panel’s Draft Conditions.

² Memorandum of Counsel dated 25 November 2025 – Appendix One at p24

³ Joint Witness Statement dated 23 January 2026 at page 4

- 2.19 WRC's response of about 12 February 2026 suggested only nominal revisions to the Applicant's proposed draft conditions.
- 2.20 Despite this level of agreement WRC's comments of 5 March 2026⁴ have now proposed substantive revisions to proposed draft condition 6.
- 2.21 Firstly, Mr Caldwell provides two options for amending Condition 6. The first is that a double liner should be mandated with no methodology for allowing a single liner. That position is wholly inconsistent with the JWS signed by Mr Caldwell, and ignores the agreed position that the testing methodology in NEMP 3.0 is to be used to determine whether or not a single or double composite liner should be used.
- 2.22 In the second option, Mr Caldwell proposes significant amendments to the tests to be applied for determining whether a single monofill liner is appropriate. These tests are new and are not based on either the GHD, or the Applicant's position, which Mr Caldwell had already commented on.
- 2.23 While changes to reference the updated guidelines are generally appropriate (subject to comments below) the Applicant does not agree with the change in position at this late point in the process. The existing proposed test outlined by GHD and accepted by the Applicant is appropriate for WRC to ascertain through independent review whether a single liner is appropriate.

Authorisation for monofill activities

- 2.24 Following the release of the updated ANZG technical brief for PFOS in water (*'Toxicant default guideline values for aquatic ecosystem protection Perfluorooctane sulfonate (PFOS) in freshwater'*) ("ANZG Technical Brief") on 4 March 2026, WRC lodged further amendments to the draft conditions it had originally circulated on 5 March 2026. In this updated set of conditions, WRC proposed replacing PFOS limits set at 0.00023 µg/L in conditions 30 and 32 of the Authorisation for Monofill Activities with the newly introduced ANZG Technical Brief biota screening threshold (0.0005 µg/L).
- 2.25 In response to the issue of the new ANZG Technical Brief, Green Steel commissioned a memorandum from Pattle Delamore Partners Limited (per

⁴ later updated by WRC on 6 March 2026 to take account of the newly revised ANZG Technical Brief.

Nerena Rhodes dated 11 March 2026) attached as **Appendix B**. Ms Rhodes advises that the updated ANZG guidance distinguishes between two fundamentally different metrics. The 99% species protection default guideline value (“DGV”) has been updated from 0.00023 µg/L to 0.02 µg/L. This DGV is derived from toxicity data across 37 aquatic species and is explicitly intended for setting water quality limits to protect aquatic ecosystems.

2.26 By contrast, the biota screening threshold of 0.0005 µg/L was introduced for a different purpose - to highlight that PFOS may bioaccumulate in mammals and birds which predate on aquatic fauna even at concentrations below the DGV. The screening threshold was not developed as, and is not presented as, a water quality limit for the protection of aquatic organisms. It therefore does not displace the DGV in regulatory contexts where the objective is to establish appropriate discharge limits.

2.27 Because conditions 30 and 32 set enforceable discharge limits, the correct parameter is the updated ANZG 99% species protection DGV of **0.02 µg/L**. This value:

- a. is expressly designed for setting water quality objectives for aquatic species;
- b. is the current, peer reviewed ANZG Technical Brief value;
- c. replaces the previous interim value from PFAS NEMP 3.0 of 0.00023 µg/L (currently referred to in the draft conditions)

2.28 To summarise - the biota screening threshold serves a different intended purpose and is not suitable as a regulatory limit. It cannot be applied as a simple compliance standard because it does not represent the concentration of PFOS that causes adverse effects in aquatic ecosystems. The appropriate amendment is to replace the PFSOS limit of 0.00023 µg/L with 0.02 µg/L - not the 0.0005 µg/L proposed by WRC.⁵

Other amendments to reflect the changes to the ANZG technical brief

2.29 In its memorandum to the Panel of 5 March 2026 Green Steel noted that it had just become aware of the new guidance and would propose

⁵ Refer to Appendix B at page 2

amendments to conditions that refer to the NEMP 3.0. These changes are set out in **Appendix A**.

Authorisation for monofill activities - Bond conditions

2.30 WRC has identified a condition cross referencing a numbering error in relation to condition 42.

2.31 Condition 40 provides as follows:

Prior to the placement of fill material in each individual monofill area authorised by this consent, the Consent Holder must provide and maintain until the completion of closure of each monofill site, in favour of the WRC, a bond to enable:

- (a) Compliance with all the conditions of this consent relating to the closure and monitoring of the monofills and to enable any adverse effects on the environment that become apparent during or after the expiry of consent relating to the monofill activities to be avoided, remedied, or mitigated.
- (b) Remediation of the monofill sites in accordance with the MCRMP as outlined in condition 14.

("Completion of closure" means when the WRC deems that resource consents for each of the monofill sites are no longer required, and that there is no reasonable risk of the site causing further adverse impacts on the environment).

2.32 Condition 42 provides:

Unless the bond is a cash bond, the performance of all the conditions of the bond must be guaranteed by a guarantor acceptable to the WRC. The guarantor must bind itself to pay for undertaking and completion of any condition of the bond in the event of any default of the Consent Holder, or any occurrence of any adverse environmental effect requiring remedy referred to in condition 31.

2.33 The correct cross reference in condition 42 should be to "condition 40" (and not Condition 31) which sets the parameters for the bond.

2.34 WRC proposes deletion of the words "referred to in condition 31" in condition 42 on the basis that:

WRC requires a bond for all risks associated with this activity not just those listed in a consent condition.

WRC requests the removal of the reference to Condition 31 as the bond is intended to be met for any adverse environmental effect requiring remedy associated with the activity and should not be limited.

2.35 The Applicant's position is that condition 42 is properly aligned with condition 40: condition 42 simply sets out the nature of the guarantee

required when the bond is not provided in cash form, and the obligations of the guarantor should mirror the scope of the bond defined under condition 40. On that basis the Applicant considers the cross reference to the earlier condition to be appropriate: i.e “condition 31” should be changed to “condition 40”.

3. RESPONSE TO COMMENTS FROM WAIKATO DISTRICT COUNCIL

3.1 All comments by WDC are supported with the exception of the amendments to conditions 10 and 11 of the Authorisation for Earthworks and Overburden Placement conditions which the Applicant considers to be unnecessary.

3.2 For these conditions WDC suggests adding ‘*Once the E&SCP is certified, a copy must be provided to WRC for their records*’. However, both of these conditions provide that “The E&SCP must be certified in writing by the WRC”. As such, WRC will already have received a copy of the E&SCP and any change to it.

4. RESPONSE TO COMMENTS FROM ENVIRONZ

Proposed new conditions seeking PM_{2.5} and Dioxin limits

4.1 Enviro NZ Services Limited (“Enviro NZ”) now seeks to introduce new, specific, conditions referencing the NZ Steel consent, including the addition of PM_{2.5} and dioxin limits.

4.2 Although Enviro NZ referred to the NZ Steel consent conditions in its comments to the Panel provided in November 2025 it did not request the adoption of any specific discharge conditions at the time.

4.3 In response to Enviro NZ’s November 2025 general reference to the NZ Steel consent conditions, AQCNZ’s technical memorandum dated 21 November 2025⁶ directly addressed the NZ Steel conditions. It compared the NZ Steel consent conditions, including the PM_{2.5} and dioxin discharge limits, observing that it “did not consider the NZ Steel discharge limits and stack testing requirements as directly comparable to those appropriate for the Green Steel facility”. AQCNZ concluded unequivocally that the

⁶ attachment 6 to Legal Memorandum dated 25 November 2025

“proposed conditions provide an appropriate level of protection for people at the landfill and the surrounding area.”

- 4.4 Enviro NZ’s response to the draft conditions now articulates, for the first time, the specific NZ Steel conditions that it seeks, despite having had the opportunity to do so in its initial comments. However, it has provided no technical evidence to support the imposition of the additional PM_{2.5} and dioxin limits it proposes, or to rebut ACQNZ’s technical advice. In the absence of any new technical information Green Steel opposes the proposed changes to the conditions.

Authorisation for Stormwater Discharge

- 4.5 Enviro NZ requests the following be added to Condition 8 (2nd (b)).

“A programme for regular monitoring and inspection of the stormwater management system, in particular the stormwater management devices so that flood attenuation volumes are maintained and any potential scour and erosion effects downstream of the stormwater outlet structures, including details of monitoring and inspection frequency

- 4.6 Condition 8 provides as follows:

8) ... The Consent Holder must manage the stormwater network to avoid the following stormwater quantity effects :

...

(b) Adverse effects of flooding of land, property and stormwater receiving water bodies; or”

- 4.7 Green Steel considers that the additional words are unnecessary as any effects of flood attenuation are already covered by condition 8: i.e the matters to be addressed in the Stormwater Management Plan must give effect to the purposes for which the network is to be managed as set out in the earlier part of condition 8.

Authorisation for Air Discharges – condition 6

- 4.8 Enviro NZ proposes two additions to the matters to be contained in the Air Quality Management Plan (condition 6).

- 4.9 The first addition is accepted as it is appropriate to have acceptance criteria to ensure materials that could give rise to a fire or hazardous emissions are not permitted to be brought to the site.

- 4.10 The second bullet point - methods for monitoring scrap piles for materials likely to cause a fire, including lithium-ion batteries – is not practical once the scrap has been consolidated into a pile. Visual monitoring of a scrap pile would serve no useful purpose as items such as small household lithium batteries may be impossible to detect, particularly when they are concealed within compacted vehicles. Alternatively, monitoring the pile by physically accessing the pile to check for materials would pose significant health and safety risks. A more effective approach is to apply strict material acceptance criteria as per the proposed new condition (above).

Other amendments

- 4.11 Other amendments requested by Enviro NZ that are accepted or partially accepted by Green Steel are addressed in **Appendix A**.

5. RESPONSE TO NEIGHBOURS

Harness Downs

- 5.1 The matters raised by Harness Downs and David and Wendy Saxton (together “the neighbours”) do not disclose any cogent legal, technical or evidential basis for amending the draft conditions. Properly characterised the comments from these parties:

- a. Relitigate matters the Panel has already determined at a high level in its Draft Decision;
- b. Introduce new relief unrelated to comments on the draft conditions which are outside the scope of s70(1) of the FTAA;⁷
- c. Advance assertions without any independent technical evidence; and
- d. Seek conditions that are either unnecessary (because they are already managed by the conditions framework) or are *ultra vires* (for example, because they regulate third-party land or commercial choices rather than environmental effects).

- 5.2 The reasons why the Applicant rejects the matters raised by Harness Downs are addressed below:

⁷ In Minute 18 at [4] dated 26 February 2026 the Panel confirms that s70 FTAA does not provide for any of the parties to comment on the Draft Decision.

- a. **Access via easement / transport:** The Applicant has already responded to the matters raised by Harness Downs in relation to the easement access. The Panel has also determined the access issues, as recorded at paras 242, 250 and 260 of the Draft Decision. Harness Downs has not engaged with the actual conditions proposed, nor did it previously seek limits on vehicle movements. There is therefore no evidential or procedural foundation for amending these conditions;
- b. **Air discharge:** It is noted that the Panel's Draft Decision has addressed particulate air quality issues including the discharge of particulate matter. The Panel records in its Draft Decision that the proposed conditions have been collectively reviewed and edited by WRC and WDC. The conditions require high-integrity emission controls, certified Air Quality Management Plans, accredited stack testing and repeat testing/retesting where needed. The conditions specifically prohibit objectionable particulate or odour effects beyond the boundary and importantly, require investigation, reporting and corrective action if concerns arise. These are standard RMA conditions which are backed up by review conditions. Harness Downs provides no new information or evidence that would warrant reopening this issue
- c. **Operating hours / noise limits:** the operating hours were not raised in Harness Downs original comments on the application. The hours of operation have only reduced since the application was lodged. The Draft Decision records that noise modelling predicts operational noise levels will be generally compliant with the provisions of the District Plan. Harness Downs offers no contrary analysis or evidence;
- d. **Light pollution / animal welfare associated with air discharges / visual effects:** these matters are raised for the first time at this late stage. They were not part of Harness Downs' original comments, and have not been the subject of any expert evidence. Raising new topics now provides no proper basis for revising the draft conditions;
- e. **Protection of Koiwi remains:** Harness Downs appears to have overlooked the new conditions and strengthened conditions

imposed by the Panel in response to the issues it previously raised. Harness Downs identifies no gap or deficiency in specific conditions;

- f. **Wetlands:** wetlands on the site have already been comprehensively addressed in the Draft Decision, informed by technical reports from the Waikato Regional Council and the Applicant. Harness Downs provides no new information or evidence that would warrant reopening this issue.

Response to David and Wendy Saxton

- 5.3 The Applicant's reasons for rejecting the specific issues raised by the Saxtons are addressed below:

Electricity supply

- 5.4 The Saxton's seek a bespoke condition precluding the use of their land for any electricity infrastructure and suggest uncertainty remains about supply routes. The Draft Decision concludes that Green Steel does not rely on rights over the Saxton land and that feasible, lawful alternative supply routes exist.⁸ The Saxton's comments challenge this aspect of the Decision and are accordingly, outside the scope of s70(1) of the FTAA.
- 5.5 In any event, the imposition of a condition prohibiting use of the Saxton's land would be inappropriate as the consent cannot lawfully restrict use of land which is not the subject of the application, or impose restrictions on the use of the Saxton's land for electricity infrastructure by a third party (eg Counties Energy).
- 5.6 On a related note, Green Steel draws the Panel's attention to the highlighted reference by the Saxtons to paragraph 270 of the Draft Decision. That states:

The WEL letter did not give the Panel confidence that the required electricity could be supplied to the Project. Furthermore, Mr and Mrs Saxton raised the lack of available electricity infrastructure in their comments on the Application. **This was not addressed by the Applicant in its responses to comments.** (emphasis added by Saxtons)

⁸ Paras 278 and 279 of the Draft Decision.

5.7 For the record, Green Steel observes that it responded to the Saxton's comments on this issue at Appendix One to the Legal Memorandum dated 25 November 2025 at page 13.

Air discharges; particulate matter, odour and accumulation assertions

5.8 Without providing specific redrafting of consent conditions or supporting evidence, the Saxtons contend that the air discharge conditions are "meaningless" or unenforceable. This misunderstands how the conditions operate as a whole, how emissions are controlled and how compliance is demonstrated. As noted above in response to Harness Downs, the conditions require high-integrity emission controls, certified Air Quality Management Plans, accredited stack testing and repeat testing/retesting where needed. The conditions specifically prohibit objectionable particulate or odour effects beyond the boundary and importantly, require investigation, reporting and corrective action if concerns arise. These are standard RMA conditions which are backed up by review conditions.

5.9 The mass-rate limit is an "at stack" control tied to the plant and baghouse performance under specified operating conditions. Ambient effects are addressed via dispersion assumptions and monitoring / response obligations embedded in the conditions' framework. The conditions regime is not static: councils may require updates to plans, verify performance through accredited testing, and initiate a formal review to strengthen conditions if monitoring or complaints identify a shortfall. That is the orthodox RMA mechanism for managing any residual uncertainty.

5.10 The Saxtons seek specific limits with reference to other industry consents. This issue is addressed above in relation to the comments from Enviro NZ (see para 4.3).

5.11 No independent air quality evidence is supplied by the Saxtons to contradict the technical basis for the draft air discharge conditions.

5.12 As the Panel is satisfied that air quality effects will be "adequately managed, monitored and controlled" through the suite of conditions imposed,⁹ no further changes are appropriate or necessary.

⁹ Para 328 of the Draft Decision.

Monofill activities

- 5.13 The Saxtons seek a condition compelling Green Steel to dispose of floc to an existing landfill. However, the Panel has scrutinised the monofill proposal and determined that the monofill can proceed subject to a comprehensive effects-management framework. Any condition directing use of an alternative landfill facility would countermand the Draft Decision and fall outside the scope of s70(1) of the FTAA.

Prohibition of floc combustion on site

- 5.14 The Saxtons request a condition prohibiting the combustion of floc on the site. However, as the Applicant has not applied to combust floc on the site, the air discharge consent authorises only the specified discharges. Any separate combustion activity would be a different discharge requiring its own approval. Accordingly, no amendment is needed to prohibit what is already unconsented.

Ban on imported scrap feedstock

- 5.15 A condition prohibiting the Applicant's use of scrap feedstock imported from overseas has not been previously raised by the Saxtons.
- 5.16 While the Applicant has no plans to import scrap metal from overseas, its procurement decisions are not a relevant consideration from an environmental effects perspective. For completeness, any such procurement would not diminish the Panel's findings that the project will have significant regional and national benefits.¹⁰

Summary of position relating to the neighbours

- 5.17 In relation to the comments from the neighbours the Applicant submits that there is no evidential or procedural basis for altering the draft conditions and proposes no further changes in response.

6. RESPONSE TO WEL AND THE DEPARTMENT OF CORRECTIONS

- 6.1 For completeness, Green Steel records that it notes the comments from WEL Networks Limited and responds to the proposals from the Department

¹⁰ Refer to Part G and para 693 of the Draft Decision

of Corrections through comments in the consent conditions (Appendix A), which are generally accepted.

7. FOLLOW UP TO APPLICANT'S PREVIOUS COMMENTS ON CONDITIONS

7.1 In its comments on conditions dated 5 March 2026 in relation to Monofill condition 12 Green Steel noted that it would confirm whether floc can be analysed in accordance with the proposed protocols by a laboratory in New Zealand or Australia.

7.2 Having undertaken enquiries Green Steel confirms that the analysis can be readily undertaken.

8. CONCLUDING COMMENT

8.1 Green Steel wishes to record its thanks to the councils for their constructive engagement with the Applicant in the drafting of the consent conditions and to the parties for their comprehensive and considered responses to the Panel's invitation to comment on the draft conditions.

DATED this 12th day of March 2026



G K Chappell

Counsel for National Green Steel Limited