

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 MINUTE 10 OF THE PANEL –
FURTHER INFORMATION REQUESTS**

19 JANUARY 2026

**G K Chappell
Barrister**

Foundry Chambers |
M 0273034757
E gillian@chappell.nz
P PO Box 1502 Auckland 1140
DX CP19020

MAY IT PLEASE THE PANEL:

1. INTRODUCTION

1.1 This memorandum, filed on behalf of National Green Steel Limited (“Green Steel / the Applicant”), responds to Minute 10 of the Panel which seeks further information concerning the availability of electricity supply to the proposed Green Steel site and the issues relating to this issue raised in the comments (late) from Mr and Mrs Saxton.^{1, 2}

2. ISSUES RELATING TO ELECTRICITY SUPPLY

2.1 The Panel's questions in Minute 10 reflect four underlying concerns:

- a. whether electricity supply is feasible in principle;
- b. whether electricity supply gives rise to environmental effects that require assessment;
- c. whether the Applicant is relying on legal rights it does not have; and
- d. whether realistic alternatives exist that avoid the Saxton property.

2.2 These concerns are addressed below.

2.3 The starting point is that an application for resource consent under the RMA does not require all aspects of a proposal to be feasible as a precondition to approval. The RMA requires the consent authority to understand and assess the actual and potential effects of the activity applied for. It does not require the applicant to demonstrate that all commercial, engineering, or infrastructural arrangements have been finalised.

2.4 As held in *New Zealand Rail v Marlborough District Council*,³ the financial or practical viability of a venture, including the means by which it is to be

¹ Refer to [8] of Minute 10

² For completeness, Green Steel notes that it has responded to the Saxtons' earlier comments questioning the availability of electricity supply, with the Applicant confirming that it is working with WEL Networks to secure supply and that if approved, the Project will not proceed without confirmed access to reliable electricity. Refer to [2] of Minute 10 which states that the Applicant did not address this point. Refer to Page 13 of Appendix One to the Legal Memorandum dated 25.11.15

³ [1994] NZRMA 70 (HC).

accomplished, is not a relevant consideration under the RMA. Those matters are “for the boardroom”, not the consent authority.⁴

2.5 The FTAA does not alter this principle. While the purpose of the FTAA is to facilitate the delivery of projects with regional or national benefits, it incorporates the RMA’s effects-based framework through ss 81, 85 and Schedule 5. Under s85, the Panel may decline approval only if adverse impacts are “sufficiently significant” and “out of proportion” to the Project’s regional or national benefits, after conditions have been imposed.

2.6 The FTAA does not create a free-standing ground of decline based on feasibility or yet to be finalised third-party infrastructure.

3. ASSESSMENT OF EFFECTS

3.1 The correct question is whether the Panel has sufficient information to understand the effects of the activity applied for - namely, the establishment and operation of the Green Steel plant and its associated on-site infrastructure. The answer is yes.

3.2 The effects of the Green Steel plant are associated with the nature and scale of the plant itself and the associated ancillary activities on the Site: eg. its discharges, design process including energy demand, traffic generation, built form, stormwater and other operational characteristics. All of these matters are fully described in the application and assessed in the AEE and supporting evidence.

3.3 The unresolved detail relates only to how the network operator will deliver electricity to the site; for example, whether the connection is made via road reserves beyond the site, reliance on neighbouring land or via existing or new easements. That level of detail is not required for the Panel to understand the effects of the plant itself. As the Court confirmed in *RJ Davidson v Marlborough District Council*,⁵ adequacy of information is a question of reasonableness and proportionality.⁶ As such, an applicant is

⁴ Ibid at [741]

⁵ [2016] NZEnvC 81, upheld on appeal in *RJ Davidson Family Trust v Marlborough District Council* [2017] NZHC 52

⁶ Section 104(6) imposes a type of legal burden on an applicant to supply adequate information, although that does not mean an applicant must pre-empt all possible arguments made by opponents, in order to disprove alleged effects. The information must be of adequate quality, as well as sufficient detail, to enable the grant of consent if no other information is put forward. See *R J Davidson* *ibid*.

not required to pre-empt every hypothetical effect or provide final engineering solutions for infrastructure that is not part of the application.⁷

- 3.4 Importantly, in this case, Green Steel is not relying on any legal rights to place infrastructure on the Saxton property, nor is the Project dependent on securing such rights.
- 3.5 The existence of realistic and feasible alternatives reinforces this point: multiple viable pathways avoiding the Saxton land are available, as confirmed by the network operators.⁸
- 3.6 Further, the effects of off-site electricity infrastructure are not effects of the activity applied for. The application does not seek consent for the design, construction, or operation of off-site lines, poles, or switchyards outside the Site. Those works will be undertaken by the network operator and are either permitted activities under the District Plan or subject to separate consenting processes. The Panel should not extend its inquiry into matters that fall within the jurisdiction of a future consent authority.⁹ The effects of any future network upgrades will be assessed, if required, when they are actually proposed.
- 3.7 As outlined by Mr Shearer in Appendix One, under the Waikato District Plan, overhead distribution lines and support structures are a permitted activity within the General Rural Zone or road reserve / unformed road located adjacent to the General Rural Zone. Substations, associated transformers and switching stations are a permitted activity in all zones.
- 3.8 Where an activity is permitted, the District Plan has already determined that its effects are acceptable.

4. OPTIONS FOR SUPPLYING ELECTRICITY TO THE SITE

- 4.1 There are two local electricity distribution network operators capable of delivering electricity to the Site (“network operators”). Both WEL Networks Limited (“WEL”) and Counties Energy, confirm that there are multiple

⁷ Declining consent for inadequate information is appropriate where uncertainty creates unknown environmental risk as a result of scientific uncertainty: See *Remediation (NZ) Ltd v Taranaki Regional Council* [2024] NZEnvC 213. That risk does not exist here.

⁸ Refer to the letter from Counties Energy dated 14 January 2026 attached as Appendix Two.

⁹ *Manos v Waitakere CC* [1994] NZRMA 353 (HC)

feasible pathways for supplying electricity to the Project Site which do not include the Saxton's land.¹⁰

5. RESPONSES TO THE PANEL'S SPECIFIC QUESTIONS

Question 1 - Will the supply of 56 MW require infrastructure on the Saxton property?

- 5.1 No. The Applicant has never proposed, assumed, or relied on the use of the Saxton property. As confirmed by WEL and Counties Energy, feasible alternatives exist that avoid their land entirely.

Question 2 - What consideration has been given to effects on the Saxtons or others?

- 5.2 Because no infrastructure is proposed on their land, no effects arise for the Saxtons associated with the provision of electricity to the Project Site.
- 5.3 Any future network infrastructure on other land will be designed and consented by the network operator through the appropriate statutory pathways.
- 5.4 In practice, a route will be finalised post any approval, at which time, the activities will be undertaken by the network operator pursuant to the provisions of the district plan or with the consent of any landowners.
- 5.5 In any event, electricity infrastructure in the General Rural Zone including the road reserve is generally a permitted activity which implies that the effects are deemed to be acceptable. As such, no further assessment of these effects is necessary. If – which is not anticipated - consent is required, the network utility operator will assess any effects as part of the consent application process.

Question 4 - What legal rights exist to place infrastructure on the Saxton property without their agreement?

- 5.6 The Applicant has no legal rights to use the Saxton property and does not rely on any such rights in the absence of their consent.

¹⁰ See the letter dated 14 January 2026 from Counties Energy attached as Appendix Two. WEL has written directly to the Panel in response to its offer to do so.

Question 5 - What other realistic options exist for supplying 56 MW and how have these been assessed for potential effects?

5.7 Both network operators confirm that there are other, realistic options for supplying 56 MW including access from the north. Confirmation is also provided that there is capacity to supply the 56MW of electricity to the Site.¹¹ As is typical with such processes, these options will be progressed in more detail if the Project is granted approval.

6. CONCLUSION

6.1 The Project does not rely on access to the Saxton property. Multiple feasible and lawful electricity supply options exist that avoid the Saxton land entirely.

6.2 Because realistic alternatives exist, and because the effects of the Green Steel plant are capable of being fully understood on the information provided, electricity supply does not give rise to any adverse impacts capable of meeting the s85 FTAA threshold for decline. Nor does it create any uncertainty that prevents the Panel from understanding or assessing the effects of the activity applied for.

6.3 Accordingly, the information before the Panel satisfies the legal tests under the RMA and the FTAA. The most efficient route for electricity supply to the Site is appropriately determined after approval is granted.

DATED this 19th day of January 2026



G K Chappell

Counsel for National Green Steel Limited

¹¹ Refer to the letter from Counties Energy dated 14 January 2026 attached as Appendix Two.