

## **Before an Expert Panel**

Under the Fast-track Approvals Act 2024

And

In the matter of an application for approvals by Taharoa Ironsands Limited to continue existing mineral sand extraction, including land preparation works, constructing a water supply reservoir, extracting ironsand material using dry and wet-mining techniques, processing extracted material, and transporting raw and processed material on 911 hectares at Taharoa Road, Taharoa, approximately 8 kilometres south of Kawhia and 45 kilometres northwest of Te Kūiti (Central and Southern Block Mining Project)

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Memorandum on behalf of Taharoa Ironsands Limited in relation  
to the lodgement of a substantive application

Overview of the application, key issues to be determined,  
statutory assessment and procedural matters

Dated 5 December 2025

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## MAY IT PLEASE THE PANEL

### INTRODUCTION

1. Taharoa Ironsands Limited (**TIL**) is the operator of the Taharoa Ironsand Mine, which is a long-established and successful ironsand mining, shipping and export business located on Māori freehold land in Taharoa, on the West Coast of the North Island (**Mine**).
2. The Mine was originally established by the National Government over 50 years ago and has operated continuously since then. It is situated on Māori freehold land, owned by The Proprietors of Taharoa C Block Incorporated (**Taharoa C**), on an isolated and exposed stretch of coastline. It accesses the largest known ironsand deposit in New Zealand.
3. TIL utilises the following techniques to efficiently extract ironsand across the Mine site:
  - (a) The use of bulldozers and dry mining units to strip surface material. This method is typically applied to areas where sand deposits are located above the water table, allowing for mechanical excavation without the need for extensive water management. It is suited to relatively dry conditions and shallow deposits.
  - (b) Using a floating dredge that operates within a pond to target deeper, high-grade sand deposits located below the water table. To access these deposits, the water level at the pit floor is reduced, enabling the dredge to reach the lowest layers of sand. This method is particularly effective in saturated environments where traditional dry excavation methods are not feasible.
4. The second methodology set out above (whereby a floating dredge is used, and mining interacts with groundwater) was lawfully established in the 1970s when the Mine was first opened, and for the majority of the Mine's life was the primary method of mining. It is only more recently – since 2013 that dry mining techniques have been used.
5. The raw product that is extracted using the above methods is then processed on site to extract titanomagnetite which is exported directly to Asia, using

- three dedicated ships, via Taharoa Port. Taharoa Port is located adjacent to the Mine in the coastal marine area (**CMA**), avoiding the need to use land-based transportation and reducing the Mine's carbon footprint. The entire mining process is undertaken without the addition of any chemicals or non-natural substances.
6. The Mine is divided into blocks – the Central and Southern Blocks, Northern Block, Te Mania Block and the Eastern Block. The Central and Southern Blocks have been in operation since the Mine's inception and contain the primary infrastructure, facilities, water take and other services which support activities across all blocks. The ship-loading and export facilities in the CMA are located adjacent to the Central and Southern Blocks.
  7. Activities in the Central and Southern Blocks and the ship-loading and export facilities in the CMA are currently authorised by a suite of existing resource consents granted in 2006 (which are addressed further below). The Eastern and Te Mania Blocks and part of the Northern Block ('Pit 1') are authorised by separate resource consents.
  8. TIL is seeking all necessary approvals under the Fast-track Approvals Act 2024 (**FTAA**) to enable the continued operation of mining activities within the Central and Southern Blocks and the ship-loading and export activities within the CMA (**Application** or **Project**). This includes resource consents to replace its existing resource consents under the Waikato Regional Plan (**WRP**) and Waikato Regional Coastal Plan (**WRCP**), and approvals relating to the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPT Act**) and the Wildlife Act 1953 (**Wildlife Act**).
  9. TIL's substantive application for these approvals is made under section 42 of the FTAA and the Project is a listed project under Schedule 2 of the FTAA. The Application is supported by a Substantive Application Report prepared by Tonkin and Taylor dated December 2025 (**Substantive Application Report**), a series of technical assessments and all other information necessary to meet the requirements of the FTAA.
  10. The extraction, export and shipping activities undertaken by TIL provide significant benefits to the Taharoa community, Waikato region and the national economy. These benefits were recognised when the Project was listed in Schedule 2 of the FTAA. To enable them to continue, the approvals

sought need to be granted, subject to appropriate conditions. If the approvals are not granted or are granted in a manner that renders TIL's operations impractical or uneconomic, then the entire Mine will need to close and TIL's export and shipping activities will need to cease.

11. The reconsenting of the Central and Southern Blocks of the Mine has a long history, which has created considerable uncertainty for TIL.
12. TIL's existing resource consents for the Central and Southern Blocks expired on 31 December 2020. An application was made by TIL to Waikato Regional Council under the Resource Management Act 1991 (**RMA**) to replace the relevant resource consents before they expired, and Waikato Regional Council exercised its discretion to enable TIL to continue operating in relation on the existing consents under section 124 of the RMA. Replacement consents were granted by WRC in November 2024 for a term of 20 years. However, the WRC decision did not authorise mining which interacts with water – namely groundwater, imposed a reduced term and imposed some conditions that were unworkable and did not recognise the functional and operation needs of the Mine. TIL therefore appealed WRC's decision to the Environment Court. The appeal is currently on hold pending the acceptance of the Application. TIL will withdraw its existing RMA application and the appeal once the Application is accepted for processing by the Environmental Protection Authority (**EPA**). Under section 95 of the FTAA, TIL will continue to rely on its existing resource consents while the Application is being determined.
13. As the Application has recently been the subject of a council hearing process, the issues arising are well understood by TIL and stakeholders. Notably, as part of the RMA process, all submitters and WRC agreed that the replacement consents should be granted to enable TIL to continue its operations. Agreement was reached on most conditions of consent, and the remaining issues fell within a relatively narrow compass.
14. TIL determined that the Fast-track process, rather than resolution of the appeal, was the most efficient way to resolve the remaining issues. Having regard to this context, TIL anticipates that the issues on appeal will be a focus for the Panel appointed to consider the Application.

15. The purpose of this memorandum is to assist the Panel Conveners by providing:
- (a) An overview of the Mine and the regional and national benefits it provides;
  - (b) The consenting history of the Mine and reasons for the Application;
  - (c) A summary of the approvals sought under the FTAA;
  - (d) A list of the technical reports provided in support of the Application;
  - (e) A summary of the key issues that need to be determined;
  - (f) An overview and analysis of the legal framework relevant to:
    - (i) the resource consent application;
    - (ii) the wildlife approval application;
    - (iii) the archaeological authority application;
    - (iv) all approvals being sought.
  - (g) Details of consultation undertaken by TIL;
  - (h) Discussion of other existing approvals for the same activity;
  - (i) TIL's suggestions in relation to key case management and procedural matters, including the appointment of members to the Panel.

## **THE TAHAROA IRONSAND MINE**

16. As noted in the introduction, the Mine is situated on Māori freehold land owned by Taharoa C. The beneficiaries and shareholders of Taharoa C are entirely comprised of Ngāti Mahuta hapu members being the enduring owners of the Taharoa C land upon which the mining activities take place. Membership is estimated to exceed more than 2,000 shareholders. Taharoa C leases the land to TIL (under a lease which will expire in 2062), and receives royalties, dividends and income under this agreement. Taharoa C

has provided its written approval for the Project to be undertaken on Māori land, it has explained that:<sup>1</sup>

*The Mine has brought long-lasting socio-economic benefits to the people of Taharoa, many of whom are Ngaati Mahuta (including the shareholders of Taharoa C). This includes considerable social and economic benefits, including income for the shareholders of Taharoa C, local employment opportunities (and high wages), and the provision of community infrastructure, services and housing to support the local village. It has enabled productive use to be made of the land which is otherwise largely uninhabitable and for which there are currently no other realistic viable commercial uses. The Mine has enabled a number of tangata whenua to retain and remain on their ancestral land in Taharoa, strengthening their connection to that land — a connection we anticipate being maintained with the mines ongoing operation.*

17. The Mine was opened in 1973 by New Zealand Steel Mining Limited (NZSML) which now trades as TIL. At the time, NZSML was wholly-owned by the New Zealand government. The Mine was acquired by Taharoa Mining Investments Limited in 2017 when the then owner, Bluescope, announced that it proposed to close or sell the Mine (with closure indicated as the most likely option).
18. The 2017 purchase of the Mine has seen it become a New Zealand owned and operated company that is a success story for Taharoa C and responsible for one of the largest economic transformations for Māori in any area of New Zealand.
19. Concentrated iron ore, which is extracted from ironsand, is sold at a grade of 56.8% ferrous magnetic content, primarily to export markets in China and Japan. This iron ore is an essential ingredient in the manufacture of steel, a vitally important engineering and construction material. The Mine is now the largest ironsand mine in the world and the only one that integrates mining, processing, port infrastructure, and international shipping into a single, vertically integrated supply chain. TIL's three purpose-built slurry vessels form New Zealand's largest dedicated commercial fleet and are the only vessels of their kind, capable of offshore slurry loading. The Taharoa Port,

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<sup>1</sup> See Substantive Application Report: Appendix D - Landowner Written Approval to Undertake the Project on Māori Land.

dedicated solely to this operation, is projected to become the second largest port in New Zealand by export tonnage in 2026.<sup>2</sup>

20. As set out in the Substantive Application Report and the Economic Assessment by Sense Partners (Appendix C to the Substantive Application Report):
  - (a) Priced in today's dollars, the export contribution of the Mine to the New Zealand economy to date exceeds \$5 billion, with planned export sales of \$14 billion to 2055.<sup>3</sup>
  - (b) The Mine generates tax revenue that has provided the New Zealand government with [REDACTED] in the last eight years under the current ownership, which is significant on a national scale.<sup>4</sup>
  - (c) Since May 2017, the Mine has generated spending on regional goods and services of \$1.2 billion and is expected to generate an additional spend of \$9 billion, or \$298 million per year, over the next thirty years. Principal inputs into the operation over the past seven years, include domestic capital spending of over \$140 million and direct purchases of labour inputs of \$208 million.<sup>5</sup>
21. These figures place TIL's contribution on par with New Zealand's wool industry and ahead of the entire arable sector, making it one of the most valuable privately owned export operations in the country.<sup>6</sup>
22. Alongside these benefits, the Project will continue to heavily benefit local communities. Through the operation of the Mine and the Project:
  - (a) Taharoa C (the landowner) receives \$5 million annually through the operation of the Mine providing income to the Ngāti Mahuta

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<sup>2</sup> Appendix C – Economic Assessment at [2.2].

<sup>3</sup> Appendix C – Economic Assessment at [2.2].

<sup>4</sup> Appendix C – Economic Assessment at [2.4].

<sup>5</sup> Appendix C – Economic Assessment at [2.5].

<sup>6</sup> Appendix C – Economic Assessment at [2.2].

<sup>7</sup> Appendix C – Economic Assessment at [3.2].

shareholders. At least 82% of income earned by local Ngāti Mahuta comes from employment at the Mine.

- (b) Approximately 350 full-time equivalent jobs are supported and the Mine maintains a core workforce of 70-80 people. Many of these staff members live in heavily subsidised accommodation (\$28 per week) owned by TIL. They also receive up-skilling opportunities, 10% superannuation and generous salaries. Business is also provided to contractors.
  - (c) The Mine provides high-paying employment in a remote area, enabling Māori to remain connected to their whenua while accessing modern economic opportunities.
  - (d) TIL also owns and maintains many of the facilities in Taharoa Village including sports facilities, shops, a town hall and a school. They provide additional services to the village such as rubbish collection, public transport, freight services and access to petrol and diesel supplies all at their own election.
23. By gaining the necessary approvals for the Project, TIL will secure access to a significant iron ore resource, and the Mine's key operational and ship loading infrastructure which is vitally important to the ongoing operation of the Mine. Securing this infrastructure will support the expansion of the Mine into other blocks – which in and of themselves will continue the Mine's realisation as a regionally and nationally significant activity.

## CONSENTING HISTORY AND REASONS FOR APPLICATION

24. The Mine is zoned Industrial in the Operative Waitomo District Plan (**Operative Plan**) and Rural Production in the Proposed Waitomo District Plan (**Proposed Plan**). Mining is a permitted activity in these zones, subject to compliance with relevant standards.
25. TIL currently operates the Mine under a suite of regional resource consents granted by WRC in 2006, which expired on 31 December 2020. In advance of the consents expiring, TIL applied to WRC for all necessary resource consents to authorise the ongoing operation of the Central and Southern Blocks of the Mine (including associated ship loading facilities) (**2020 RMA**



**Application).** As noted above, this application was made between 3-6 months before their expiry and WRC exercised its discretion to allow TIL to continue to operate in reliance on these consents under section 124(3) of the RMA.

26. Following a hearing on the 2020 RMA Application, WRC granted TIL the majority of the approvals required for TIL to continue its mining operation in a decision dated 22 November 2024 (**2024 RMA Hearing Panel Decision**), enclosed as Appendix F. TIL appealed part of the 2024 RMA Hearing Panel Decision to the Environment Court. The appeal remains on hold,<sup>8</sup> pending the acceptance of this Application.
27. TIL's dissatisfaction with the processing of 2020 RMA Application and the need for a subsequent appeal has informed its decision to pursue the necessary consents to ensure the operation of the Mine under the FTAA.
28. The approvals granted preclude fundamental parts of TIL's existing operations and will make operation of the Mine unviable. Specifically, the 2024 RMA Hearing Panel Decision:
  - (a) failed to grant TIL the necessary consents for mining that interacts with water (namely groundwater), which was already authorised in the Central and Southern Blocks under the existing consents and was the primary form of mining when NZSML were granted the current consents back in 2006<sup>9</sup>; and
  - (b) imposed some conditions which were unworkable in the context of the Mine, or did not relate to an adverse effect associated with the activities sought to be authorised.
29. Under section 94 of the FTAA, an applicant must withdraw an application for an approval under a specified Act, including the RMA, if they lodge a substantive application that seeks a corresponding approval under the FTAA for the same, or substantially the same activity. Upon acceptance of this

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<sup>8</sup> By direction of the Environment Court dated 13 March 2025, and 15 August 2025.

<sup>9</sup> IHP appointed to consider the Application determined that scope of the 2020 RMA Application did not include wet-mining activities and could not be amended to include wet-mining activities. This was inconsistent with TIL's strong view that the IHP had scope to grant the necessary resource consents for wet-mining activities and wet-mining is a critical component of the activity undertaken at the Mine since its inception.

Application under section 46 of the FTAA, TIL's RMA application and associated appeal will be withdrawn within the five working day timeframe specified in section 94 of the FTAA.

30. In the meantime, TIL is continuing its mining operations in reliance on section 124(3) of the RMA and is authorised to continue doing so under section 95 of the FTAA while this Application is being processed. Section 95 provides that existing approvals will be treated as remaining in force until the date on which appeal rights have been exhausted or expire, or the approvals are surrendered.<sup>10</sup>

### **APPROVALS SOUGHT**

31. TIL seeks the necessary approvals to continue carrying out mining activities to extract, concentrate, process and load materials onto ships for export. TIL also seeks to dam and divert a stream to create a reservoir and to use the water within this reservoir. The mining activities also require discharges of slurry, stormwater and wastewater into the CMA and the Wainui Stream. These discharges consist of water and naturally occurring sand and sediment, without the addition of any chemicals or non-natural substances.
32. Specifically, TIL seeks the following approvals to authorise the activity:
  - (a) Resource consents which would otherwise be applied for under the RMA to continue its ironsand mining activities on the Central and Southern Blocks for 35 years under the WRP and WRCP, and relevant National Environmental Standards, comprising:
    - (i) Land Use Consent for land disturbance to undertake ironsand mining operations and associated land disturbance activities including (but not limited to) construction of dredge ponds, stormwater ponds, water supply/storage ponds, access roads, stockpiles, wetlands and other features for environmental offsetting, restoration and/or rehabilitation purposes, and ancillary buildings;

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<sup>10</sup> Section 95 of the FTAA recognises the right under section 124(3) of the RMA to continue operating under a resource consent.

- (ii) Water Permit to dam and divert the Wainui Stream for the purpose of creating a water supply reservoir for ironsand mining operations on the Taharoa C Block and any land legally authorised to be used for ironsand mining operations;
- (iii) Water Permit to occupy the bed of the Wainui Stream via a rock weir and sheet pile weir, fish pass intake and outlet structures and the associated diversion of water through a fish pass channel located adjacent to the Wainui Stream;
- (iv) Water Permit to take water from a water supply reservoir created by the damming of the Wainui Stream, for the purpose of ship loading and ironsand mining operations;
- (v) Discharge Permit for incidental discharge of settled stormwater and washdown water into the Wainui Stream from the area containing the administration buildings, stores compound and workshops;
- (vi) Discharge Permit for discharge of process water and water potentially containing contaminants into the ground as a result of ironsand mining operations;
- (vii) Discharge Permit for discharge of mine overburden and tailings onto land for the purpose of rehabilitating mined areas;
- (viii) Coastal Permit for the occupation of the CMA by existing pipelines for the purpose of shiploading, and the discharge of stormwater and process water, and the operation, maintenance, and future reconstruction / replacement of those pipelines and associated dewatering and diversion of coastal waters, bed disturbance and vehicle use;
- (ix) Coastal Permit to place and use a mooring buoy and associated structures in the CMA, including future reconstruction/replacement and associated occupation and disturbance;
- (x) Coastal Permit to discharge shiploading water to the CMA during shiploading operations;

- (xi) Coastal Permit to discharge stormwater and process water to water in the CMA;
  - (xii) Water Permit to divert groundwater in association with iron sand mining operations and to take and use water from within a dredge pond as a result of extraction of sand for use in mining operations;
  - (xiii) Discharge Permit to discharge mining process water into water within a dredge pond and water management ponds, and discharge water containing contaminants (naturally occurring sediment) from a mining dredge into water within a dredge pond;
  - (xiv) To destroy and/or disturb natural inland wetlands, and dewater natural inland wetlands by undertaking mining within 100m of a natural inland wetland;
  - (xv) Land Use Consent to undertake earthworks, discharge of sediment, and forestry harvesting in a red zone of Land Use Capability Class 8e land as per regulation 71 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017;
- (b) A wildlife approval described in section 53 of the Wildlife Act to capture, temporarily hold and relocate and incidentally kill native lizards;
  - (c) An archaeological authority described in section 44 of the HNZPT Act under section 42(4)(i) of the FTAA to authorise the modification or destruction of recorded sites within the Project area, and potentially any unidentified sites. TIL also seeks approval of an archaeologist to carry out the activity to be authorised under the authority.
33. A detailed description of the Project can be found in Section 1.1 and Section 4 of the Application.

34. The approvals sought and the works described in the Application align with the project description Taharoa Ironsands Central and Southern Block Mining Project in Schedule 2 of the FTAA.<sup>11</sup>

## TECHNICAL REPORTS

35. The Application is supported by the Substantive Application Report which contains an Assessment of Environmental Effects prepared by Tonkin & Taylor and the following technical reports:
- (a) Economic Assessment prepared by Kirdan Lees, Sense Partners;
  - (b) Hydrology Assessment prepared by Josh Mawer (Senior Hydrologist) and Jonathan Williamson (Principal Hydrologist and Managing Director) Williamson Water & Land Advisor;
  - (c) Freshwater Ecology Assessment prepared by Dr Keren Bennett, Technical Director of Freshwater Ecology at SLR Consulting;
  - (d) Terrestrial Ecology – Wetlands and Vegetation Assessment prepared by Hamish Dean, Principal Ecologist at SLR Consulting;
  - (e) Terrestrial Ecology – Fauna Assessment prepared by Dr Hannah Mueller, Director and Principal Ecologist at Phoenix Ecology Limited;
  - (f) Hydrogeology Assessment (Groundwater Effects) prepared by Asanka Thilakerathne (Environmental Scientist), Jake Scherberg (Senior Hydrologist and Technical Leader) and Jonathan Williamson (Principal Hydrologist and Managing Director) at Williamson Water & Land Advisory;
  - (g) Archaeological Assessment prepared by Glen Farley, Doug Gaylard and Jennifer Low, Archaeologists at Clough and Associates Limited;
  - (h) Preliminary Site Investigation prepared by Wendy Whitley, Environmental Consultant at Enviser Limited;

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For completeness, the Project description is to: "Continue existing mineral sand extraction, including land preparation works, constructions a water supply reservoir, extracting ironsand material using dry and wet-mining techniques, processing extracted material, and transporting raw and processed material".

- (i) Coastal Processes Assessment prepared by Dr Edward Paul Beetham, Senior Coastal Geomorphologist at Tonkin & Taylor Limited;
  - (j) Geotechnical Assessment prepared by Cameron Lines, Director at Baseline Geotechnical Limited;
  - (k) Air Quality Assessment prepared by Cameron Brown, Air Quality Engineer at Pattle Delamore Partners Limited;
  - (l) Marine Ecology Assessment prepared by Dr Pete Wilson, Senior Coastal Scientist at SLR Consulting;
  - (m) Noise Assessment prepared by Darran Humpheson, Technical Director, acoustics at Tonkin & Taylor Limited;
  - (n) Discharge Dispersion Modelling report prepared by Mariana Cussioli, Coastal Oceanographer at MetOcean Solutions / MetService; and
  - (o) Marine Mammals Assessment prepared by Deanna Clement, Team Leader – Marine Mammal Ecology at Cawthorn Institute.
36. A series of draft management plans are also submitted with the Application as appendices.

## **KEY ISSUES**

37. The key technical issues arising from the Application are known and have already been tested through the 2020 RMA Application process, resulting in the development of a suite of conditions of consent that have largely been accepted by TIL.
38. TIL has proposed conditions of consent in the Application that are generally the same as those imposed by the Independent Hearing Panel (**IHP**) in the 2024 RMA Hearing Panel Decision, with some changes to:
- (a) address TIL's points of appeal to the Environment Court;
  - (b) address feedback on the Application received during pre-application consultation;

- (c) further refine and rectify workability issues; and
  - (d) incorporate additional resource consents that have been sought as a result of changes made to the Project<sup>12</sup> since the 2024 RMA Hearing Panel Decision. This includes removal of pine forest and excavation activities within and near natural inland wetlands.
39. Appendix G of the Application sets out the key technical issues arising from the 2024 RMA Hearing Panel Decision and how each matter has been addressed in this Application. Section 7.4 of the Application and Appendix Z of the Application sets out a summary of key issues / feedback received in respect of the Application arising from pre-application consultation and how these issues have been addressed in this Application.
40. The key issues, and a high-level summary of TIL's position in respect of these issues is set out below:

Reference	Key Issue	TIL's position
(a)	Whether a setback from the boundaries of third-party properties and a larger setback from the Mitiwai Stream is necessary.	Under its existing resource consents, TIL's mining activities must be setback 30m from perennial waterbodies within and adjacent to the consented area, 100m from the Mean High Water Springs and 30m from all retained natural inland wetlands within the consented area. Additional setbacks are required to adequately manage the potential effects of the Proposal. Appropriate effects management will be achieved through other mitigation measures set out in the Application. Additional setbacks (especially those of the size imposed by the IHP) will also significantly constrain mining activities and will reduce the ability of the Mine to generate regional and national benefits. To impose additional setbacks in this context would be more onerous than necessary and inconsistent with the

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Which are within the scope of the activity listed in Schedule 2 of the FTAA.

Reference	Key Issue	TIL's position
		requirements of the FTAA with respect to conditions.
(b)	The size of the mesh screens on TIL's water intake system in the Wainui dam water reservoir, and whether the current size of the screens is acceptable.	TIL currently uses 12mm mesh screens on its existing water intake system and has done for many years. The Freshwater Ecology Assessment prepared by SLR Consulting and feedback during consultation indicate that fish numbers have increased significantly since TIL took over the Mine in 2017. While the WRP provides that water intake structures shall be screened with a smaller mesh aperture size, this standard is not triggered by TIL's Project. TIL is therefore not proposing to change the status quo and has sought consent to retain its existing mesh screens.
(c)	The extent of monitoring required of the discharge of stormwater and process water into the Wainui Stream and the CMA.	The extensive monitoring imposed by the Panel is more onerous than necessary given that the overall level of effect on the environment of these discharges is less than minor. Also, the discharges to the Wainui Stream are minor and incidental discharges only, which arise from time to time during high rainfall events.
(d)	The extent of monitoring relating to the discharge plume in the CMA and potential deposition effects.	The Marine Ecology Assessment prepared by Dr Pete Wilson (SLR) in respect of the Application confirms that no on-going benthic monitoring is necessary due to the low level of potential effects of the dewatering discharge on the environment. Requiring on-going benthic monitoring would be more onerous than necessary. TIL has proposed a discharge monitoring condition which appropriately requires the discharge to be analysed once every six months for grain size composition, clay mineralogy and heavy metal



Reference	Key Issue	TIL's position
		concentrations. This ensures that the effects of the discharge will remain as anticipated.
(e)	Whether TIL should be responsible for excluding stock owned by third-parties from the Site.	It is unreasonable to require TIL by way of conditions to take any steps beyond those it already takes to manage stray stock which are found on the Site. The stray stock are owned by third-parties and the primary obligation is on those parties to keep their stock from trespassing.
(f)	The required residual flow in the Wainui Stream.	The Hydrology Assessment undertaken by Williamson Land and Water Advisory supports a minimum residual flow-rate of at least 24 L/s from Lake Taharoa, to the Wainui Stream downstream of the dam, through the fish pass, and a minimum flow requirement of 10 L/s immediately downstream of the dam structure.
(g)	The extent and nature of stabilisation and rehabilitation.	TIL is seeking that the conditions require progressive interim and final rehabilitation to be undertaken in accordance with a Site Rehabilitation Plan and Conceptual Site Closure Plan, consistent with its existing consents. However, it has proposed more detailed Site Rehabilitation Plan conditions to recognise the concerns raised by stakeholders while continuing to recognise the operational reality and difficulties in rehabilitating sand dunes on the west coast. TIL has also proposed conditions of consent which require stabilisation, as a priority, of the 100m area near the boundary of the Central Block adjoining the nearest sensitive receptors, within three months of mining ceasing anywhere in that area, to reduce the potential for off-site dust effects associated with mining in that area.

Reference	Key Issue	TIL's position
		<p>TIL's view is that the conditions should not dictate the extent and timing for stabilisation and rehabilitation activities – as this is not practical. This is because TIL's rehabilitation programme is necessarily adaptive and shaped by environmental conditions, operational constraints, and plant availability, allowing for flexible timing and techniques to achieve practical and ecologically appropriate outcomes.</p>
(h)	<p>Consideration of the cultural effects of the Application and how these will be mitigated.</p>	<p>TIL has assessed the potential cultural effects of the Application in detail (see Section 8.1.18 of the Application). This assessment is based on information and assessments produced by tanaga whenua as part of hearing of TIL's 2020 RMA application, and information provided by tangata whenua through consultation on TIL's substantive Fast-track application. TIL has also proposed a range of consent conditions which mitigate potential cultural effects and ensure that the relationship of Māori (including the Māori landowners and broader tangata whenua), with their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga is recognised and provided for.</p>
(i)	<p>How the conditions should provide for on-going consultation with key stakeholders.</p>	<p>TIL supports the facilitation of on-going stakeholder meetings, consistent with that required by the IHP. However, TIL has proposed some clarifications and adjustments to the condition that the IHP imposed. This includes that the meetings relate to resource management matters and address monitoring information in the period since the last meeting, have an agenda prepared in advance, and that they occur annually. TIL considers that a formal, annual meeting is</p>

Reference	Key Issue	TIL's position
		appropriate, alongside the on-going day to day engagement that it has with interested parties, WRC and its open-door feedback / engagement policy.
(j)	The term of the consents.	TIL is seeking approvals for a term of 35 years to recognise significant existing and future investment required in the Mine (as more particularly set out in paragraphs 66 to 69 of this memorandum), and to deliver the significant regional and national benefits associated with the approvals.
(k)	The risks of flooding behind Lake Taharoa and the surrounding low lying land and whether this is related to TIL's activities.	<p>The Wainui Stream is downstream of Lake Taharoa, which a very large body of water relative to the size of the stream.</p> <p>There is a risk of flooding behind Lake Taharoa and the surrounding low lying land during high-rainfall events. However, this matter is beyond TIL's control and is not fairly categorised as an effect of the Application that TIL should mitigate. In any case, it is not possible for TIL to make any difference to lake levels during high rainfall events through its management of the stream.</p>
(l)	Provision of information to stakeholders, including the extent of monitoring information made available on a public website.	TIL has proposed the maintenance of a new public website and the provision of a range of information, including the current Annual Works Plan; the certified Environmental Management Plan for the site; annual monitoring reports; details and records of monthly water abstracted from the Wainui Stream; details and records of monthly stormwater discharged into the Tasman Sea; monthly water levels in Lake Taharoa and rainfall data; dust monitoring data. Providing additional information beyond this, including

Reference	Key Issue	TIL's position
		raw monitoring information, is not necessary and poses a risk of misinterpretation and an unreasonable burden on TIL to respond to ongoing enquiries, feedback etc. TIL has also proposed to share its Annual Monitoring Report with key stakeholders.
(m)	Whether a bond should be imposed.	TIL agrees to the imposition of a bond and has proposed a detailed bond condition. It is important that the bond condition is clear, reasonable and provides commercially certainty. A detailed explanation of the approach taken to drafting the bond condition is set out in Appendix BB to the Application.

## LEGAL FRAMEWORK AND ANALYSIS IN RELATION TO RESOURCE CONSENT APPROVALS

### *Listed projects*

41. Section 42 of the FTAA provides that an authorised person may lodge a substantive application for approvals for a listed project. An application may seek (among other things):
- (a) A resource consent that would otherwise be applied for under the RMA (section 42(4)(a);
  - (b) A wildlife approval as defined in clause 1 of schedule 7 (section 42(4)(h);
  - (c) An archaeological authority described in section 44(a) or (b) of the HNZPT Act that would otherwise be applied for under that Act (provided that a resource consent application is sought at the same time (sections 42(4)(i) and 42(9)), and an application under clause 7 of Schedule 8 for approval of an archaeologist to carry out the activity to be authorised under the authority.

42. As set out at paragraphs 31 to 34 above, TIL is seeking the necessary resource consents as well as a wildlife approval and archaeological authority (as well as approval of an archaeologist to carry out the activity to be authorised under the authority).
43. The requirements for the form of an application and information to be provided are set out in sections 43 and 44 of the Act. The necessary information is provided in Section 2.4 of the Substantive Application Report.
44. Section 81 of the Act requires the Panel appointed to consider the application to decide whether to grant or decline TIL's application for approvals. The Panel's decision must be made in accordance with clauses 17–22 of Schedule 5 FTAA.
45. Clause 17(1) sets out the criteria for the Panel's assessment of the application. It provides that when considering a consent application, including setting conditions (which must be prepared in accordance with clause 18) the Panel must take into account the following, giving greatest weight to paragraph (a):
  - (a) The purpose of the FTAA;
  - (b) The RMA decision making framework for resource consent applications set out in Parts 2, 3, 6 and 8-10 of that legislation; and
  - (c) The relevant provisions of any other legislation that directs decision making under the RMA.
46. The direction to "take into account" a matter has been extensively considered in the RMA context. The Court of Appeal has recently confirmed that the obligation to "take into account" a matter *"is not intended to be higher than an obligation to consider the particular factor in making a decision, to weigh it with the other relevant factors, and to give it whatever weight is appropriate in all the circumstances."*<sup>13</sup>
47. The requirement to give greatest weight to the purpose of the Act parallels with section 34(1) of the (now repealed) Housing Accords and Special Housing Areas Act 2013 which required that a decision maker assessing an

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*Trustees of the Motiti Rohe Moana Trust v Bay of Plenty Regional Council* [2024] NZCA 134 at [15].

application for resource consent must have regard to certain matters, giving weight to them in the order listed.

48. The Court of Appeal considered how the weighting exercise required under that legislation should be approached and stated that it required *individual* assessment of the listed matters prior to the exercise of weighing them in accordance with the prescribed hierarchy.<sup>14</sup>
49. TIL submits that the same approach should apply to the Panel's consideration of the application under clause 17(1) of schedule 5: the Panel must identify and assess the matters listed in that section, and then weigh those factors, giving greatest weight to the purpose of the FTAA.

*Clause 17(1)(a) - the purpose of the FTAA*

50. The purpose of the FTAA set out in section 3 is to "*facilitate the delivery of infrastructure and development projects with significant regional or national benefits.*" Accordingly, the Act has a strong enabling purpose, which requires the Panel to "facilitate" delivery of projects which are demonstrated to offer the benefits identified.
51. The Project was included as a listed project because it is identified as a project with significant regional or national benefits. In its assessment of the Project to be listed under Schedule 2 of the FTAA, the Ministry for the Environment identified that the Project would support primary production (namely, mining) and that the economic benefits of the Project would be significant.<sup>15</sup> For the reasons set out at paragraphs 20 to 23 above, the Project will deliver significant economic benefits to the nation and region and therefore strongly aligns with the purpose of the FTAA.

*Clause 17(1)(b) - RMA decision making framework*

52. The Panel is required to take into account the provisions of Parts 2, 3, 6 and 8-10 of the RMA that "direct decision making on an application for resource consent" (excluding section 104D). As noted above, consideration of these provisions is subservient to the purpose of the FTAA.

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<sup>14</sup> *Enterprise Miramar Peninsula Inc v Wellington City Council* [2018] NZCA 541 at [52] - [53].

<sup>15</sup> Ministry for the Environment "FTA#370: Application for listed project under the Fast-track Approvals Bill - Central and Southern Block Mining Project for Schedule 2A" (12 June 2024) at [4] - [5].

53. The relevant parts of the RMA which direct decision making on an application for a discretionary resource consent are:
- (a) Sections 104 and 104B which set out the requirements for discretionary consent applications;
  - (b) Sections 105 and 107 which relate to consent applications for discharge consents; and
  - (c) Sections 108 to 108AA which address conditions of resource consents.
54. There are three matters in section 104 that are particularly relevant to the Application. These are:
- (a) Section 104(1)(a): any actual and potential effects on the environment of allowing the activity;
  - (b) Section 104(1)(b): any relevant provisions of a national environmental standard, other regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement and a plan or proposed plan; and
  - (c) Section 104(2A): when considering an application affected by s 124, the consent authority must have regard to the value of the investment of the existing consent holder.
55. We address matters that are relevant to the analysis of the Application under this framework below.

### *Effects*

56. Section 104(1)(a) requires consideration of “*any actual and potential effects on the environment of allowing the activity*”. An effect includes not only an adverse effect but also positive effects.<sup>16</sup> A comprehensive suite of technical reports has been provided with the Application which demonstrates that:<sup>17</sup>

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<sup>16</sup> RMA, section 3(a).

<sup>17</sup> Substantive Application Report at Section 8.1.19.

*[W]hen viewed overall the potential adverse impacts of continuing mining activities on the Central and Southern Blocks post-mitigation (and in light of the proposed conditions discussed below) are minor and acceptable. The regional and national benefits of the continuation of mining activity have been demonstrated to be extremely significant and clearly outweigh the potential adverse effects/impacts. It is thus clear that in terms of section 85(3) of the FTAA, the potential adverse impacts will not be out of proportion to the Project's substantial regional and national benefits.*

#### *Statutory documents*

57. In accordance with section 104(1)(b) the Panel must have regard to relevant statutory instruments. Those relevant to the Application are:
- (a) Resource Management (Measurement and Reporting of Water Takes) Regulations 2010;
  - (b) New Zealand Coastal Policy Statement 2010;
  - (c) National Policy Statements for Freshwater Management 2020, Highly Productive Land 2022 and Indigenous Biodiversity 2023;
  - (d) Resource Management (National Environmental Standards for Freshwater) Regulations 2020;
  - (e) Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017; Operative Waikato Regional Policy Statement;
  - (f) WRP;
  - (g) WRCP and the Proposed Waikato Regional Coastal Plan;
  - (h) Waitomo District Plan and Proposed Waitomo District Plan; and
  - (i) Waikato-Tainui Iwi Environmental Management Plan, the Maniapoto Iwi Environmental Management Plan and the Ngaati Mahuta kit Te Hauaauru Environmental Management Plan.



58. The Substantive Application Report included in the Application provides a comprehensive assessment of the relevant provisions of each of these statutory instruments and concludes that:<sup>18</sup>

*The Project is consistent with relevant national and regional planning instruments, including finding direct policy support with aspects of the relevant policy direction. It is also consistent with the Ngāti Mahuta Environmental Management Plan, Tai Tumu, Tai Pari, Tai Ao - the Waikato-Tainui Environmental Plan and the Maniapoto Environmental Management Plan.*

### Conditions

59. Section 108 provides generally for a consent authority to impose any condition that it considers appropriate. However, section 108 is limited by section 108AA which provides that a consent authority must not include a condition in a resource consent for an activity unless:
- (a) the applicant for the resource consent agrees to the condition; or
  - (b) the condition is *directly connected* to an adverse effect of the activity on the environment and/or an applicable district or regional rule, or a national environmental standard; or
  - (c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.
60. Section 108AA was introduced to clarify the applicability of key case law principles on conditions deriving from *Newbury DC v Secretary of State for the Environment*.<sup>19</sup> *Newbury* sets out three principles for determining the validity of conditions, which have been widely accepted and applied by the New Zealand courts as applicable in the resource management context.<sup>20</sup> These are:

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<sup>18</sup> Substantive Application Report at Section 8.6.

<sup>19</sup> *Newbury District Council v Secretary of State for the Environment* [2980] 1 All ER 731 (HL).

<sup>20</sup> Expressly endorsed in the context of the RMA in *Housing NZ Ltd v Waitakere City Council* [2001] NZRMA 202 (CA) and *Waitakere City Council v Estate Homes Ltd* [2007] 2 NZLR 149 (SC).

- (a) The condition must be for a resource management purpose, not for an ulterior one;
- (b) The condition must fairly and reasonably relate to the development authorised by the consent to which the condition is attached; and
- (c) The condition must not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties, could not have approved it. This is to ensure any conditions imposed do not frustrate the ability for the consent holder to implement the consent.

(the ***Newbury*** principles)

- 61. Section 108(2)(b) enables conditions to be imposed that require the provision of a bond (and describing the terms of that bond) in accordance with section 108A.
  - (a) A bond may be required to secure the performance of one or more conditions relating to long-term effects, even after the expiry of a consent. Bond conditions may require security to be provided for the performance of any condition or require the consent holder to provide a guarantor to bind itself to pay for the carrying out of a condition.
  - (b) Bond conditions are subject to the *Newbury* principles and the same requirements of section 108AA, just like any other consent condition. In particular, care needs to be taken when requiring bonds not to make the value or terms such that the bond condition would effectively frustrate the consent (therefore failing the third *Newbury* principle).
- 62. Importantly, section 83 of the FTAA also requires that the Panel must not set a condition that is more onerous than necessary. Care therefore needs to be taken to assess the purpose and implications of a condition before it is imposed to ensure that it will not be disproportionate to the level of effect it is intending to manage or unreasonably burden the Applicant.
- 63. As outlined at paragraphs 38 to 40 above, the conditions of consent proposed by TIL are generally consistent with those that were imposed by the IHP at the Council hearing. They also address key issues raised by stakeholders during pre-application consultation. For this reason, TIL anticipates that any issues with the conditions raised in written feedback on

the Application by WRC or key stakeholders will be confined. At this stage and depending on written feedback, issues could be further narrowed through expert conferencing on specific issues, direct discussions between parties and issue-specific mediation sessions.

64. TIL also met with WRC in the week of Monday 27 October 2025 to further discuss the proposed conditions.

*Value of the investment of the existing consent holder*

65. Section 104(2A) requires the Panel to have regard to the value of the existing investment that TIL has made in the Mine.
66. As explained above, the Mine has been operating for over 50 years. However, when TIL took over the operation of the Mine it had huge financial liabilities. The previous owner was not prepared to invest additional substantial capital needed to ensure a long-term and viable mining operation. Continuing the operation of the Mine beyond 2017 has required large scale investment in the Mine's fixed infrastructure, processing equipment, business systems, the rolling plant and marine facilities and the Taharoa Village.
67. More recently, the Mine has required continued investment to secure shipping and supply contracts, including while TIL has been in the process of replacing its existing consents.
  - (a) More specifically: Taharoa Port is currently one of New Zealand's largest ports by bulk tonnage. It requires significant capital investment, which has totalled \$85 million since May 2017.<sup>21</sup> Maintenance and repairs are also substantial and have totalled \$450 million over the last 7 years.<sup>22</sup>
  - (b) TIL has also begun negotiations to acquire replacement shipping capacity post 2035, when the current fleet reaches the end of its economic life. The total replacement cost of these vessels is

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<sup>21</sup> Appendix C - Economic Assessment at [1.2].

<sup>22</sup> Appendix C - Economic Assessment at [1.2].

\$600m.<sup>23</sup> The first replacement vessel will enter service in 2030 and will have an economic lifespan of 25 years.<sup>24</sup>

(c) On land TIL has invested \$221 million in new plant and equipment since May 2017.<sup>25</sup>

68. The figures expressed above reflect the actual financial investment. This is consistent with case law under the RMA which requires that investment values be more than rough indications of the order of magnitude of investments.<sup>26</sup>
69. This investment is significant and is an important factor that needs to be given real weight in considering the Application.

*Relevant provisions of any other legislation that directs decision making under the RMA*

70. The Marine and Coastal Area Act 2011 is relevant to the Application insofar as applications for customary marine title or protected customary rights have been made within the area to which the substantive application relates. The applicant groups have been consulted on the application and in accordance with section 53 of the FTAA, must be invited to comment.
71. However, in terms of section 55 MACAA, pending applications for customary marine title or protected customary rights are not relevant to decision-making on a resource consent application.

## **LEGAL FRAMEWORK AND ANALYSIS IN RELATION TO WILDLIFE APPROVAL**

72. TIL seeks a wildlife approval to undertake actions that would otherwise be an offence under the Wildlife Act including to:

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<sup>23</sup> Appendix C - Economic Assessment at [2.6].

<sup>24</sup> Appendix C - Economic Assessment at [2.6].

<sup>25</sup> Appendix C - Economic Assessment at [2.2].

<sup>26</sup> *Marr v Bay of Plenty Regional Council* [201] NZEnvC 347.

- (a) capture, temporarily hold and relocate native lizards prior to site clearance works for the purpose of protecting animals within the works footprint; and
  - (b) incidentally kill native lizards, recognising that trapping / handling activities carry some risk of injury or mortality, and that any remaining undetected lizards may also incidentally be killed during site works.
73. Section 81 and clause 5 of Schedule 7 of the FTAA set out what the Panel must take into account when considering an application for a wildlife approval:
- (a) **The purpose of the FTAA:**<sup>27</sup> As set out at paragraphs 50 to 51 of this memorandum, the Project strongly aligns with the purpose of the FTAA. It will deliver a regionally and nationally significant Project with nationally and regionally significant benefits;
  - (b) **The purpose of the Wildlife Act:**<sup>28</sup> The purpose of the Wildlife Act is to protect animals classed as wildlife, including New Zealand's endangered species. Native lizards are a protected species under the Wildlife Act. In this respect, seeking a wildlife approval is consistent with the protection of the species, and therefore aligns with the purpose of the Wildlife Act.
  - (c) **Information and requirements relating to the protected wildlife subject to the approval:**<sup>29</sup> TIL has provided an application and a draft Lizard Management Plan which address all matters required by clauses 2 and 5 of Schedule 5.
74. If the Panel grants the approval, it may impose conditions under clause 6 of Schedule 7 of the FTAA.

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<sup>27</sup> FTAA, section 3.

<sup>28</sup> Wildlife Act 1953, section 2.

<sup>29</sup> FTAA, Schedule 7.

## LEGAL FRAMEWORK AND ANALYSIS IN RELATION TO ARCHAEOLOGICAL AUTHORITY

75. TIL seeks an archaeological authority described in section 44 of the HNZPT Act to modify or destroy the whole or part of any recorded or unrecorded archaeological sites within the Project area. Specifically, TIL seeks this authority to address the modification or destruction of three sites within the proposed excavation area, eight sites on the periphery that may be affected by general mining operations, and any other unidentified sites discovered as part of the Project works.
76. TIL also seeks approval of a person to carry out an activity under clause 7 of Schedule 8 of the FTAA.
77. An “archaeological site” is defined in section 6 of the HNZPTA as:

*‘archaeological site means, subject to section 42(3),–*

*(a) any place in New Zealand, including any building or structure (or part of a building or structure) that –*

*(i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*

*(ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*

*(b) includes a site for which a declaration is made under section 43(1).<sup>30</sup>*

78. An “archaeological authority” means:<sup>31</sup>

*an authority granted by Heritage New Zealand Pouhere Taonga under section 48, 56, or 62 to undertake an activity that will or may modify or destroy 1 or more archaeological sites*

79. An authority to modify or destroy an archaeological site can be applied for under the FTAA, either in respect to archaeological sites within a specified area of land (as described in section 44(a) of the HNZPTA) or to modify a specific archaeological site where the effects will be no more than minor (as

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<sup>30</sup> HNZPTA, section 6.

<sup>31</sup> HNZPTA, section 6.

described in section 44(b) of the HNZPTA), which would have otherwise been applied for under the HNZPTA.<sup>32</sup>

80. The Project has the potential to affect some identified archaeological sites and possibly additional unrecorded subsurface archaeological remains that may be discovered as part of the Project works.
81. Clause 4 of Schedule 8 of the FTAA sets out what the Panel must take into account when considering an application for an archaeological authority:
  - (a) **Purpose of the FTAA:** As set out at paragraphs 50 to 51 of this memorandum, the Project strongly aligns with the purpose of the FTAA, and will deliver a regionally and national significant Project with significant benefits;
  - (b) **The matters set out in Section 59(1)(a) of the HNZPT Act:** An assessment of the historical and cultural heritage value of the specified sites has been provided as part of the Archaeological Assessment prepared by Clough and Associates. This report supports the Application and concludes that the potential adverse effects on archaeological values are considered to be minor due to the limited/moderate archaeological values of the recorded sites.<sup>33</sup>
  - (c) **The matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act:** Overall, the potential adverse effects on archaeological values are considered to be minor due to the limited/moderate archaeological values of the recorded sites.
82. Clause 7 of Schedule 8 of the FTAA provides that the Panel must seek and have regard to a recommendation from Heritage New Zealand Pouhere Taonga before it decides whether to approval an application for approval of a nominated to undertake an activity under an authority.

## LEGAL FRAMEWORK APPLYING TO ALL APPROVALS

83. Section 85(1) of the FTAA relevantly states that the Panel must decline an approval if – (a) it is for an ineligible activity; or (b) it would breach section 7.

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<sup>32</sup> HNZPTA, section 44(b).

<sup>33</sup> Appendix X - Archaeological Assessment – Clough and Associates Limited at page 80 and 81.

84. There is no reason to decline the application under section 85(1) because:
- (a) The Project is not an ineligible activity. The Project is being undertaken on identified Māori land, however, it has been agreed to in writing by the landowners which means it is not ineligible; and
  - (b) The application is not inconsistent with the obligations arising under existing Treaty settlements and recognised customary rights, as explained in the substantive application.
85. Section 85(3) of the FTAA relevantly states that the Panel *may* decline an approval if it forms the view that there are one or more adverse impacts in relation to the approval sought and those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits, even after taking into account proposed and potential conditions.
86. As set out in paragraph 56 above, the Assessment of Economic Effects in the Substantive Application Report concludes that none of the potential adverse effects of the Project are significant to be out of proportion to the significant regional and national benefits of the Project. Accordingly, there is no basis for the Panel to decline the Application under section 85(3).

## **CONSULTATION REQUIREMENTS**

87. Section 29 of the FTAA states that prior to lodging a substantive application for a listed project, applicants must consult with the persons and groups set out in section 11.
88. Section 43 of the FTAA requires a substantive application to contain the information required by section 13(4). Relevantly, under section 13(4)(k) this includes:
- (a) a summary of consultation undertaken for the purposes of section 29, and any other consultation undertaken on the project with persons and groups the application considers are likely to be affected by the project (as listed in section 13(4)(j)); and
  - (b) a summary of how consultation has informed the project.



89. In relation to the resource consent applications, Clause 6(1) of Schedule 5 of the FTAA requires an assessment of an activity's effects on the environment to include at (e) - identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapu that have been consulted in relation to the proposal; and (f) – if iwi or hapu elect not to respond when consulted on the proposal, any reasons that they have specified for that decision.
90. In relation to the wildlife approval and archaeological authority applications, the FTAA requires that:
  - (a) The wildlife approval include proof and details of all consultation, including with hapu and iwi, on the application specific to wildlife impacts (Schedule 7 clause 2(1)(n)); and
  - (b) The archaeological authority application includes a statement as to whether consultation with tangata whenua, the owner of the relevant land, or any other person likely to be affected has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed (Schedule 8 clause 2(1)(i)).
91. The groups that are potentially affected by the Project are set out in Section 6 of the Substantive Application. The groups that TIL has consulted with in accordance with the requirements of the FTAA are set out in Section 7 of the Substantive Application.
92. In relation to consultation undertaken specifically in respect of the Application, TIL received written feedback from and/or met or has agreed to meet with all groups that responded to its invitation to engage. A record of this consultation is set out in Section 7.1 of the Substantive Application Report and Appendix Y to the Application. A high-level summary of the feedback received as a result of consultation and how this has informed the Application is set out in Section 7.2 of the Application – with a detailed summary provided in Appendix Z to the Application. Consultation undertaken in relation to the wildlife approval and archaeological authority applications is also described in each respective application. Proof of consultation in relation to the wildlife approval is provided with Appendix KK.

93. In addition to consultation specifically undertaken in respect of TIL's substantive application, TIL has a long history of engaging with the relevant parties and groups. Unlike a new development, the Mine has been operating for over 50 years. It is also located in a remote location, nearby to a small town and community – many members of that community, including Ngāti Mahuta tribal members, are employed by TIL and work at the Mine or are the family of employees at the Mine. Many of them are also hapu beneficiaries of Taharoa C (the landowner). As a result, TIL knows the relevant parties and groups well, and has been engaging with them in different forms, and as part of different processes, since TIL acquired the business in 2017. This includes the 2020 RMA Application.
94. As a result of the above engagements, TIL believes it has a clear understanding of the parties' position and key areas of interest.

#### **EXISTING RESOURCE CONSENTS FOR THE SAME ACTIVITY**

95. As noted in the Application, TIL holds 18 existing regional resource consents for its operations within the Central and Southern Blocks and the CMA, as set out at Section 2.8 of the Substantive Application. TIL is seeking to replace all of these resource consents. It is also seeking additional resource consents for the harvesting of some plantation pine forest in the Southern Block, and to destroy or disturb natural inlands wetlands (due to the introduction of a new trigger for consent), and to more clearly articulate the activities authorised by TIL's existing resource consents (as the existing resource consents include some technical deficiencies).
96. Section 30 of the FTAA provides that, in certain circumstances, an applicant for a referred project must confirm that there are no existing resource consents held by any other person for the same activity, using all or some of the same natural resource located at the Mine.
97. TIL already holds existing resource consents for mining and associated activities across the Central and Southern Blocks and in the CMA, using all of the same natural resource, and which it is seeking to replace. However, it is seeking new resource consents for activities within the Blocks where it does not already hold an existing resource consent for the same specific activity (as noted above). Accordingly, TIL notified the WRC and Waitomo District Council in writing. In response, WRC and Waitomo District Council have

both provided notices under section 30(3)(b) confirming that there are no existing resource consents to which section 124C(1)(c) or 165ZI of the RMA would apply if the approval were to be applied for under the FTAA.

## **CASE MANAGEMENT MATTERS**

### **Panel appointments**

98. Panels appointed under clause 3(1) of Schedule 3 of the FTAA must have the following expertise:<sup>34</sup>

- (i) *knowledge, skills and expertise relevant to the approvals sought in the substantive application; and*
- (ii) *expertise in environmental matters; and*
- (b) *must include at least 1 member who has an understanding of te ao Māori and Māori development.*

99. We respectfully suggest that the Panel Convener consider appointing one or more persons to the Panel with independent knowledge of the relevant planning context and/or the Mine's operation. This would be particularly useful. For example, Chris Simmons, lawyer, who was appointed as an independent facilitator to facilitate expert conferencing on the 2020 RMA Application, would have some useful background knowledge.

100. The lengthy and complex consenting history and the critical nature of the Application indicates that a lawyer or planner with considerable decision-making experience should be appointed to chair the panel. TIL respectfully suggests that (alongside Mr Simmons) Kitt Littlejohn or Phil Mitchell would be appropriate candidates.

101. As the mining operation is complex and technical, involving both land-based and offshore activities, TIL also respectfully suggests that the appointment of a person with civil engineering expertise would be valuable.

### **Timing of decision and processing of Application**

102. TIL respectfully suggests that the default statutory period for processing of applications under section 79(1)(b) of the FTAA is likely to be insufficient to

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<sup>34</sup>

FTAA, Clause 7 Schedule 3.

enable determination of the application, and instead a slightly extended timeframe should be applied.

103. TIL is strongly of the view that it will be possible to determine the Application without the need for a hearing. This is because:
  - (a) A substantially similar application has already been the subject of detailed consideration under the RMA, including by way of a hearing, just last year;
  - (b) As a result of the above process, and on-going consultation in relation to the Mine, the key issues arising in relation to the Application are likely to be narrowly confined; and
  - (c) There is unlikely to be any information or assistance gained from holding a hearing that could not otherwise be provided by the Applicant and other parties through other means – such as by way of further information responses, written feedback on the Application, responses to written feedback and other case management methods.
  
104. Processing the application without holding a hearing will also:
  - (a) Relieve the Applicant and other parties of additional cost, resource and delay: There are a number of interested parties who have provided feedback to TIL and/or the Environment Court (as part of the appeals process) that they wish for the processing of TIL's Application to be completed as soon as possible. This is because they, like TIL, have already been through a lengthy consenting process under the RMA, and have invested time and resource into that process and the Fast-track process. Processing the application without a hearing will avoid the burden of further cost, time and resource being incurred.
  - (b) Will be consistent with the purpose of the FTAA: A hearing would likely add additional length to the processing timeframes for the Application, which TIL submits would be inconsistent with the purpose of the Act when the above factors are taken into account.

105. TIL respectfully suggests that it is not necessary for the Panel Convener to set a timeframe for the determination of the Application. TIL considers that the standard timeframe contemplated by section 79(1)(b) of the FTAA (being 30 working days after the date specified for receiving comments) will be adequate to determine the Application. This is because, as set out in this memorandum, the issues arising in relation to the Application are well defined, have been considered at length by stakeholders in the 2020 RMA Application, and proposed conditions of consent are well developed.

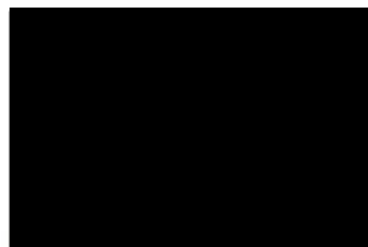
## **CONCLUSION**

106. This application seeks to authorise the continued operation of a mining operation that has been in the Taharoa community for many years, which is supported by Taharoa C, the Māori landowner.
107. The key issues arising from this Application have largely already been tested at the regional council level, and it was determined appropriate that resource consents to replace TIL's existing resource consents should be granted. However, the resource consents granted by the Panel were incomplete, and subject to conditions that did not support the on-going operation of the Mine. This Application has been lodged under the FTAA because it was determined that the Fast-track process would enable those issues to be considered and resolved in the most efficient manner. In addition, the Application includes an application for a wildlife authority, an application for an archaeological authority and approval for an authorised person.
108. In preparing the Application, TIL's team of technical experts have reassessed the Project and reassessed proposed mitigation measures. The mitigation measures proposed build on those that are already in place at the Mine, and which have been tried and tested for over 50 years. This has resulted in a robust application – one that is based on actual known effects and learnings from a lengthy RMA consenting process. In particular, the conditions that have been proposed for the resource consent application, have been through multiple rounds of review and are well developed.
109. It is clear that the Project will achieve the purpose of the FTAA by enabling the continued operation and expansion of the Mine, which will enable significant economic benefits to New Zealand and the Waikato Region to

continue. It has been demonstrated by TIL's team of technical experts that these benefits will far outweigh any specific adverse effects of the Application, after mitigation, which have been assessed as no more than minor). Accordingly, it is appropriate for the Application to be granted and subject to the conditions which have been proposed by TIL.

110. TIL's representatives are available to attend a Panel Convener's conference to address procedural matters at the Panel Convener's convenience.

**DATED** this 5<sup>th</sup> day of December 2025



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**Stephanie de Groot / Holly-Marie  
Rearic**  
Counsel for Taharoa Ironsands Limited