PART H: APPROVALS RELATING TO ACCESS ARRANGEMENTS THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE CROWN MINERALS ACT

[1] OGNZL has sought:

(a) a new access arrangement for activities within Mining Permit 60541 (Wharekirauponga) to replace an existing access arrangement (48614-AA), and

(b) a variation to an existing access arrangement (62342) that is associated with Mining Permit 41808 (Favona) area, to include WNP components.

The statutory context

[2] In considering whether to grant and vary access arrangements, we must apply clauses 7, 9 and 10 of Schedule 11 to the FTAA.[1] For present purposes, it is cl 7 that is primarily important. It provides:

> **7 Criteria for assessment of application for access arrangement described in section 42(2)(m) (relating to section 61B of Crown Minerals Act 1991)**
>
> (1) For the purposes of section 81, when considering an application for an access arrangement described in section 42(4)(m), including conditions in accordance with clause 9, the Panel, giving the greatest weight to paragraph (a)(i),—
>
> (a) must take into account—
>
> (i) the purpose of this Act; and
>
> (ii) the objectives of any Act under which the land is administered; and
>
> (iii) any purpose for which the land is held by the Crown; and
>
> ...
>
> (v) any safeguards against potential adverse effects of carrying out the proposed programme of work; and
>
> (vi) the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and
>
> (vi) the interests of the owner of the mineral, or of any person to whom the owner of the mineral has granted any rights in relation to the mineral, in obtaining access to that mineral; and
>
> (vii) any other matters that the Panel considers relevant:

[1] See s 81(3))(a) of the FTAA.

(b) may consider any policy statement or management plan of the Crown (other than a statement or plan referred to in paragraph (a)(iv).

(2) The Panel must decline the approval if—

...

(b) giving effect to the access arrangement would result in the conferral of an interest in land that is incompatible with an existing interest in land.

[3] 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 Minister specifies.

Statutory provisions referred to in cl 7(1)(a)(i), (ii), and (iii) of Schedule 11

[4] The purpose of the FTAA is:

> to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

[5] The Wharekirauponga land is held under the Conservation Act 1987. The purpose of that Act is:

> to promote the conservation of New Zealand's natural and historic resources, and for that purpose to establish a Department of Conservation

[6] Under s 7(1) of that Act, the land is "held for conservation purposes". "Conservation" is defined as meaning:

> ... the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

[7] Section 19(1) requires that:

> (1) Every conservation park shall so be managed—
> (a) that its natural and historic resources are protected; and
> (b) subject to paragraph (a), to facilitate public recreation and enjoyment.

Statutory instruments under the Conservation Act

[8] Under clause 7(1)(b) of Schedule 11, we "may consider any policy statement or management plan of the Crown". Of potential relevance are:

(a) the General Conservation Policy 2005 (GCP);

(b) the Waikato Conservation Management Strategy 2014 (WCMS); and

(c) the Coromandel Peninsula Conservation Land Management Plan 2002 (CPCLMP).

[9] These instruments are also relevant to the concessions that OGNZL seeks. It is therefore convenient to set out here the provisions that we see as material to either or both the access arrangements and the concessions.

[10] Relevant policies in GCP are:

> 4.5(b) Activities which reduce the intrinsic values of landscape, landform and geological features on public conservation lands and waters should be located and managed so that their adverse effects are avoided or otherwise minimised.
>
> ...
>
> 4.6(a) Activities on public conservation lands and waters should be planned and managed in ways which avoid or otherwise minimise adverse effects on the quality of ecosystem services.
>
> ...
>
> 11.1(a) Any application for a concession or other authorisation will comply with, or be consistent with, the objectives of the relevant Act, the statutory purposes for which the place is held, and any conservation management strategy or plan.
>
> 11.1(b) All activities on public conservation lands and waters which require a concession or other authorisation should, where relevant, avoid, remedy or mitigate any adverse effects (including cumulative effects) and maximise any positive effects on natural resources and historical and cultural heritage, and on the benefit and enjoyment of the public, including public access

[11] The outcomes that the WCMS lists include

> The area comprising Maratoto, Wentworth and Wharekirauponga is recognised and highly valued for its natural and heritage values, and backcountry visitor setting. The priority ecosystem at Otahu is maintained and restored, with forest health improving elsewhere, in partnership with other interested parties. Populations of Threatened and At-Risk species (including Archey's frog) are protected with assistance from the community and interested parties. A community-led kiwi zone protects remnant Coromandel brown kiwi populations. Significant geological values are protected at Parakawai, and a native forest landscape prevails.
>
> Important heritage artefacts associated with kauri logging, gold mining and telegraph communication, including the actively managed Royal Standard Tramway, are preserved and integrated with recreation experiences.
>
> Visitors experience outdoor adventures with a sense of isolation but accept some noise disturbance in the vicinity of four-wheel driving routes.
> Mining history features at Wentworth and Wharekirauponga, with the Wentworth Valley Gateway destination (Wentworth Track and campsite) a focal point for walks and traditional camping in a bush setting.

[12] The objectives of the Waikato Conservation Management Strategy include:

> 5.1.1.1 The diversity of New Zealand's natural heritage is maintained and restored

with priority given to:

a) conserving a full range of New Zealand's ecosystems to a healthy functioning state, with an emphasis on priority ecosystems in Appendix 4; [Appendix 4 includes Coromandel Forest Park]

b) supporting the work of others to maintain and restore ecosystem types selected from Appendix 2; [Appendix 2 includes Coromandel peninsula in "Forest of mild climates", "Forest of warm climates" and "wetlands".]

c) conserving Threatened species to ensure persistence, with an emphasis on those species listed in Appendix 6. [Appendix 6 lists Archey's frogs as nationally vulnerable).

...

5.2.1.3 Prioritise and protect the actively conserved historic places listed in Appendix 10 on the basis of their historic, cultural and physical significance, their value to tangata whenua and the wider community, and their conservation need.

5.3.1.3 Contribute to a national network of visitor opportunities by promoting Local Treasure (Appendix 11) and Backcountry destinations, as valued by local communities and as more challenging attractions respectively, within the network of opportunities offered in Waikato. [Appendix 11 includes Wharekirauponga Track as a "Local treasure"].

[13] Chapter 9 deals with the "Hauraki-Coromandel Peninsula Place". Relevant policies include:

9.2.2.4 Undertake actions to contain the spread of kauri dieback disease in accordance with Policies16.15.1.1—16.15.1.4 in Part Three.

...

9.2.2.14 Should consider applications for access arrangements under the Crown Minerals Act 1991 in accordance with Policies 16.9.1.1 to 16.9.1.3 in Part Three and the following criteria:

a) only where the activity seeks access to public conservation lands south of SH25A and Hikau Settlement Road, excluding the Otahu Ecological Area and Parakawai Geological Area47;

b) *the activity avoids priority ecosystem units and species populations; in particular, habitats important for the persistence of native frogs, Coromandel brown kiwi, native bats, and other Threatened and At Risk species*;

c) adverse effects on other natural values, including the indigenous forest corridor along the Coromandel Range, are avoided, remedied or mitigated; and

d) significant geological features, landforms and landscapes and cultural sites are protected.

(Emphasis added)

[14] In relation to aircraft, policy 9.2.2.18 provides:

> May allow aircraft landings and take-offs on other public conservation land in this Place, shown as Yellow Zone on Map 4 , only in accordance with Policies 16.3.5.1, 16.3.5.3, 16.3.5.6, 16.3.5.7 and 16.3.5.8 in Part Three."

[15] Other policies as to aircraft include:

16.3.5.1 Should apply (but not be limited to) the following criteria when assessing all concession applications for aircraft landings.

- is consistent with the outcome and policies for the Place in which the activity is proposed to occur (if within a Place) ...
- is consistent with the aircraft zoning provisions in this CMS and the aircraft access zones on Map 4;
- is consistent with the purposes for which the lands and waters concerned are held;
- adverse effects on conservation values, including adverse effects on natural quiet, are avoided, mitigated or remedied;
- adverse effects on other visitors (taking into account the size of zone and the proximity of other ground users) are avoided, mitigated or remedied;
- the requirement to hold and comply with certifications approved by the Department, including those addressing noise management in specified locations;
- the need for monitoring the activity using new technologies; and
- avoiding landings near tracks, huts, car parks or campsites (unless otherwise specified in an outcome or policy for a Place)

16.3.5.3 Should only grant concessions for aircraft landings in the Yellow Zone that meet the limits of:

a) two landings per operator per day at any one site (defined as any landing site within a 1kilometre radius of the initial landing site) and a maximum of 20 landings per site per operator per year.

[16] Chapter16.9 addresses mining. It notes:

> Mining in areas of high ecological, scenic, scientific, cultural, recreational and historic value is generally inappropriate due to the potential adverse effects on those values.

[17] The relevant policies are:

16.9.1 Consider applications for access arrangements on a case-by-case basis, in accordance with the criteria set out in the relevant section (i.e. sections 61 or 61A and 61B) of the Crown Minerals Act 1991.

16.9.2 Assess applications for access arrangements under the Crown Minerals Act 1991, in accordance with (but not limited to) the following matters:

a) whether or not the site is included in Schedule 4 of the Act;
b) whether the activity is consistent with the outcome and policies for the Place(s) where the activity is proposed to occur, the objectives in Part One and the other relevant policies in Part Three;
c) the significance of the conservation values and recreation opportunities present, and the effect the proposal will have on those values;
d) the adequacy and achievability of the proposed site rehabilitation work;
e) the adequacy or appropriateness of compensation offered for loss or damage to conservation values as a result of the access arrangement, where those losses cannot be safeguarded through other measures;

f) any direct economic or other benefits as well as any direct economic or other detrimental effects (such as a decrease in tourism) that the activity will have in relation to the area ; and

g) whether a mining-related application will be classified as a 'significant application' (in accordance with the criteria set out in the Crown Minerals Act 1991) so as to require public notification.

[18] Kauri dieback disease is addressed in chapter 16.15.1. Relevant policies include:

6.15.1.2 Work with infrastructure companies, roading contractors, concessionaires, and contractors working in kauri forests to adopt kauri dieback disease hygiene standards for their people, machinery, equipment and activities.

16.15.1.3 Work with hunters and other regular users of public conservation lands where kauri are present to adopt kauri dieback disease hygiene measures

[19] CPLMP specifies a number of objectives and modes of implementation. They include:

3.1 Biodiversity

Objective

Ensure protection of biodiversity through integrated conservation management of ecosystems and species protection.

Implementation

Continue to use best practice management concept as a means of updating present site selection procedures, management actions and monitoring methodologies

...

3.3.1.6 – Wentworth/Wharekirauponga Visitor Management Zone

Objective

Ensure visitor access to, and a self-exploration approach for the Wentworth/Wharekirauponga Valleys.

Implementation

Be aware of the need to protect natural, historic and cultural resources and values.

...

3.4 - Historic Resources

Objective

Preserve and maintain sites that play a pivotal role in the history of the Coromandel Peninsula and are considered to be of national or regional significance, and more closely integrate historic heritage values into conservation management.

Implementation

Consult with, and respond to, iwi regarding important historic sites and appropriate means of managing and interpreting these sites.

...

3.9.1 – Concessions

Objective

Ensure that the effects of all concessions (commercial activity) are consistent with the preservation and protection of natural and historic resources.

...

Implementation

Include a requirement to monitor effects of the activity and provide monitoring information to DOC in concession documentation.

Be satisfied that concessionaires have the appropriate skills, qualifications and adherence to any code of practice or best practice associated with or relevant to the activity sought. Where necessary applicants will need to obtain appropriate resource consents as required by regional and district plans.

...
3.9.7 – Aircraft
Objective
Control the use of aircraft as a means of private access to conservation land, as well as for commercial or other users.

Implementation

Avoid conflict between low-flying aircraft and sensitive habitats and compromising the remote, recreational experience over identified zones
.
Allow private aircraft access to conservation land subject to objectives in this plan and the Waikato CMS aircraft criteria.

Wharekirauponga Access Arrangement

Activities for which the access arrangement is sought

[20] OGNZL seeks to replace the existing access arrangement (48614-AA-V4) and to reauthorise continued use of the nine existing drill pads currently within MP 60541 at Wharekirauponga.

[21] It also proposes 20 additional investigation and exploration drill sites, comprising:

(a) 8 exploration drill sites;

(b) 4 geotechnical investigation drill sites (within the existing access arrangement area):

(c) 4 geotechnical investigation sites above WUG dual tunnel area; and

(d) 4 hydrogeological investigation drill sites.

[22] Establishing the drill sites would require the removal of vegetation within a 150 m^2 area for each site. Vegetation and topsoil would be stockpiled. Prior to any clearance occurring, OGNZL will undertake an ecological survey to determine the presence of any Threatened or At Risk species present. This will be in accordance with the "Waihi North Project Site Selection Protocol" and may result in the abandonment of the proposed site.

[23] Any vegetation clearance undertaken will be restricted to March to May inclusive, and during suitable warm weather conditions. No trees greater than 50 cm diameter at breast height will be cleared.

[24] Six drill rigs will be utilised at any one time to undertake exploration drilling.

[25] Drill rigs would be transported to the site by helicopter. Assembly of the platform would be undertaken with helicopter support, after which the drill rig and associated equipment would be flown onto the platform. Once drilling has been completed at each site, the rig, equipment and platform would be transported to the next site (noting that six rigs could operate at any one time).

[26] Diamond drilling would be utilised on all holes along with biodegradable drill fluids and lubricants.

[27] Drilling muds, fluids and cuttings are proposed to be disposed underground down the hole. A small sump or bulk containers would be utilised at the collar of the drill holder to catch and contain any spillage for pumping down the hole. A solids recovery unit is proposed to remove solids and recycle water and drilling fluid. The slurry produced by this unit would be collected and disposed of at an appropriate facility.

[28] Existing water lines from existing pumps will be utilised where available. Alternatively, water will be taken from nearby streams using a small pump. Approval is also sought to take groundwater for drilling purposes, in addition to groundwater takes from the location of historic drill sites. A 200 mm diameter abstraction hole would be created, along with a submersible pump and a generator positioned at the drill or pump site.

[29] Four additional camps (six in total) and associated facilities are proposed at any of the drill sites to support drilling activities. These includes self-contained portable toilets, and portacoms. Tent based camping is proposed throughout the application area to support field work where required.

[30] Exploration operations would not be undertaken within 400 m of the Wharekirauponga Track during the peak season of 23 December to 6 February inclusive, although operations to ensure the security and safety of drill sites would continue.

[31] Upon completion of drilling, if a piezometer is to be installed, two wires will lead to a locked box containing a data logger. All other equipment would be removed from the surface. The logger will be attached to a post or waratah driven into the ground.

[32] Two additional helipads (bringing the total number of helipads to four across the site) are proposed at any of the authorised drill sites.

[33] Helicopter use and drilling activity would not occur between 1 December and 28 February inclusive within 400 m of the Wharekirauponga Track.

[34] Four ventilation shafts associated with the underground mining operation would be established. These may be sited over sites previously utilised for pumping test sites. The initial complete clearance of vegetation and groundcover would be 30 m by 30 m (900 m^2) per site. The sites would utilise concrete pads, with associated earthworks (cut and fill) and retaining walls where required.

[35] Once operational, the concrete pad extent would be 12 m by 12 m (144 m^2). The creation of pumping test sites is expected to require four 50-100 cm diameter at breast height trees to be cleared.

[36] Vent shaft construction is expected to create 50 helicopter flights per week over approximately four weeks dependent on topography, soil composition and construction methodology. It is expected that concrete used for construction would be pumped from underground due to limitations with helicopter transport of the concrete. Each ventilation shaft would have an évasé of up to eight metres in height, surrounded by a fence.

[37] Ventilation fans would be installed underground. One shaft would be utilised as an emergency egress. During construction, a helipad and facility building would be constructed above one of the vent shafts to be utilised during the construction of the further ventilation shaft sites.

[38] At the completion of mining activities, the vent shafts would be removed, the concrete pads removed and lowered by helicopter down the shaft into the tunnel and then transported out of the mine. The ground cover, having previously been stockpiled, would then be respread across the site. Works would be undertaken in accordance with an approved rehabilitation plan.

[39] The location of the sites is proposed to be determined using the Waihi North site selection protocol. At the hydrogeological investigation sites along the WUG Dual Tunnel Corridor, drilling would occur to create piezometer holes to assist with testing, baseline data collection and ongoing groundwater monitoring. The four geotechnical investigation sites would also be sited along the proposed Dual Tunnel Corridor.

[40] There will be up to 50 man-portable drill sites to undertake vent shaft geotechnical investigations and install piezometers

[41] The portable drill rigs would be broken down into 100 kg components. These would be heli-dropped around trees, enabling tree clearance to be reduced. As natural clearings or existing tracks will be utilised as sites, clearance will be restricted to trimming of canopy trees and removal of understorey and ground cover vegetation. For each site, this would create the 32 m^2 required by the portable drill rigs, along with storage areas for the ground cover material that is intended to respread at the completion of drilling. Sites will be located using the Waihi North site selection protocol.

[42] OGNZL will install and maintain piezometers at all existing and new drill sites or ventilation shaft sites. Twelve of the 50 man portable drill sites are proposed to be used to install near stream piezometers. Groundwater quality samples of up to 2 litres in volume would be collected each quarter by bailer or submersible pump.

[43] A further two shallow piezometers are proposed to be sited at each of a maximum of six wetlands and two control wetlands. One ready-made piezometer would be driven into the wetland by slide hammer. A second piezometer would be installed approximately two metres from the wetland boundary and be installed by slide hammer or portable rig.

[44] As part of the proposal, OGNZL also seek to reauthorise the seven piezometers installed at existing drill and camp sites within the current DOC concession 87585-OTH. This would

enable the extension of the term to align with the term of the proposed access arrangement. These piezometers, along with another two piezometers constructed along the Otahu River, will contain vibrating wire piezometers and would be sited within 20 m of the stream bed.

[45] Approval is also sought to reauthorise 24 near stream piezometers at 12 sites that were previously authorised by DOC Concession 101993-OTH.

[46] 20 helicopter flights will be required to install each near stream piezometer. These flights are proposed to take place across a two-day period and within a two-hour timeframe on each of those days.

[47] Drones would be utilised no more than twice yearly over the life of underground mining. These would never occur at the same time as helicopter operations and would replace helicopter use for that activity. Drones would be used to undertake ecological and geotechnical mapping and investigations for exploration and mining activities. This would include LiDAR and photogrammetry data collection.

[48] Two rain gauges are intended to be installed and maintained, attached to any drill platform (one of which has been previously authorised through 87585-OTH).

[49] An existing meteorological weather station previously approved by DOC concession and located at the south helipad would continue to be utilised for data collection.

[50] 12 surface water river level monitoring sites are proposed (seven new, five being reauthorised for the term of the mine). Construction would involve PVC pipe attached to a waratah driven into a streambed, with a data logger installed within the pipe; or a dynabolt drilled into rock with a D-shackle attaching the logger. Plastic housing for equipment and electrical equipment would be attached to a tree or secondary waratah on the riverbank. Flow monitoring would occur with handheld devices.

[51] Water quality samples would be collected using sterile containers and analysed off site.

[52] Vibration monitoring would be undertaken at 12 sites. This would require spade excavation of 30 cm by 30 cm and 30 cm deep . The hole will be filled with pre-cast concrete

blocks and compacted soil. A geophone would be installed at a bolt during monitoring. The equipment would be removed (and holes filled) following mine closure.

[53] Marked walking or field tracks are proposed to be created between the various sites and onto existing formed tracks.

[54] OGNZL will undertake geological mapping, geochemical surveying, handheld removal of samples, aerial and land surveying, stream bed conductance testing, soil conductance testing and sampling and tracer injections and testing as minimum impact activities (MIA) across the proposed access arrangement site.

[55] Approval is sought for prospecting activities: geochemical sampling, geological mapping, soil sampling, rock sampling, sediment sampling and ground based geophysical surveys, ground magnets, gravity surveying and electrical surveying.

[56] Activities to support drilling will include the operation of ten water pumps to supply water from waterways near proposed drill sites. Apart from three existing sites, the location of the seven additional pumps is not known due to the sites being yet to be selected.

[57] A warm spring in close proximity to the Wharekirauponga Stream will be lost through dewatering as mining will intercept this spring flow and it will no longer reach the surface.

[58] Wetland monitoring piezometers and river flow monitoring stations and 'near stream' piezometers are either existing or proposed to be installed in close proximity to the waterways.

[59] Transport of people and equipment onto the access arrangement would mostly be by helicopter, except for those utilising the Wharekirauponga Track to walk in. Helicopters would be utilised in all stages of survey, construction, drilling, mining and rehabilitation activities.

[60] The proposed access arrangement covers only activities within the mining licence area and therefore does not involve two areas of Schedule 4 (and thus ineligible) land that is in the vicinity.

Principal areas of factual controversy

[61] The main area of controversy has been in relation to ecological and environmental impacts (reviewed in sections E3 to E11 of this Decision), effects on recreation (reviewed in E15), archaeological an historic heritage (section E18) and hazardous substances (section E19).

[62] As will be apparent from the sections referred to, we are of the view that potential adverse effects can be appropriately avoided, remedied or mitigated by conditions.

Applying the c 7, Schedule 11 criteria

[63] The purpose of the FTTA (clause 7(1)(a)(i)) favours the Applicant. The Application is within the purpose of the Act as it is a development project "with significant regional or national benefits".

[64] The Application does not sit easily with the objectives of the Conservation Act and the purposes for which the land is held (clauses 7(1)(a)(ii) and (iii)); but, that said, mining is permitted in the Coromandel Forest Park, subject, of course to authorisation.

[65] We have given extensive consideration to the "safeguards against potential adverse effects" (clause 7(10(a)(v)) which are provided by the conditions and are of the view that they adequately avoid, remedy or mitigate any actual or potential adverse effects.

[66] As to (clause 7(1)(a)(vi)), we consider the benefits reviewed in Part F of this Decision are significant (namely additional employment and additional Government revenue) are net "economic benefits" as they are not offset by any economic disbenefits.

[67] The proposal is not consistent with policy 9.2.2.14 of the WCMS (as it does not avoid a habitat that is "important to the persistence of native frogs"). As well, it is not consistent with at least the spirit of policy 16.3.5.3 (which strictly applies only to "concessions") in terms of the frequency of helicopter flights. However, we do not see these inconsistencies as controlling. In relation to both potential for harm to native frogs and noise from helicopters, we have already assessed the likely effects (see sections E7 and E14 of this Decision). Given that clause 7(1)(b) does no more than permit us to consider these policies, along with the focus

of s 85(3) on "adverse impacts", we are entitled to form our own view of the extent, if any, of the risk of adverse effects on native frogs and from helicopter noise.

[68] We do not see the general language of CPLMP as of particular moment in the context of the access arrangements.

[69] In their s 53 comments Ngāti Porou ki Hauraki asserted that the WNP was fundamentally incompatible with

> our interests in ancestral whenua the project is the proposed to access, occupy and mine and our interests in land (including land we own currently and land we will own following our Treaty settlement) that is adjacent to or will be impacted by the project.

[70] They thus invoked clause 7(2)(b) maintaining that the access arrangements would result in the conferral of an interest in land that was incompatible with their interest in land that they currently own adjacent to the Coromandel Forest Park and land they expect to own in the future.

[71] We do not see the access arrangement as conferring an interest in land. It is, rather, in the nature of a licence. As well, we do not see the phrase "incompatible with an existing interest in land" in clause 7(2)(b) as meaning "has adverse effects on other land". Rather it refers to an interest in land that is inconsistent with (perhaps because it overlaps) another interest in land. And we do not see an interest in land that may come into existence in the future as material to the application of clause 7(2)(b).

Conclusion as to access arrangement

[72] For the reasons given, we consider that an access arrangement should be approved.

The terms and conditions of the access arrangement

[73] The terms of the access arrangement (apart from conditions to be imposed by us which are in the Second Schedule to it) have been agreed between OGNZL and DOC. It contains conditions as to a bond imposed by the Minister under s 78. The access arrangement is set out in Appendix C of this Decision.

Favona Access Arrangement

[74] Descriptions of the activities sought to be authorised in the areas are:

(a) rehabilitation planting and ongoing maintenance access including pest control on marginal strip of the Ohinemuri River;

(b) authorisation of the existing occupation of public conservation land for use as a lay down yard and bridge footings for the Baxter Road "Mill Bridge";

(c) ongoing use of the heavy vehicle crossing over the Ohinemuri River; and

(d) authorisation of continued occupation, upgrade and maintenance of a treated water discharge line and manifold on marginal strip of Ohinemuri River.

[75] These activities involve five areas of land:

(a) public conservation land that is part of the existing Martha Mine pit, area (a);

(b) Ohinemuri River – proposed planting area, area (b);

(c) Ohinemuri – proposed planting area, area (c);

(d) Baxter Road – authorisation of conveyor lay down area, Baxter Road bridge footings and heavy vehicle crossing area, area (d); and

(e) Ohinemuri River – proposed discharge structure, area (e).

[76] The activities in area (a) adjacent to the Waihi mine pit have been authorised through the existing access arrangement The activities within areas (d))and (e) seek authorisations for existing (and perhaps unauthorised) occupations of public conservation land. The new activities subject to this variation application relate to approvals to undertake planting along the marginal strip, areas (b) and (c).

[77] It is clear that the potential for adverse effects can be adequately addressed by conditions. So, the appropriateness, in principle anyway, of the proposed access arrangement is not in dispute.

The terms and conditions of the access arrangement

[78] The terms of the varied access arrangement (apart from conditions to be imposed by us which are in the second schedule to it) have been agreed between OGNZL and DOC). It contains conditions as to a bond imposed by the Minister under s 78. The access arrangement is set out in Appendix D of this Decision.