Downstream chain of custody and claims: Phase One Final Report

8 October 2023
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1. Steelmaker claims: conclusions
The terms ‘site certification’/ ‘certified sites’ will be used to describe the certification of steelmaking sites using the ‘old’ (V1-1 standard) requirements as well as the additional ‘new’ requirements in the V2-0 standard.

Certified steelmaking sites that have progressed to at least level 1 in relation to GHG emissions intensity for crude steel AND the responsible sourcing of input materials, as defined in V2-0, will be able to make additional claims about their certified (steel*) products, and such products will be able to be sold as ‘ResponsibleSteel certified steel products’.

* without prejudice to claims might in future be made in relation to non-steel co products produced at certified steelmaking sites.

The terms ‘progress level’ / ‘level of progress’ will be used as the primary/ technical terms to describe the different levels defined in the ResponsibleSteel Standard. Additional words such as ‘achievement’, ‘performance’ or ‘maturity’ may be used where this aids description/ explanation of the level of progress that has been achieved.

The ‘old’ V1-1 requirements will be referred to as ‘core’ certification requirements. The old use of ‘site certification’ will in future be referred to as ‘certification to the core requirements of the ResponsibleSteel Standard’/ ‘core site certification’.

There are four further progress levels, for both the GHG emissions intensity of crude steel production, and the responsible sourcing of input materials:

- Progress level 1: the threshold level required for steelmaking sites to make claims about the (steel) products produced at the site, and to sell such products as ‘ResponsibleSteel certified (steel) products’;
- Progress levels 2 and 3: intermediate levels of progress, towards…
- Progress level 4: ‘near zero’ GHG emissions intensity for crude steel production, and ‘progress level 4’ for the responsible sourcing of input materials.
ResponsibleSteel site certification: the process by which a site’s conformity with the requirements of the ResponsibleSteel International Standard is assessed by an independent, third-party certification body approved by ResponsibleSteel, and on the basis of which a certificate of conformity may subsequently be issued.

ResponsibleSteel certified site: a site that has been certified by an independent, third-party certification body approved by ResponsibleSteel as meeting the specified requirements of the ResponsibleSteel International Standard. In addition to meeting the core ESG requirements of the Standard, sites may be certified as achieving different levels of progress in relation to the decarbonisation of their crude steel production and in relation to the sourcing of input materials, as defined in the ResponsibleSteel International Standard. The following levels for site certification are currently specified:

Core site certification: the level achieved by a site that has met the core environmental, social and governance requirements specified in the ResponsibleSteel International Standard.

Crude steel decarbonisation progress levels 1-4: four progress levels that may be achieved by a steelmaking site in relation to the decarbonisation of the site’s production of crude steel, in addition to meeting the core environmental, social and governance requirements of the ResponsibleSteel International Standard

Responsible materials sourcing progress levels 1-4: four progress levels that may be achieved by a steelmaking site in relation to the responsible sourcing of the input materials it uses for steelmaking, in addition to meeting the core environmental, social and governance requirements of the ResponsibleSteel International Standard

NOTE
The progress levels specified in the ResponsibleSteel International Standard give an indication of the site’s current level of achievement and its progress towards the ultimate goal of the responsible production of steel: steel that is produced at sites that meet the full range of core environmental, social and governance requirements; where the crude steel is made with ‘near zero’ GHG emissions; and with the input materials used for steelmaking being sourced responsibly, from ‘mine to metal’.
Certified site marks

- ResponsibleSteel will maintain the current structure and terminology of ‘RS logo’, ‘Member marks’, and ‘Certified site marks’

- Site marks are used for talking about and recognising ‘certified sites’, including sites that have achieved ‘Core Site Certification’ as well as those that have achieved further progress levels.

- Site marks are:
  - Used to ‘recognise a site which has been audited... and met the necessary criteria to become a ResponsibleSteel certified site’ to a particular level of progress
  - Attributable to a specific site and can only be used at the specified site – must not be used elsewhere
  - Can be used by the certified site on printed and digital collateral
  - Can be used by a member organisation to promote a certified site they operate, but must be accompanied by descriptive copy highlighting which site has been certified
  - Specific site name must be referenced in all communications

Examples:
- on websites, on sustainability pages, news stories, PR
- May be used at ‘certified site ceremonies’
All ResponsibleSteel certified sites (including sites that achieved ‘Core Site Certification’ as well as those that have achieved progress levels) will continue to be able to use the existing generic ResponsibleSteel certified site mark.

Sites that have achieved at least progress level 1 for both crude steel decarbonisation and for the sourcing of input materials, in addition to meeting the core ESG requirements of the ResponsibleSteel International Standard, will also be able to use a new certified site mark with additional elements indicating the progress level for the site.
Steelmaking sites that have achieved at least progress level 1 for both crude steel decarbonisation and for the sourcing of input materials will be able to apply a ‘certified steel’ version of the mark to their steel products, as long as these steel products are appropriately batch-marked.

BUT, this recommendation is provisional, depending on decisions re:

- the implications for sites with multiple furnaces, if not all have to achieve ‘level one’ performance for both crude steel GHG emissions intensity and responsible sourcing
- the implications for sites that process steel produced at other sites, as well as their own
- whether labelling of steel products creates the potential for fraudulent labelling or confusion
- whether this approach would be compatible with the downstream/claims system further downstream...
Further definitions (1)

**ResponsibleSteel certified steel**: steel produced at a ResponsibleSteel certified steelmaking site that has achieved ‘core’ site certification and at least progress level 1 for both crude steel GHG emissions intensity and for the sourcing of input materials for all the steel produced at the site.

**steel product**: product made out of steel, including galvanised, coated or plated steel

EXAMPLE Hot rolled steel, pickled hot rolled steel, cold rolled steel, finished cold rolled steel, electrogalvanized steel, hot-dip galvanized steel, tin-free steel, tinplated steel, organic coated steel, section, plate, rebar, engineering steel, wire rod, seamless pipe, UO pipe, welded pipe.

NOTE: Products that consist of separate components, all of which are themselves steel products, are classified as steel products. Products that consist of separate components some of which are not themselves steel products are not classified as steel products.

**ResponsibleSteel certified steel product**: steel product (qv) that is certified by a ResponsibleSteel approved certification body as being made out of ResponsibleSteel certified steel (qv) and is physically identified as such through a chain of custody identification code.
**Further definitions (2)**

**Co-product or by-product of steelmaking:** an output of steelmaking other than steel or steel products. Co-products are usually planned, desirable outputs from the manufacturing process. By-products are materials of value that are produced as a residual of, or incidental to, the production process. The distinction between co-products and by-products is not always obvious, and for the purposes of ResponsibleSteel certification they are treated as being interchangeable.

**EXAMPLES** blast furnace slag...

**ResponsibleSteel certified co-product or by-product:** a co-product or by-product of the production of ResponsibleSteel certified steel, that is certified by a ResponsibleSteel approved certification body as having been produced at a ResponsibleSteel certified steelmaking site, and that is physically identified as such through a chain of custody identification code.

**ResponsibleSteel product certification:** the certification by a ResponsibleSteel approved certification body:
- of steel products (qv), as being made out of ResponsibleSteel certified steel (qv); and/or
- of co-products or by-products of the production of ResponsibleSteel certified steel, as having been produced at a ResponsibleSteel certified steelmaking site
Conditions for use of certified steel mark by certified steelmaking sites

The ‘certified steel’ marks may currently only be used by ResponsibleSteel certified steelmaking sites – i.e. sites at which crude steel is first cast. The ResponsibleSteel ‘certified steel’ marks by downstream sites that are part of ‘clusters’ or ‘groups’ of sites shall not be permitted until ResponsibleSteel chain of custody standards applicable to such downstream sites have been finalised.

- The ResponsibleSteel ‘certified steel’ marks may only be used by steelmaking sites:
  - At which all the steel produced at the site has achieved at least progress level 1 for both decarbonisation and sourcing of input materials
  - For which all the data specified in requirements 10.7.1 and 10.7.2 of the ResponsibleSteel International Standard is published on the ResponsibleSteel website
  - At which any steel brought in from other sites for the purpose of further processing has been produced at sites that have themselves achieved at least progress level 1 for both decarbonisation and sourcing of input materials*
  - That are licensed to use the mark by ResponsibleSteel
* This requirement may be modified when ResponsibleSteel chain of custody standards applicable to downstream sites have been finalised.

- The ‘certified steel’ mark may only be used on ResponsibleSteel certified steel products:
  - For which there is a publicly available product carbon footprint that complies with the requirements of the ResponsibleSteel International Standard requirement 10.6.4
  - That carry a physical mark identifying the unique ‘heat’ for the production of the steel product

- All uses of the ResponsibleSteel ‘certified steel’ marks must:
  - Be in the format issued by ResponsibleSteel, including the applicable ResponsibleSteel license code, and the applicable progress level ‘stars’
  - Follow all the applicable requirements of the ResponsibleSteel logo guide
  - Be pre-approved by ResponsibleSteel
Outstanding issues

- Definition of progress levels for steelmaking sites with multiple furnaces, some of which may be considered to have different progress levels (e.g. for decarbonisation). Options include:
  - Minimum progress level applies to all certified steel (conservative approach)
  - Site level average progress level claim
  - Segregation and furnace specific progress level claim
  - Mass balance based progress level claim

However, the approach has to be fully aligned with the approach for downstream mixing of certified steel from different steelmaking sites, so can only be resolved as part of the downstream chain of custody standard process. Pending finalisation of the downstream chain of custody standard it is proposed that the most conservative approach should apply. If a less conservative approach is subsequently agreed, the steelmaker would be able to apply any new labels with immediate effect.

- Will some CoC requirements be included in Standard V2-1 (e.g. application and recording of batch numbers by steelmaking sites; recording sales of ‘RS-certified’ products; certification bodies/ RS permission to review sales records for verification of subsequent downstream claims)? If not, how? Will all steelmakers automatically have the right to label their steel products as RS-certified steel products? Or will RS implement a system with distinct ‘steelmaker’, ‘CoC’ and ‘steelmaker + CoC’ options?

- Steelmaker claims in relation to non-steel co products or by-products produced at certified steelmaking sites. Further work is needed, but initial proposal is that a generic ‘ResponsibleSteel certified co-products/ by-product’ label should be made available, but without ‘progress level’ variations.
Further work pending...

The ResponsibleSteel Secretariat has committed to:

➢ Develop more general guidance as to how the Secretariat and other stakeholders should talk about the different levels of certification, and in particular how to talk about the ‘old’ V1-1 and the ‘new’ V2-0 standards. (Some language/terminology in some contexts will be obligatory, but some language will be given as guidance/examples of general style/usage)

➢ Develop a consistent terminology and guidance on language to communicate a site’s progress towards the ultimate goal of the responsible production of steel: steel that is produced with ‘near zero’ GHG emissions and with all the input materials used for steelmaking being themselves produced responsibly, from ‘mine to metal’....

➢ Review and revise the wording of the ResponsibleSteel Standard including the introductory sections, to bring it into line with the agreed language, and to clarify/emphasise which requirements are to be met to achieve ‘Core Site Certification’, and which are related to the achievement of further progress levels.

➢ Circulate a ‘track changes’ version of the revised wording to the Working Group for review and comment before finalisation. Final changes will be approved following the applicable requirements of the ResponsibleSteel Standards Development Procedures.

➢ Review and revise relevant aspects of the RS website and other documentation accordingly.
2. Downstream Chain of Custody and claims: conclusions and recommendations
At the conclusion of phase one of the downstream chain of custody and claims project it was agreed that:

• ResponsibleSteel should provide a downstream chain of custody standard based on physical traceability with full segregation (i.e. all ResponsibleSteel certified steel products would consist of / be made with 100% RS-certified steel). The system would support steel product labelling and associated claims, including the use of marks specifying the 4 progress levels for decarbonisation and input material sourcing.

• The downstream chain of custody standard should be accompanied by a ‘book and claim’ system that would allow end users to make claims based on the purchase ‘credits’ that have been booked by ResponsibleSteel certified steelmaking sites. The book and claim system would allow end users to make claims about their support for the ResponsibleSteel system, and would also include the use of marks specifying the 4 progress levels for decarbonisation and input material sourcing.
A number of issues were identified that would need to be resolved through the process for developing a downstream chain of custody standard, including:

- Application to steelmaking sites that also use/process steel produced externally
- Application to downstream sites that are parts of ‘clusters’, ‘groups’, ‘business units’
- Consideration of ESG issues downstream of steelmaking: options to consider may include:
  - Application of the RS standard to downstream businesses
  - Development of specific requirements applicable to downstream businesses (NB, see FSC CoC specifications in relation to labour and other social issues)
  - Reference to RS-recognised specifications (e.g. ISO 14001, ISO 45001, SA8000, etc).
- Downstream sourcing of materials other than steel
- Alignment(coordination between RS crude steel GHG performance and product carbon footprint info
- Consideration of how different progress levels should be combined as steel progresses through successive stages of manufacturing, with option to include:
  - Segregation and product specific progress level claim
  - Minimum progress level applies to all certified steel (conservative approach)
  - Volume weighted-averages of the progress levels of the inputs
  - A mass balance approach based on the progress levels of the inputs
A draft terms of reference for the development of a ResponsibleSteel Chain of custody standard was prepared. This was subsequently expanded, based on the updated ResponsibleSteel Standards Development Procedures. The expanded Terms of Reference were presented to the SACC and approved, and is presented in Section 3 of this slide deck.

There was some preliminary discussion of the different options for the design of a ‘book and claim’ system. These are presented in Section 4 of this slide deck, together with initial consideration of the process to be followed.
3. Terms of reference for downstream chain of custody standard
Terms of Reference

ResponsibleSteel standards development procedures require that a Terms of Reference (ToR) is prepared and approved by the Board prior to the decision to develop any new standard. The following slides show the ToR that have been approved for the development of the ResponsibleSteel chain of custody standard.

The standards development procedure states:

“2.2.1 The Secretariat shall prepare a draft Terms of Reference (‘ToR’) for the new Standard for review by the Board. The Terms of Reference shall include at minimum:

a. the proposed scope of the Standard;
b. the objective of the Standard development or revision process;
c. the intended sustainability outcomes of the Standard, if applicable;
d. how the outcomes are aligned to the vision and mission of ResponsibleSteel as described in the ResponsibleSteel Objects (see ResponsibleSteel Constitution, adopted 29th April 2021, para 3.1);
e. the decision-making procedure, how decisions are made and who will make them;
f. a justification of the need for the Standard, including how the Standard complements existing standards or those with overlapping scopes;
g. the intended sustainability claims that the Standard will substantiate, if applicable”
2.2.1a. the proposed scope of the Standard

1. The Standard shall be applicable to:
   i) steel makers that are certified by an approved ResponsibleSteel certification body as meeting the requirements of the ResponsibleSteel International Standard and that wish to sell their steel products, co-products or by-products as ResponsibleSteel certified steel products, co-products or by-products
   ii) steel manufacturers, steel processors, steel traders and steel end users that wish to make claims about their purchasing, manufacturing, processing, trading or sales of ResponsibleSteel certified steel products, co-products or by-products

2. The Standard shall not be applicable to:
   i) Steel makers that are not certified by an approved ResponsibleSteel certification body as meeting the requirements of the ResponsibleSteel International Standard
   ii) Producers, manufacturers, processors or traders of products other than ResponsibleSteel certified steel products, co-products or by-products. This includes, until further notice, producers of pig-iron, direct reduced iron (DRI), hot briquetted iron (HBI), etc, unless they themselves also produce ResponsibleSteel certified steel products, co-products or by-products.

3. ResponsibleSteel may develop further chain of custody standards and/or requirements applicable to producers, manufacturers, processors or traders of input materials for steelmaking, including, potentially, the production of pig-iron, direct reduced iron (DRI), hot briquetted iron (HBI), etc, in the future.
4. The Standard shall specify the requirements that must be met for steel manufacturers, steel processors, steel traders and steel end users to make claims about the quantity and/or the ResponsibleSteel progress level of the ResponsibleSteel certified steel products, co-products or by-products that they purchase.

5. The Standard shall specify the requirements that must be met for steel makers, steel manufacturers, steel processors, steel traders and steel end users to market or sell steel products, co-products or by-products as ResponsibleSteel certified steel products, co-products or by-products at specified ResponsibleSteel progress levels.
   i. The requirements shall specify that 100% of the steel products, steel co-products or steel by-products they contain are themselves ResponsibleSteel certified steel products, steel co-products or steel by-products;
   ii. The Standard shall include definitions for ResponsibleSteel certified steel, steel products, steel co-products, steel by-products, and related terms, that are compatible with this specification
   iii. The requirements may include social and/or environmental requirements that must be met by steel manufacturers, steel processors, steel traders and steel end users in order to achieve ResponsibleSteel chain of custody certification.

6. The Standard shall be applicable to all steel products, steel co-products and steel by-products that meet the specified requirements, irrespective of the technology by which the steel is produced, and shall be internationally applicable, irrespective of the country or region of the steel’s production or subsequent manufacturing or processing.
2.2.1b. the objective of the Standard development process

1. The objectives of the standard development process are to develop an international standard that:
   i) Allows steel makers, manufacturers, processors, traders and end users to purchase, manufacture, process, trade, sell and make claims about ResponsibleSteel certified steel products, co-products and by-products;
   ii) Promotes the recognition of ResponsibleSteel certified steel products, co-products and by-products
   iii) Maximises the overall positive social and environmental impacts from the production and use of ResponsibleSteel certified steel products, co-products and by-products
   iv) Supports the achievement of the goals of the Paris Agreement, by supporting decarbonisation of the steel sector globally
   v) Provides a basis for the identification of the ‘ResponsibleSteel progress level’ in relation to decarbonisation and the responsible sourcing of input materials for steel products, co-products and by-products in trade
   vi) Could be used as a tool by governments that wish to promote the procurement and/or trade of steel products that support the achievement of the goals of the Paris Agreement and other intergovernmental agreements relating to impacts on biodiversity, human rights, etc.
   vii) Is compliant with the requirements for green claims under Australian law and with specified* international guidelines in relation to ‘green claims’ and the avoidance of ‘greenwashing’.

* To be specified in the standards development process
2.2.1c. the intended sustainability outcomes of the Standard

- To support positive environmental and social impacts at the site level for steelmaking worldwide, by enabling steel demand to create market value for ResponsibleSteel certification of steelmaking sites.
- To maximise the speed of the transition to the use of responsibly sourced input materials for steelmaking worldwide, thereby mitigating negative social and environmental impacts from the production and processing of these materials.
- To maximise the speed of the transition to ‘near zero’ GHG emission steelmaking worldwide, thereby mitigating the impacts of human-induced climate change while supporting the needs and aspirations of developing countries.
2.2.1d. how the outcomes are aligned to the ResponsibleSteel Objects

1. ResponsibleSteel has the following Objects:

   (a) to maximise steel’s contribution to a sustainable society;
   (b) to enhance the responsible sourcing, production, use and recycling of steel by:
      (1) providing a multi-stakeholder forum to build trust and achieve consensus in relation to the responsible production, processing, transportation, use and recycling of steel including aspects associated with the responsible production, processing and supply of raw materials for steelmaking;
      (2) developing international standards and certification and related tools; and
      (3) driving positive change through the recognition and use of responsible steel.

   (From: ResponsibleSteel Constitution, para 3.1)

2. The Standard is explicitly aligned with Objects (a)2 and (a)3. In addition, the standards development process with involve stakeholders in the consideration of the application of ESG requirements to manufacturers and other downstream steel users.
2.2.1e. the decision-making procedure, how decisions are made and who will make them

1. The Standard will be approved by the ResponsibleSteel Board of Directors following ‘Procedure A – Board Approval’ as specified in paragraph 3.9 of the ResponsibleSteel International Standards Development Procedures, Version 3-0.

Note: according to Procedure A the Board will approve a final version of the Chain of Custody Standard, after the required public stakeholder consultations, without the need for a formal vote of the ResponsibleSteel membership. This approach was previously approved in principle by SACC at its meeting on the 15th of February 2023.
2.2.1f. a justification of the need for the Standard, including how the Standard complements existing standards or those with overlapping scopes

1. A unique ResponsibleSteel chain of custody standard is necessary in order to define and regulate claims that may be made by downstream processors, manufacturers, traders, and end users of steel produced by ResponsibleSteel certified steelmakers. Only ResponsibleSteel can define the requirements for claims made using the ResponsibleSteel name and logo(s).

2. The standard will be developed taking account the terminology and general requirements of ISO 22095: Chain of custody – General terminology and models

3. ResponsibleSteel has included the steel standards and certification organisation CARES in the development of the specifications and consideration of options for the design of a ResponsibleSteel chain of custody standard, and expects to continue these discussions as the standards development process proceeds.

4. ResponsibleSteel has sought the views of representatives from the Aluminium Stewardship Initiative (ASI) and the Forest Stewardship Council (FSC) in relation to the different chain of custody model options.

5. ResponsibleSteel has consulted closely with the Climate Group, as co-developer of the SteelZero initiative, to ensure that the proposed chain of custody standard will meet the needs of SteelZero members worldwide.
2.2.1g. the intended sustainability claims that the Standard will substantiate

1. The Standard will specify claims that may be made about the production and use of ResponsibleSteel certified steel products, co-products and by-products on the basis of conformity with the requirements of the Standard.

2. The Standard will substantiate claims:
   i. About the quantity of ResponsibleSteel certified steel products, co-products or by-products that a steelmaker sells over a given period of time, and at a given ‘progress level’ in relation to decarbonisation and the responsible sourcing of input materials for steelmaking
   ii. About the quantity of ResponsibleSteel certified steel products, co-products or by-products that a company purchases over a given period of time, and at a given ‘progress level’ in relation to decarbonisation and the responsible sourcing of input materials for steelmaking

3. The Standard will support, but will not define, claims that may be made in relation to the use of ResponsibleSteel certified steel products within composite products (e.g. cars, white goods, or buildings) that comprise the use of multiple materials in addition to steel itself.

4. The Standard will support, but not duplicate, the specifications, guidance and licencing of claims covered in the ResponsibleSteel Claims and Logo Use Guidelines.
4. Development of ‘book and claim’ system
In addition to the development of a downstream chain of custody standard based on the ‘segregation’ model, it was agreed that ResponsibleSteel should develop a complementary ‘book and claim’ mechanism to incentivise the production of ResponsibleSteel Certified Steel in the absence of physical traceability. It was recognised that further work would be needed to clarify the likely development costs, expected demand, and design of such a ‘book and claim’ system. There was some initial discussion of the design of a ‘book and claim’ system, and it was proposed that the system should:

- Identify steelmaking companies of origin
- Identify steel mills of origin (or groups of mills, following the specification of C10.7.2)
- Identify the progress levels (decarbonisation and input material sourcing) for the steel mills of origin
- Allow buyers to buy credits from named sites
- Require buyers to buy credits sufficient to cover 100% of their steel purchasing over a 12 month period
- Allow steelmakers to set the price for the credits they sell
- Require that once credits have been bought they would be taken off the system
- Include a fee to be charged by ResponsibleSteel as a % fee of all purchases
- Allow credits to be generated by production since the date of certification, to be booked monthly, and to expire after 12 months
- Prohibit steelmakers from double counting: the steelmaker would choose whether to book credits for sale, or to sell RS-certified steel to a direct customer, but the total volume could not exceed actual production over a given time period.
- Allow anyone to purchase credits (including intermediate manufacturers, finance institutions, impact investors or others). But credits would not be tradable: only steelmakers could book credits.

[The system could be linked to a requirement that credit buyers must make a SteelZero/FMC type commitment to source actual RS-certified/ near zero steel by a given date.]
Initial proposals, continued...

• ‘Book and claim’ claims:
  • *Would not be permitted on-product*
  • Would be defined in terms of the end users’ support for the ResponsibleSteel programme
  • Would be permitted for a time-limited 12-month period, after which an additional 12 months of credits would need to be purchased
  • Would require full disclosure of the purchased credits (from which steelmill, and that steelmill’s progress level for decarbonisation and materials sourcing)
  • Would in addition specify the average (volume weighted mean) progress level of the purchased credits
Preliminary discussions by the ResponsibleSteel Secretariat proposed:

- Development of the ‘book and claim’ system should only take place once the main elements of the downstream chain of custody and claims system are well developed and nearing finalisation.

- Prior to the development of a ‘book and claim’ system additional information is needed in relation to:
  - The cost of developing a system and/or adapting an existing system
  - Potential service providers
  - Different business model options for cost/risk sharing
  - More in depth investigation of the potential value to, and uptake by, steel end users, manufacturers, and/or other stakeholders
  - The relationship between ‘book and claim’ uptake and commitments through programmes such as SteelZero and the First Movers Coalition.
5. Ensuring compliance with green claims regulations
The working group on downstream claims and chain of custody emphasised the importance of ensuring that the ResponsibleSteel programme meets and supports regulations in relation to ‘green claims’ and ‘greenwashing’

Two documents covering green claims issues have been drafted:

a) ResponsibleSteel downstream chain of custody and claims, and conformity with green claims legislation, confidential draft dated 15 June 2023. The filename is GreenClaimsComplianceRecommendations.docx. It is referred to below as ‘Green Claims Compliance Recommendations’

b) How ResponsibleSteel meets the requirements of the Australian Competition and Consumer Commission (ACCC) in relation to environmental and sustainability claims, dated 6 October 2023. The filename is Ensuring RS businesses meet green claims requirements (2023-10-06).docx. It is referred to below as ‘Ensuring RS businesses meet ACCC rules’.

This section describes these two documents, including a summary of content and notes on their recommendations.
The first document, Green Claims Compliance Recommendations, includes:

- Section 2: a brief review of:
  - green claims legislation in a range of countries and regions, including Australia, USA, UK and the European Union
  - some relevant ISO standards on green claims
  - ISEAL guidance on claims
- Section 3: Review of the implications of the above for the development of RS claims and downstream chain of custody standards
- Section 4: A fairly detailed cross reference of ResponsibleSteel’s proposed rules for claims/ downstream chain of custody (as of July 2023) against the requirements of the ACCC’s 2011 document ‘Green marketing and the Australian Consumer Law’, including some recommendations as to actions RS should take to ensure conformity (but note that this is partly superseded by document b, ‘Ensuring RS businesses meet ACCC rules’).
- Section 5: notes on the ongoing development of RS logos, rules for making claims, and downstream chain of custody standards, including some recommendations as to actions RS should take to ensure conformity
- Annex 1: a list of references to relevant guidance, legislation, and ISO standards
- Annex 2: the detailed confidential advice on green claims provided by Piper Alderman dated 8 February 2023, and MWS comments on that advice dated 21 April 2023.

The following slide summaries recommendations from document a).
The document notes that Piper Alderman has recommended that RS should register its logos (most likely, in practice, its ‘Certified Site’ and ‘Certified Steel’ marks as ‘certification trade marks’ rather than as ‘standard trademarks’. At the time of writing the decision to initiate such an application is still pending.

The document supports Piper Alderman’s recommendation, on the basis that this would result in the ACCC formally reviewing the RS system to ensure it meets Australian rules for ‘green claims’. It is assumed RS will follow Piper Alderman’s advice, but the other recommendations would remain even if it does not.

Sections 4 and 5 of the document include a number of specific recommendations to ResponsibleSteel, including:

- Marks will be registered with ACCC as certification marks
- Use of the marks will be licensed by RS – only certificate holders will be licensed
- Downstream users would have been certified as meeting an RS chain of custody standard
- The license to use the marks will include the requirement that licensees follow guidance in the ResponsibleSteel logo guide (or equivalent)
- The ResponsibleSteel logo guide (or equivalent) will specify the claims that may be made, including language that will limit such claims to claims that are factually correct and can be clearly substantiated on the basis of performance with the requirements of the ResponsibleSteel International Standard, and/or the chain of custody standard, as applicable. Guidance and examples should also be provided of language that must NOT be used, in relation to the ResponsibleSteel programme
- Certification marks should only be permitted for use ‘on product’ when products are made of 100% ResponsibleSteel certified steel
- Only the ‘progress level’ versions of the certification marks may be used on product
- Certification marks may only be used when the product’s product carbon footprint information is also provided on product, in association with the RS certification mark
- IF ResponsibleSteel adopts a mass balance and/or ‘book and claim’ option, on-product use will NOT be permitted when these options are used.
Several aspects of the RS claims system remain to be finalised, including, most importantly, the RS Chain of Custody Standard and the associated rules for claims and labels.

The document recommends that ResponsibleSteel should review its proposed claims and related controls, prior to finalisation, against:

- The latest version of the US Federal Trades Commission ‘Green Guides’ (at the time of writing the US government is reviewing its 2012 Green Guide, and is expected to publish an updated version in 2023).
- The UK Competition and Markets Authority (CMA) guidance on green claims.
- The official guidance on the application of the European Union’s ‘Unfair Commercial Practices Directive’ (UCPD) with respect to green claims.
- The applicable requirements of ISO 14020: 2022 Environmental statements and programmes for products – Principles and general requirements. Note that not all requirements will be applicable to a programme like the RS programme, as the RS programme is a sector-specific, multi-stakeholder third-party programme based on an international standard.
- The components for ‘claims’ in the most up-to-date version of the ISEAL Code (at the time of writing the ISEAL Code is being revised, with a new version expected to be finalised at the end of 2023 or in early 2024).
No significant concerns have been identified with respect to ResponsibleSteel's compliance with the above requirements, based on decisions that have so far been taken in relation to claims by steelmakers, and the proposed terms of reference for downstream chain of custody and claims.

However, ResponsibleSteel will need to confirm that this remains the case as the ResponsibleSteel downstream chain of custody standard, and the associated rules for claims and labelling, are developed.

Two issues of potential concern are:

1. The RS system does not cover the full life cycle for steel products through an LCA. This is unlikely to be a significant concern, so long as RS provides a public explanation of its approach, and the reasons for it.

2. IF RS were to develop a ‘mass balance’ approach to on-product labelling, this could be considered to be misleading. It is recommended that RS should consider this extremely carefully as it proceeds to develop its downstream chain of custody standard, and associated claims and labels. Care will also need to be taken in relation to off product claims that companies may make in association with the proposed ResponsibleSteel ‘book and claim’ option.

Finally, the European Union has proposed draft legislation that could be seriously problematic in relation to the application of any claims/labels that are not based on complete, formal life cycle assessment, and/or pre-approved by the European Commission. This would be extremely worrying for ResponsibleSteel, and it is recommended that RS should work with ISEAL to track the further progress of this legislation.
The second document, Ensuring RS businesses meet ACCC rules, includes:

- A summary of the ResponsibleSteel ‘claims system’, comprising:
  - Design of the ResponsibleSteel certification marks
  - Additional information on the ResponsibleSteel website
  - Rules and guidance for the use of the ResponsibleSteel certification marks as specified in the document ‘Visual identity guidelines for the ResponsibleSteel™ International Standard: Business Members, Civil Society Members, Associate Members and Certified Sites.’
  - Rules for the issue of the ResponsibleSteel certification marks
  - Licensing of the ResponsibleSteel certification marks (TO BE CONFIRMED)

- A fairly detailed cross-reference between the eight ACCC ‘principles for trustworthy environmental and sustainability claims’ and the aspects of the ResponsibleSteel claims system as listed above, showing how the ResponsibleSteel claims system can be used by businesses to help them ensure compliance with Australian legal obligations for green claims.

The document emphasises that, ultimately, it is up to any business making a ‘green claim’ to ensure that it meets the applicable legislation and guidance in the jurisdictions in which it operates. ResponsibleSteel cannot be held liable for actions of such businesses. However, the document is intended to demonstrate how claims that are correctly made, based on the ResponsibleSteel programme, should meet the ACCC principles.

The document is intended to provide a basis for ACCC assessment of the ResponsibleSteel claims system, as part of ResponsibleSteel’s application to register its ‘Certified Site’ and ‘Certified Steel’ marks as certification mark trademarks in Australia.

The document is based on decisions that have been made to date about the use of the ResponsibleSteel trademarks, and does not cover the use of the marks by downstream manufacturers and steel end users based on a downstream chain of custody standard and associated rules for claims and labels, nor the development of a ‘book and claim’ system, as these still remain to be specified.

The document includes a number of assumptions as to the basis for licensing use of the ResponsibleSteel certification marks, which are highlighted, and will need to be confirmed.
6. ACCC review re: Australian ‘green claims’ regulations
ACCC review re: Australian ‘green claims’ regulations

1. **Registration of the ResponsibleSteel certification marks as trademarks**

   ResponsibleSteel will need to confirm that its claims system meets ACCC requirements. Section 5 of this slide deck is intended to demonstrate that the aspects of the system that have been determined to date (label design, claims by steelmakers) meet the requirements.

   If RS applies for its marks to registered as certification mark trademarks, this will be reviewed by ACCC as part of the application process. The document ‘Ensuring RS businesses meet green claims requirements (2023-10-06).docx’ is intended to facilitate this process.

As ResponsibleSteel develops its downstream chain of custody standard and associated rules for claims and labels, and its ‘book and claim system’ it will need to confirm that its rules continue to meet and support ACCC requirements. To this end:

- The document will need to be updated to include review of additional elements as these are nearing finalisation
- Once these elements are finalised the updated document will need to be submitted to ACCC to confirm that the system continues to meet ACCC requirements