



File Ref: FTAA-2504-1046

4 December 2025

Sir William Young KNZM KC
Waihi North Expert Panel Chair
Emailed to: Substantive@fasttrack.govt.nz

Draft decision and conditions - Waihi North [FTAA-2504-1046]

Thank you for the invitation to provide written comments on the above matter.

This letter provides comments by the Ministry of Business, Innovation and Employment (MBIE) on aspects of the draft decision and conditions.

Our comments focus on the Access Arrangements and are set out in detail in the annexes to this letter.

Overview of our comments

To assist the Panel, we briefly summarise the key themes from our comments below.

Approvals for the Access Arrangements

The draft Access Arrangements for Wharekirauponga (Appendix C) and Favona (Appendix D) give the impression the approvals are to be granted by the Minister of Conservation and the Minister for Resources under section 61 of the Crown Minerals Act 1991 (CMA).

In our view, these approvals should be specified in a way that indicates they are to be granted by the Panel under the Fast-track Approvals Act 2024 (FTAA).

Signatories to the Access Arrangements

As drafted, both Access Arrangements have the Minister for Resources being a party to, and potential signatory of, each Access Arrangement.

While this would be correct if the applications were submitted and approved through the CMA, we do not think this is correct for these applications submitted and proposed to be granted under the FTAA.

“Mining Operations” rather than “Exploration Operations”

The Wharekirauponga Access Arrangement uses the term “Exploration Operations” throughout.

We consider the activities proposed are “*Mining Operations*” and, accordingly, that term should be used (and defined) instead.

Clarity as to underground mining activities

We understand the Wharekirauponga Access Arrangement is neither required nor intended to cover underground mining activities.

We suggest the Panel consider whether it is necessary or appropriate/beneficial to clarify this. To that end, we have noted in Annex 2 some places where there is potential for ambiguity and included some examples and potential options for the Panel's consideration.

Minor details

We have commented on several minor details across both condition sets in the Access Arrangements. These include (for example) potential errors in cross-referenced conditions; correcting certain details regarding the permits and contact details; clarifying matters relating to the CMA; and noting typos.

If the Panel wishes to clarify any aspect of MBIE's comments, we would be happy to discuss or provide further information.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read "John Buick-Constable".

John Buick-Constable
National Manager, Petroleum, Minerals and Offshore Renewable Energy
Resource Markets

Annex 1: MBIE comments on “Part H: Approvals relating to access arrangements that would otherwise be applied for under the Crown Minerals Act”

Note: MBIE acknowledges that comments are sought specifically in relation to the conditions and that Part H does not include conditions. However, we have noted two minor points and provide the following comments in case they are of use to the Panel.

Comment ID	Related comments	Location within document	Issue/comment
1		Paragraph [2]	<p>Paragraph [2] correctly references the application of clause 7 of Schedule 11.</p> <p>However, the extract quoted beneath paragraph [2] is from clause 8 of Schedule 11 (which does not appear to apply to this project).</p>
2		Paragraph [3]	<p>Paragraph [3] states:</p> <p><i>“The combined effect of s 78 of the FTTA and clauses 4(2) and 10 of Schedule 11 is that we must impose any conditions that the <u>Minister</u> specifies.”</i></p> <p>MBIE asks whether the use of the term “<u>appropriate Minister</u>” would be more appropriate here because:</p> <ol style="list-style-type: none">1) that is the term used in section 78 of the FTAA2) that term is defined in section 4(1) of the FTAA as having the meaning given in section 2A of the Crown Minerals Act 1991 (which in the context of the access arrangements for the Waihi North Project means the Minister for Conservation), and3) unless specified elsewhere, in the FTAA the term “Minister” will have the meaning given in section 4(1) meaning it would be a reference to the Minister for Infrastructure. <p>There is also a minor typo – “FTTA” instead of “FTAA”.</p> <p>For clarity, MBIE suggests the Panel may wish to consider paragraph 3 be updated to:</p> <p><i>“The combined effect of s 78 of the FTAA and clauses 4(2) and 10 of Schedule 11 is that we must impose any conditions that the <u>appropriate Minister</u> specifies.”</i></p>

Annex 2: MBIE comments on “Appendix C: Wharekirauponga Access Arrangement Conditions”

Comment ID	Related comments	Location within document	Issue/comment
3	8, 28, 31	Page 1 and 2, all that text under “Access Arrangement” heading – general comments	<p><u>General structure</u></p> <p>MBIE asks whether the preamble and legal framework for this approval (first page) is set out correctly.</p> <p>For example, clause (f) states:</p> <p style="padding-left: 40px;"><i>“Pursuant to section 61(1AA)(a) of the Crown Minerals Act 1991 the Ministers grant to the Permit holder...”</i></p> <p>The Access Arrangement will not be granted by the Minister of Conservation and the Minister for Resources under section 61 of the CMA. Rather, it will be granted by the Panel under the FTAA (and subject to conditions set by the Panel).</p> <p>We suggest the correct framing would be something along the lines of:</p> <p style="padding-left: 40px;"><i>“Pursuant to section XX of the Fast-track Approvals Act 2024, the Panel grants to the Permit holder...”</i></p> <p>This might then be followed by a reference to clause 11 of Schedule 11 of the FTAA, i.e. persons giving effect to a decision following a panel’s decision to grant access.</p> <p><u>Is the Minister for Resources a party to this AA?</u></p> <p>Currently, the Minister for Resources is proposed to be a party to the agreement and a signatory.</p> <p>Clause 11 of Schedule 11 provides that ... <i>the Minister, local authority, or other person who, or body that, owns or manages the land...</i> must give effect to the Panel’s decision. However, the Minister for Resources is not the owner of the land, nor does the Minister for Resources manage it.</p> <p>MBIE is therefore of the view that the Minister for Resources should not be a party to the agreement.</p> <p>If the Panel agrees with this feedback, there will be flow on effects to wording of the conditions of the Wharekirauponga AA (and varied Favona AA). For example, where “Ministers” are referenced would need to be revised to Minister (Minister of Conservation).</p>
4	30	Page 1, clause (c)	<p>The current statement in clause (c) about the permit and the rights conveyed by the permit is not accurate.</p> <p>For accuracy, MBIE suggests the current text in clause (c) be replaced with the following:</p> <p style="padding-left: 40px;"><i>“The Permit holder was granted Mining Permit 60541 by the Minister Energy and Resources’ delegate pursuant to section 25 of the Crown Minerals Act. That permit grants the Permit holder the right to prospect for, explore for and mine gold and silver in the land to which the permit relates.”</i></p>

5	9, 16, 23	Page 3 – definition of “Land”	<p>There is potential for ambiguity in a few places as to whether certain restrictions also apply to underground activities (e.g. limits on numbers of drill sites, or whether “investigative drilling” as defined would include underground drilling).</p> <p>MBIE understands that the AA does not cover, and is not required to cover, underground activities.</p> <p>MBIE suggests the Panel consider whether it would be appropriate and beneficial to specify that the AA does not include underground operations or activities.</p> <p>If the Panel is minded to do so, one way this could be done is by amending the current definition of “Land” to specify:</p> <p><i>“Land” means the <u>surface</u> of the land described in the First Schedule.”</i></p>
6	13, 22	Page 3 – add definition of “Mining Operations”	<p>The AA uses “Exploration Operations” in several places for activities that are, in fact, related to mining operations (such as the establishment of vent raises to service the underground mine).</p> <p>MBIE considers “Mining Operations” should be used in place of “Exploration Operations” throughout the AA, and therefore that term should be included and defined in page 3.</p> <p>MBIE considers an appropriate definition would be:</p> <p><i>“Mining Operations means operations in connection with mining, exploring, or prospecting for any Crown owned mineral and authorised by this Access Arrangement.”</i></p>
7	32	Page 3 – consider defining “Minister”	<p>Parts of the condition set refer to “Minister” without explaining who that is (e.g. clauses 22, 24-25B). Given the context, it seems that is intended to be the Minister of Conservation. Elsewhere in the condition set, the Minister of Conservation is referred to in full (e.g. para 33 and 34).</p> <p>MBIE suggests the Panel consider either:</p> <ul style="list-style-type: none"> - Defining “Minister” as meaning Minister of Conservation, OR - Replacing current references to “Minister” with “Minister of Conservation”.
8	3, 28, 31	Page 3, definition of “Parties”	<p>MBIE does not consider the Minister for Resources has a statutory role in this AA issued under the FTAA, and therefore suggest the Minister for Resources is not included in this definition.</p> <p>See further comments under Page 1 comments. We also note that agreement to remove Minister for Resources from this definition would require consequential amendments throughout the document.</p>
9	5, 16, 23	Page 3, definition of “Portable Rig Site”	<p>Following on from MBIE’s comment on the definition of “Land” above, we note this is an example where the current definition could be interpreted as also including underground use of portable rigs.</p> <p>MBIE understands it is not the intention for underground portable rigs to be included in the limit imposed later by Table 1 at Condition 1.2(b). We suggest the Panel consider whether it is appropriate or necessary to amend the current definition to:</p> <p><i>“Portable Rig Site means any <u>surface</u> location at which a man-portable drilling rig is used for any purpose”</i></p>

10		Page 5, first word in line 2 of Condition 5.	Replace “an” with “and”.
11		Page 6, condition 9(d)	MBIE thinks the reference to condition “11” is intended to be a reference to “12”.
12		Page 7, condition 14	<p>“...or amended plans as required by Condition 7(b)...”</p> <p>MBIE asks whether this text or reference correct as Condition 7(b) is about payment.</p> <p>MBIE notes that the equivalent to this condition in the Favona AA is Condition 10 – in reading that condition, it seems there is an issue with the cross-reference provided in Condition 14 of the Wharekirauponga AA.</p>
13	6, 22	Page 8, Condition 22	<p>This refers to commencement of “Exploration Operations”.</p> <p>MBIE thinks this (and other examples in the AA) should state “Mining Operations”.</p> <p>MBIE considers that many of activities planned cannot be considered exploration activities. For example, the establishment of vent raises is clearly a mining activity.</p> <p>We have also commented earlier suggesting that “Mining Operations” be added to the definitions in the “Interpretation section of the AA.</p>
14	34	Page 9, Condition 25B(d)	Replace “consider” with “considers”.
15		Page 9, between Conditions 27 and 28	The numbering of the Conditions is misaligned here (goes from 27 to 25A to 28).
16	5, 9, 23	Page 10, Condition 31(b)	<p><i>“There is no land disturbance other than that authorised by under this access arrangement”</i></p> <p>As per earlier comments on the definition of “Land” and “Portable Rig Site”, this is an example where it might be appropriate or beneficial to clarify that this does not relate to underground activities. MBIE suggests the Panel consider using the following text:</p> <p><i>“There is no <u>surface</u> land disturbance other than that authorised by under this access arrangement”</i></p>
17	35	Page 11, Condition 36	<p><i>“...will be approved at the Minister’s discretion.”</i></p> <p>MBIE notes that under section 61(1)(c) of the CMA, the Minister of Conservation would have sole decision-making powers only if the variation was NOT to allow access for the purpose of significant exploration or mining activities.</p> <p>If the variation is to allow access for the purpose of significant exploration or mining activities, then section 61(1AA)(b) of the CMA applies. Such a decision (under current CMA settings) would be jointly made by the Minister of Conservation and the Minister for Resources (or their respective delegates).</p>
18	36	Page 12, Condition 40	<p>MBIE notes this section is set out differently to Condition 40 of the Favona AA and asks whether that is intentional and correct.</p> <p>The opening preamble on Page 1 of the Wharekirauponga AA signals that a specific (execution) date is intended to be inserted. If it is intended that the execution date will be the same as the commencement date, then wording similar that used in Condition 40 of the Favona AA might be preferable.</p>

19		Page 13, Condition 46	Delete “, facsimile” as no fax details have been provided.
20	37	Page 13, Condition 48	<p>The contact details and associated information is not currently correct – please update to:</p> <p><i>“C/- the National Manager Petroleum, Minerals and Offshore Renewable Energy, Resource Markets, Ministry of Business, Innovation and Employment, 15 Stout Street, Wellington 6140, PO Box 1473, Ph. 0508 263 782; Email: [REDACTED]”</i></p> <p>[We note that, if the Panel agrees that the Minister for Resources is not a Party to the AA, then there is no need to include Condition/clause 48].</p>
21	38	Page 14, Condition 51, line 3	MBIE suggests the Panel review whether “in pursuant” should be replaced by “pursuant”.
22	6, 13	Page 15, Condition 63	Another example where “Mining Operations” would be more appropriate than “Exploration Operations”.
23	5, 9, 16	Page 18, Condition 1.2(a)	<p>Following on from earlier comments, to clarify that underground activities are not subject to this condition, MBIE suggests the Panel consider whether it is appropriate and necessary to specify:</p> <p><i>“Surface exploratory and investigative drilling activities....”</i></p>
24		Page 24, Condition 2.6(d)	MBIE suggests the Panel consider whether there is any conflict between this Condition (prohibiting onsite processing and discharge of chemicals) and the intention to allow for biodegradable drilling fluids, drilling muds and cuttings to be disposed underground down the hole (as expressed in paragraph 27 of Part H of the draft decision).
25		Page 25, clause 2.16	<p>“...must be 0.04ha in size.”</p> <p>MBIE suggests that the Panel considers whether the inflexibility in this phrasing is necessary and/or workable. MBIE suggests it may be preferable to specify a ± amount.</p>
26		Page 26, clause 2.23	For clarity, MBIE suggests the Panel consider whether this condition should explicitly specify who the report is to be submitted to. (We assume the intention is that it is submitted to “the Manager”.)
27		Page 34, Condition 2.83	MBIE thinks the current reference to “Condition 2.81” is meant to be “Condition 2.82”.

Annex 3: MBIE comments on “Appendix D: Favona Access Arrangement Conditions”

Comment ID	Related comments	Location within document	Issue/comment
28	3, 8, 31	Page 1 and 2 (all text under the Access Arrangement subheading)	<p>As in MBIE’s comments for the Wharekirauponga AA, in respect of the Favona AA we;</p> <ul style="list-style-type: none"> - question whether the preamble and framing are set out correctly to reflect that the Panel has granted this variation to an AA under the FTAA. - think there should also be a reference to clause 11 of Sch 11. i.e. people doing what is necessary to give effect to the Panel’s decision to grant the AA, and - consider the specific role of the Minister for Resources is not clear. (i.e. we do not think the Minister for Resources should be a party to the varied AA granted under the FTAA. <p>MIBE also considers the use of the term “Access Arrangement” in this part of the document is confusing and potentially contradictory, for example, between:</p> <ul style="list-style-type: none"> - the opening paragraph - <i>“This second agreement varies and consolidates the Access Arrangement...”</i> - at the end of clause (a) – <i>“...on the terms and conditions set out in the Access Arrangement.”</i> - in (b) where it’s called the <i>“original Access Arrangement”</i> - in (e) where it’s used in the sense of s59 of the CMA – <i>“...including a request for an Access Arrangement under section 59...”</i>, and - in the Interpretation section at the top of page 3, where <i>“Access Arrangement means this agreement for an access arrangement”</i>.
29		Page 1, mis-lettered clauses	The lettering of the clauses is jumbled – currently reads “a, b, c, b, c, d...”.
30	4	Page 1, clause c.	<p>The current statement in clause (c) about the permit and rights conveyed by the permit is not accurate. MBIE suggests it is replaced with the following:</p> <p><i>“The Permit holder is the holder of Mining Permit 41808, a permit issued pursuant to section 25 of the Crown Minerals Act. That permit grants the Permit holder the right to prospect for, explore for and mine gold and silver in the land to which the permit relates.”</i></p> <p>[For context, MP 41808 was granted under delegated authority and to a permit holder that was not Oceana Gold (New Zealand) Limited. Oceana Gold acquired the permit at a later date via transfer.]</p>
31	3, 8, 28	Page 3, definition of “Parties”	<p>“Minister of Energy and Resources” should instead be “Minister for Resources”.</p> <p>[For completeness, our comments elsewhere have noted that MBIE does not consider the Minister for Resources has a statutory role in this varied AA issued under the FTAA, and therefore suggest the Minister for Resources is not included in this definition.</p>

			See further comments under Page 1 comments that agreement to remove Minister for Resources from this definition would require consequential amendments throughout the document.]
32	7	Page 3 – consider defining “Minister”	<p>Parts of the condition set refer to “Minister” without explaining who that is (e.g. clauses 21, 22-24). Given the context, it seems that is intended to be the Minister of Conservation. Elsewhere in the condition set, the Minister of Conservation is referred to in full (e.g. para 33 -35).</p> <p>MBIE suggests the Panel consider either:</p> <ul style="list-style-type: none"> - defining “Minister” as meaning Minister of Conservation, OR - replacing current references to “Minister” with “Minister of Conservation”.
33		Page 5, Condition 8(c)	<p>This condition only references consents that are pursuant to “<i>the Resource Management Act 1991</i>”, not “<i>the Resource Management Act 1991 or Fast-track Approvals Act 2024</i>” which is what is used in the equivalent condition in the Wharekirauponga AA.</p> <p>MBIE assumes this difference is intentional and that there are no consents that will be issued under the FTA relevant to the Favona AA. However, we point it out here in case it is not an intentional difference.</p>
34	14	Page 7, Condition 24(d)	MBIE suggests reviewing whether “consider” should be replaced by “considers”.
35	17	Page 9 and 10, Condition 36	<p>This condition sets out that any future AA or variation to an AA:</p> <p style="padding-left: 40px;">“...will be approved at the Minister’s discretion.”</p> <p>This does not necessarily reflect the relevant provisions (section 61(1)(c)) of the CMA, under which the Minister of Conservation (as the “appropriate Minister”) would have sole decision-making powers only if the variation was NOT to allow access for the purpose of significant exploration or mining activities.</p> <p>If the variation IS to allow access for the purpose of significant exploration or mining activities, then section 61(1AA)(b) of the CMA applies. Such a decision (under current CMA settings) would be jointly made by the Minister of Conservation and the Minister for Resources (or their respective delegates).</p>
36	18	Page 10, Condition 40	MBIE notes this section is set out differently to Condition 40 of the Wharekirauponga AA and asks whether that is intentional and correct.
37	20	Page 11, Condition 48	<p>Please update the title and contact details to the following:</p> <p style="padding-left: 40px;">“C/- the National Manager Petroleum, Minerals and Offshore Renewable Energy, Resource Markets, Ministry of Business, Innovation and Employment, 15 Stout Street, Wellington 6140, PO Box 1473, Ph. 0508 263 782; Email: [REDACTED]”</p> <p>[We note that, if the Panel agrees that the Minister for Resources is not a Party to the AA, then there is no need to include Condition/clause 48]</p>
38	21	Page 12, Condition 51	MBIE suggests the Panel review whether “pursuant” in line 3 should replace “in pursuant”.
39		Page 23, Condition 7	MBIE asks whether this needs to refer to “...the commencement of this <u>varied</u> Access Arrangement...”
40		Page 24, Condition 19	This condition cross-references Condition 15. While that cross reference does seem to work (rehabilitation must be completed to the satisfaction of the Manager), MBIE asks whether it was intended to reference to Condition 12 which is more specifically related to revegetation.

41		Page 25, Condition 33	This condition makes a cross-reference to Condition 31. MBIE asks whether that is an error as Condition 31 (pg 26) does not seem relevant here.
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