BEFORE THE WAIHI NORTH PROJECT [FTAA-2504-1046] EXPERT PANEL

In the matter of The Fast-track Approvals Act 2024

And approvals sought under the Resource Management Act 1991, Crown Minerals Act 1991, Conservation Act 1987, Heritage New Zealand Pouhere Taonga Act 2014, Wildlife Act 1953 and the Freshwater Fisheries Regulations 1983.

Record of Decisions of the Expert Panel under Section 87 of the Fast-track Approvals Act 2024

Date of Decisions: 18 December 2025
Date of Issue: 18 December 2025

Expert Panel:
Sir William Young KNZM KC (Chair)
Cathy Katene
Cameron Lines
Dr Greg Burrell
Robert van Voorthuysen

Table of Contents

PART A: EXECUTIVE SUMMARY 13
PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE 15
PART C: GENERAL LEGAL CONTEXT 31
PART D: IWI GROUPS AND THE REQUIREMENTS OF THE FTAA 36
PART E: EFFECTS 44
E1: Management Plans 44
E2: Cultural Effects 51
E3: Effects on Groundwater Flows and Stream Depletion 59
E4: Effects on Ohinemuri River Water Quality 78
E5: Blasting and Vibration Effects 82
E6 Ground Subsidence and Settlement Effects 90
E7: Effects on Frogs 97
E8: Effects on Other Terrestrial Ecology 111
E9: Effects on Aquatic Ecology 119
E10: Effects on Wetlands 124
E11: Landscape, Visual Amenity and Natural Character Effects 129
E12: Geotechnical Effects 134
E13: Geochemistry and Acid and Metalliferous Drainage Effects 150
E14: Noise Effects 157
E15: Effects on Recreation and Tourism 163
E16: Air Quality Effects 166
E17: Lighting Effects 169
E18: Archaeological and Historic Heritage Effects 171
E19: Effects of the Storage and Handling of Hazardous Substances 176
E20: Contaminated Land Management 180
E21: Transportation Effects 182
E22: Social Impacts 185
E23: Monitoring and Review 194
E24: Closure and Aftercare 197
E25: Bonds 200
PART F: REGIONAL AND NATIONAL BENEFITS 209
F1: Regional And National Economic Benefits 209
F2: Waihi North Biodiversity Project (WNBP) 237
PART G: APPROVALS RELATING TO THE RESOURCE MANAGEMENT ACT 242
G1 Decision-Making Criteria For Consents Under The RMA 242
G2 RMA Statutory Instruments 244
G3 Regional and District Planning Framework 255
G4: Part 2 of the RMA 268
G5: Decisions as to resource consents 270
PART H: APPROVALS RELATING TO ACCESS ARRANGEMENTS THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE CROWN MINERALS ACT 271
PART I: APPROVALS RELATING TO CONCESSIONS THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE CONSERVATION ACT 289
PART J: AUTHORITIES THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE WILDLIFE ACT 299

PART K: AUTHORITIES THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014 307
PART L: APPROVALS RELATING TO COMPLEX FRESHWATER FISHERIES ACTIVITIES 308
PART M: OVERALL APPROACH 313
PART N: CONDITIONS.....321

APPENDICES

Appendix A: Resource consents granted
Appendix B: Resource consent conditions
Appendix B1: Combined HDC and WRC Conditions
Appendix B2: HDC Conditions
Appendix B3: TCDC Conditions
Appendix B4: WRC Conditions
Appendix B5A: HDC Consent Attachments
Appendix B5B: HDC Consent Attachments
Appendix B6: TCDC Consent Attachments
Appendix B7: WRC Consent Attachments
Appendix B8: Combined HDC and WRC Consent Attachments
Appendix C: Wharekirauponga Access Arrangement
Appendix D: Favona Access Arrangement
Appendix E: Northern Area Concession
Appendix F: Willows Area Concession
Appendix G: Wildlife Act Authority
Appendix H: Archaeological Authority
Appendix I: Freshwater Fisheries Approval
Appendix J: Summary of s 53 comments received
Appendix K: Ecological Effects Summary

LIST OF ACRONYMS

TERM	MEANING
Act or the Act or FTAA	Fast-track Approvals Act 2024
AEE	Assessment of Environmental Effects
AEP	Amenity Effects Programme
AMD	Acid and Metalliferous Drainage
AMP	Archaeological Management Plan
AQMP	Air Quality Management Plan
ARD	Acid Rock Drainage
ARI	Average Recurrence Interval
BVMP	Blasting and Vibration Management Plan
Conservation Act	Conservation Act 1987
Crown Minerals Act	Crown Minerals Act 1991
CIA	Cultural Impact Assessment
CFP	Coromandel Forest Park
CGE	Computable General Equilibrium Analysis
CPCLMP	Coromandel Peninsula Conservation Land Management Plan
CMS	Waikato Conservation Management Strategy
CSM	Conceptual Site Model
CVA	Cultural Values Assessment
DOC	Department of Conservation
ELMP-WUG	Ecology and Landscape Management Plan for the Wharekirauponga Underground Mine Area
ELMP-WA	Ecology and Landscape Management Plan for the Waihi Area
FDI	Foreign Direct Investment
Fisheries Regulations	Freshwater Fisheries Regulations 1983
FTE	Full Time Equivalent
GCP	General Conservation Policy
GOP	Gladstone Open Pit
GOP TSF	Gladstone Open Pit Tailings Storage Facility
GCMP	Ground Control Management Plan
HAIL	Hazardous Activities and Industries List
HDC	Hauraki District Council
HDP	Hauraki District Plan
HNZPT Act	Heritage New Zealand Pouhere Taonga Act 2014
HNZPT	Heritage New Zealand Pouhere Taonga
HPL	Highly Productive Land
HSMP	Hazardous Substances Management Plan
IAG	Iwi Advisory Group
KDMP	Kauri Dieback Management Plan
m RL	Mine Datum minus 1000m
MALF	Mean Annual Low Flow
MBIE	Ministry of Business, Innovation & Employment

TERM	MEANING
MCA	Multicriteria assessment
MCI	Macroinvertebrate Community Index
MfE	Ministry for the Environment
MUG	Martha Underground Mine
NAF	Non-Acid Forming
NEET	Not in Employment, Education, or Training
NES:Air	Resource Management (National Environmental Standards for Air Quality) Regulations 2004
NES:DW	Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007
NES:ET	Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009
NES:FW	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NES:CS	Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
NFMP	Native Frog Management Plan
NPS:FM	National Policy Statement for Freshwater Management 2020
NPS:HPL	National Policy Statement for Highly Productive Land 2022
NPS:IB	Draft National Policy Statement for Indigenous Biodiversity 2019
NRS	Northern Rock Stack
NMD	Neutral Metalliferous Drainage
NMP	Noise Management Plan
NZDI	New Zealand Deprivation Index
NZDSG	New Zealand Dam Safety Guidelines
NZSOLD	New Zealand Society on Large Dams
NZS6802:2008	New Zealand Standard 6802:2008 Acoustics – Environmental Noise
NZS6803:1999	New Zealand Standard 6803:1999 Acoustics – Construction Noise
NZDI	New Zealand Deprivation Index
NZTA	NZ Transport Agency Waka Kotahi
OBDA	Overburden Disposal Area
OGNZL	OceanaGold (New Zealand) Limited
ONL	Outstanding Natural Landscape
PAF	Potentially Acid-Forming
PAMP	Pest Animal Management Plan
PIC	Potential Impact Classification
PSI	Preliminary Site Investigation
PM_{10}	Particulates less than 10 microns in diameter
PMP	Probable Maximum Precipitation
QMCI	Quantitative Macroinvertebrate Community Index
RCS	Respirable Crystalline Silica
RL	Reduced Level
RMA	Resource Management Act 1991

TERM	MEANING
RPS or Waikato RPS	Waikato Regional Policy Statement
SFA	Surface Facilities Area
SH2	State Highway 2
SH25	State Highway 25
SIMP	Social Impact Management Plan
SMP	Site Management Plan
SNA	Significant Natural Area
SRP	Sediment Retention Pond
TCDC	Thames Coromandel District Council
TCDP	Thames Coromandel District Plan
TTMP	Temporary Traffic Management Plan
TSF	Tailings Storage Facility
USEPA	United States Environmental Protection Agency
WAA	Wildlife Act Authority
Waihi SFA	Waihi Surface Facilities Area (Processing Plant area)
WAPMA	Wharekirauponga Animal Pest Management Area
WCMS	Waikato Conservation Management Strategy
WPAMP	Wharekirauponga Pest Animal Management Plan
Wildlife Act	Wildlife Act 1953
Willows SFA	Willows Road Surface Facilities Area
WNBP	Waihi North Biodiversity Project
WNP	Waihi North Project (the entire project area)
WRC	Waikato Regional Council
WRP	Waikato Regional Plan
WRS	Willows Rock Stack
WUG	Wharekirauponga Underground Mine
WUG-WMP	Wharekirauponga Underground Mine Water Management Plan
WTP	Water Treatment Plant

GLOSSARY OF TERMS

TERM	MEANING
Area 1	Means Area 1 as shown on Figure 1 in PART B.
Area 2	Means Area 2 as shown on Figure 1 in PART B.
Area 3	Means Area 3 as shown on Figure 1 in PART B.
Area 4	Means Area 4 as shown on Figure 1 in PART B.
Area 5	Means Area 5 as shown on Figure 1 in PART B.
Area 6	Means Area 6 as shown on Figure 1 in PART B.
Area 7	Means Area 7 as shown on Figure 1 in PART B.
Average Recurrence Interval	The average time period between rainfall or flow events that exceed a given magnitude.
Benthic	Of, relating to, or occurring at the bottom of a body of water.
Canopy	Tallest layer of the forest.
Catchment	An area of land bounded by natural features such as hills or mountains from which surface water flows into streams, rivers and wetlands.
Central Borrow Area	An area within TSF3 from which material / waste rock will be borrowed using blasting and earthmoving techniques.
Central Stockpile	An existing stockpile, located adjacent to the existing TSFs, used for the disposal of rock material.
Construction works	Various activities undertaken to construct the Waihi North Project.
Contingency Ponds	Ponds which collect runoff from the ore stockpiles and conveyor, while also providing containment of any chemicals used for processing ore and water treatment in the event of spillage. These ponds will remain active until mine closure. A number of contingency ponds are located in the Waihi SFA area including the Mill Contingency Pond (MCP), Tailings Contingency Ponds (TCP, TCP2, TCP1A) and WTP Contingency Pond (WTPCP).
Conveyor	Existing infrastructure (overland conveyor system) used to transport material from the Martha Mine to the Waihi Surface Facilities Area and to the Central, Northern and Eastern Stockpiles and TSFs. Upgrades to the conveyor infrastructure within the Waihi SFA (Area 5) are proposed to support the processing of additional ore extracted from the Wharekirauponga orebody.
Diversion Drains	Drains utilised to divert water around mining areas.
Drive	A horizontal passage underground that follows along the length of a vein or rock formation as opposed to a crosscut which crosses the rock formation.

TERM	MEANING
Dual Tunnel or Wharekirauponga Dual Tunnel	A 6.9 km dual decline tunnel system that extends from the Willows Portal within the Willows Road SFA to the base of the Wharekirauponga ore resource.
Earthworks	As defined under the HDP.
Eastern Borrow Area	An area within TSF3 from which material / waste rock will be borrowed using blasting and earthmoving techniques.
Eastern Stockpile	An existing stockpile, located adjacent to the existing TSFs, used for the disposal of rock material.
Explosives Magazine	Class 1 storage facility, used for the storage of high explosives (ammonium nitrate fuel oil, booster and packaged explosives).
Favona Portal	An existing portal, located to the west of the Waihi SFA which provides access to the existing underground mines (Favona, Trio, Correnso, Slevin, and Martha Phase 4 Underground Mines).
Favona Underground Mine	An existing underground mine, authorised in 2004, located beneath residential properties in Waihi's east end and accessed via the existing Favona portal.
Fish IBI	The Fish Index of Biotic Integrity (IBI) is a measure of how intact the native fish community is within a stream reach or stream.
Fish passage	The movement of fish between the sea and any river, including up-stream or downstream in that river.
Gladstone Open Pit	A new open pit mine within Area 5 that will be situated predominantly over Gladstone Hill and part of Winner Hill, immediately east of the existing Waihi SFA.
Gladstone Portal	A new portal within Area 5 to the Trio Upper Drive within the Gladstone Open Pit. It will replace the existing Favona Portal that currently provides access to the Martha Underground Mine.
Gladstone Open Pit Tailings Storage Facility	A new fully lined TSF that will be established within the Gladstone Open Pit following the completion of mining within the Gladstone Open Pit. Also referred to as the 'GOP TSF'.
Martha Underground Mine	Underground mining beneath the Martha Pit and under a small area of residential, reserve and commercial land to the southeast of the pit. Forms part of Project Martha in which consents were granted in 2018.
Modified watercourse	An artificial or modified channel that may or may not be on the original watercourse alignment and which has a natural channel at its headwaters.
MUG Portal	A new portal within Area 5 to the Trio Upper Drive. It will be located adjacent to the WUG Portal.
Northern Diversion Drain	An existing diversion drain diverting clean water around TSF2 and authorised via AUTH 971309 and AUTH 971310. The Northern Diversion Drain will be extended as part of the various activities associated with the NRS in Area 6

TERM	MEANING
Northern Rock Stack	A new rock stack proposed to accommodate surplus rock associated with the Waihi North Project in Area 6. The NRS will accommodate rock predominantly from the GOP but may include some development rock from the WUG. At its maximum extent, the NRS footprint will encompass the existing Northern Stockpile area.
Northern Stockpile	An existing stockpile located north of the existing TSF2. This stockpile can be used in association with any new mine located within the Waihi epithermal district.
Northern Uphill Diversion Drain	An uphill clean water diversion drain which will be constructed upstream of the NRS for the collection of natural ground runoff and stream flows.
Overland Flow Path	Routes that collect and convey rainwater. Typically, they only flow for the duration of a rain event.
Permanent river or stream	A continually flowing body of fresh water, excluding ephemeral streams, and includes a stream or modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal except where it is a modified element of a natural drainage system).
Processing Plant	Located within the Waihi SFA in Area 5. It consists of a conventional carbon-in-pulp gold and silver processing plant. The Processing Plant is currently authorised to process up to 1.25 million tonnes of ore per annum from anywhere in the Waihi epithermal district. The Processing Plant will be upgraded as part of the Waihi North Project
Rehabilitation and Closure Plan	Describes the proposed method of rehabilitation and closure of the project areas.
Rock and Tailings Storage Facilities	Engineered structures designed and constructed to hold mineral waste (tailings) and / or rock. Existing Rock and Tailings Storage Facilities include the Central, Northern and Eastern Stockpiles and two Tailings Storage Facilities (known as TSF1A and TSF2) to the east of the Ohinemuri River.
Sediment control	Capturing sediment that has been eroded and entrained in overland flow before it enters the receiving environment.
Services Trench	A trench that will be established between the Waihi SFA and Willows Road SFA to carry electricity, fibre, wastewater, and potable/raw/recycled water services within buried pipelines. This has been consented already and does not form part of the WNP FTAA approvals.
Significant Natural Area	Areas of significant terrestrial indigenous vegetation or significant habitats of indigenous fauna located either on land or in freshwater environments identified in District Plans.
Silt Ponds	A pond for capturing run off water which has not intercepted potentially acid forming rock for the purpose of intercepting

TERM	MEANING
	hydrocarbons and allowing the settling of sediments prior to discharge to the local environment.
Southern Diversion Drain	Is an existing diversion channel that diverts clean surface water around TSF1A. It will be extended around TSF3 as part of the Waihi North Project works in Area 7.
Southern Stockpile	A temporary topsoil and NAF area (approximately 0.9 ha in area and approximately 12m high) to be established around the GOP for storing topsoil stripped from the GOP.
Stormwater	Water that flows from impervious areas after the construction period.
Stoping	The opening of large underground rooms, or stopes, by the excavation of ore.
Tributaries	Small 'feeder' streams that drain into larger streams and rivers. The catchments of these tributaries are known as sub-catchments.
TSF1A and TSF2	Existing tailings storage facilities located to the east of the Ohinemuri River.
TSF3	A new tailings storage facility to be established as part of the WNP in Area 7 to the east of the existing TSF1A. It will accommodate additional tailings volume from the processing of ore from the Waihi North Project and other mining activities.
Underground Mines	Refers to the various underground mines that have been established to the east and southeast of the Martha Pit in the last 30 years. These include the Favona, Trio, Correnso, and Slevin Underground Mines, and more recently, the Martha Phase 4 Underground Mines authorised as part of Project Martha.
Waihi North Biodiversity Project	A voluntary large scale predator control and habitat enhancement project OGNZL proposes to undertake over an approximate 18,870 ha of the Coromandel Forest Park as part of the Waihi North Project.
Waihi North Project	Is the topic of this resource consent application. A project centred around development of the newly discovered Wharekirauponga ore deposit. It involves activities within Areas 1 through 7 and will extend the life of the Waihi mining operation to 2038, with the potential to add over 1.7 million ounces of gold and 2.9 million ounces of silver production over a 13-year period.
Waihi Surface Facilities Area	Existing SFA located to the east of Waihi township, containing various infrastructure required to support mining activity (including the WTP and Processing Plant). Access to the Waihi SFA is by way of Baxter Road and an access road over the Ohinemuri River.
Watercourse	A natural or artificial channel through which water flows.
Water Treatment Plant	An existing onsite Water Treatment Plant within the Waihi SFA and Area 5 which is used to treat water from mining operations prior to discharging this water into the Ohinemuri River at two consented locations via multi-port diffusers. The Water

TERM	MEANING
	Treatment Plant will be upgraded to treat water from additional mining operations, to be authorised as part of the Waihi North Project.
Western Borrow Area	An area within the NRS from which material / waste rock will be borrowed using blasting and earthmoving techniques.
Wetland	Defined in s2(1) of the RMA to include "…permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions".
Wharekirauponga Access Tunnel or WUG Access Tunnel	A 5km long tunnel which will connect the Waihi SFA with the Wharekirauponga Dual tunnels. It will be used to transport ore underground to the existing Processing Plant, and for general operational access between the Wharekirauponga Underground Mine and the Waihi SFA. It will also be used to transport rock from the NRS to the Wharekirauponga Underground Mine for backfilling of stopes once the supply of rock stored in the Willows Rock Stack is exhausted.
Wharekirauponga Dual Tunnels or Dual Tunnels	A 6.9 km dual decline tunnel system that connects to the Wharekirauponga Access Tunnel and Willows Access Tunnel at approximately the boundary of the Coromandel Forest Park and extends to the base of the Wharekirauponga ore resource within the Wharekirauponga Underground Mine.
Wharekirauponga Underground Mine	An underground mine that will enable mining of the Wharekirauponga orebody. It is located approximately 10 km north of Waihi, beneath the Coromandel Forest Park land administered by the Department of Conservation (DOC). Access to the underground mine will be provided by the Wharekirauponga Dual Tunnels, and the Willows Access Tunnel or Wharekirauponga Access Tunnel.
Willows Access Tunnel	A Tunnel which connects the Willows SFA to the Dual Tunnel. It will be used to transport development rock from underground to the Willows Rock Stack, and for general operational access between the mine and the Willows Road SFA. The Willows Access Tunnel will also be used to transport rock from the Willows Rock Stack to the Wharekirauponga Underground Mine for backfilling of stopes.
Willows Road Farm	OGNZL owned property within Area 2 that will house the surface infrastructure required to support the Wharekirauponga Underground Mine.
Willows Rock Stack	A temporary rock stack within Area 2 which forms a component of the Willows Road SFA north of the Willows Portal. It will be approximately 5 ha in area, have a total storage capacity of up to 900,000 m³, and a maximum height of 20 m above natural ground level.
Willows Road Surface Facilities Area	An 18-ha area located within Area 2 at the Willows Road Farm property that will house surface-based facilities required to support the Wharekirauponga Underground Mine.

TERM	MEANING
Willows Portal	The portal within Area 2 which provides vehicle access to the Willows Access Tunnel.
Wharekirauponga Access Tunnel Portal or WUG Portal	A new portal within the Waihi SFA in Area 5 between the existing Polishing Pond Stockpile and the end of Moore Street which will provide access to the Wharekirauponga Access Tunnel
Vent shaft / shaft(s)	Required for air circulation and to provide an emergency exit from the Wharekirauponga Dual Tunnel, Willows Access Tunnel and Wharekirauponga Underground Mine. Five vent shafts are proposed – four on Hauraki District Council administered road reserve within the Coromandel Forest Park and one within Area 2.

PART A: EXECUTIVE SUMMARY

[1] This is an application for the Waihi North Project (WNP) by OceanaGold (New Zealand) Limited (OGNZL) to enable the development of the Wharekirauponga ore deposit, located beneath the Coromandel Forest Park (CFP), together with associated infrastructure and mining activities, and a significant biodiversity enhancement project.

[2] The Application was included as a listed project in Schedule 2 of the Fast Track Approvals Act 2024 (FTAA). An expert panel to determine the Application (Panel) was set up on 14 July 2025.

[3] The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.

[4] The Panel received comments from commentators and a response to those comments from OGNZL. The Panel has carefully reviewed all of that information in evaluating the Application.

[5] For the reasons given in this Decision, the Panel grants the approvals sought, as set out in Appendices A to I.

[6] This Decision is made in accordance with s 87 of the FTAA. It covers all the approvals sought under the substantive application and it includes:

(a) Executive summary – Part A;

(b) An overview of the WNP application - Part B;

(c) The general legal context – Part C;

(d) Iwi authorities – Part D;

(e) An assessment of the effects of the WNP– Part E;

(f) The regional and national benefits of the WNP– Part F;

(g) Approvals that would otherwise be applied for under the RMA – Part G;

(h) Approvals relating to access arrangements that would otherwise be applied for under the Crown Minerals Act – Part H;

(i) Approvals relating to concessions that would otherwise be applied for under the Conservation Act – Part I;

(j) Authorities that would otherwise be applied for under the Wildlife Act - Part J;

(k) Approvals relating to access arrangements that would otherwise be applied for under the HNZPT Act – Part K;

(l) Approvals relating to Complex Freshwater Fisheries – Part L;

(m) Overall approach – Part M; and

(n) Conditions – Part N.

PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

Application

OGNZL's existing mining activities in Waihi

[1] OGNZL's existing and consented mines and mining activities at Waihi include:

(a) A currently inactive open pit mine (the Martha Mine) located adjacent to the Waihi Township.

(b) A series of underground mines beneath, and to the east and southeast of, the Martha Mine.

(c) Ancillary facilities associated with the above mines, including the Waihi Surface Facilities Area (SFA) located east of Waihi Township beyond Union Hill. This contains an ore Processing Plant (Processing Plant), Water Treatment Plant (WTP), stockpiles and various other ancillary facilities.

(d) The Central, Northern and Eastern Stockpiles and two Tailings Storage Facilities (TSF1A and TSF2) which are located further to the east across the Ohinemuri River. And

(e) A conveyor which connects the Martha Mine with the surface features listed above (the conveyor).[1]

[2] OGNZL also maintains an active mineral exploration programme in the region.

Environmental Setting

[3] OGNZL provided a detailed description of the environmental setting for the WNP in s 3 of the Assessment of Environmental Effects (AEE), including the following key characteristics:

[1] Paragraph 1.2, Part A, of the Substantive application.

(a) relevant authorisations and approvals;

(b) site zonings, land ownership and residential activities;

(c) cultural setting;

(d) geology, hydrology and hydrological characteristics;

(e) aquatic and terrestrial ecological values;

(f) landscape and natural character values;

(g) existing water users;

(h) archaeological and historic heritage features;

(i) existing noise and vibration levels;

(j) meteorology;

(k) air quality; and

(l) the transport network.

[4] We adopt that description without repeating it here.

[5] In Part E we set out relevant components of that setting with respect to various effects of the WNP. By way of an overview, that setting includes seven geographically distinct areas as follows: [2]

(a) Area 1: Comprising the WUG, the Dual Tunnel, surface exploration, environmental monitoring, and pest control activities;

[2] As shown spatially on Figure 2-1 (page 36) of the substantive application.

(b) Area 2: Comprising the Willows SFA, the Willows Access Tunnel, and supporting infrastructure;

(c) Area 3: Comprising the Wharekirauponga Access Tunnel;

(d) Area 4: Comprising the Services Trench;

(e) Area 5: Comprising the Gladstone Open Pit (GOP), Gladstone Open Pit Tailings Storage Facility (GOP TSF), and Waihi SFA;

(f) Area 6: Comprising the Northern Rock Stack (NRS) and borrow pit; and

(g) Area 7: Comprising Tailings Storage Facility 3 (TSF 3) and borrow pits.

[6] In addition to the above, a small number of activities associated with the WNP will occur outside Areas 1 to 7, including the operation of the existing conveyor in the reverse direction; terrestrial and riparian restoration and enhancement planting; and the establishment of carparking at Kenny Street, Waihi.

[7] The location of the above listed Areas is shown in Figure 1 below.

Overview of the application

[8] OGNZL seeks authorisations for the integrated development of the Wharekirauponga ore deposit together with associated infrastructure and mining activities. The Wharekirauponga ore deposit is beneath the Coromandel Forest Par (CFP), approximately 10 km north of Waihi.[3]

[9] The WNP comprises the following key activities:

(a) Further mineral resource investigation and exploration progression at Wharekirauponga.

(b) Establishing a surface facilities area (Willows SFA) housing the surface infrastructure necessary to facilitate the development and operation of an

[3] Paragraph 1.1, Part A, of the Substantive application.

underground mine, including the Willows Rock Stack (WRS) and a temporary waste rock stockpile. The Willows SFA is located on OGNZL owned farmland on Willows Road.

(c) The construction, operation, and maintenance of an access portal (Willows Portal) and associated tunnel decline (Willows Access Tunnel).

(d) The construction, operation, and maintenance of a dual tunnel (Dual Tunnel) extending from the termination of the Willows Access Tunnel to the Wharekirauponga orebody.

(e) The construction, operation, and maintenance of the Wharekirauponga Access Tunnel (WUG Access Tunnel) connecting the southern terminus of the Dual Tunnel to the existing Waihi SFA located off Baxter Road.

(f) The construction, operation, and maintenance of an access portal (the WUG Portal) to the WUG Access Tunnel at the Waihi SFA adjacent to the Processing Plant.

(g) The construction, operation, and maintenance of the WUG at Wharekirauponga.

(h) The construction, operation, and maintenance of the GOP, which is a new open pit mine located to the southwest of the existing Waihi SFA. At the completion of open pit mining activities, this will be utilised as a TSF (GOP TSF).

(i) The establishment and operation of the NRS, being a waste rock stockpile located to the east of the Waihi SFA.

(j) The establishment and operation of TSF3, being a new TSF located to the east of the existing TSF1A.

(k) An upgrade of the existing Processing Plant located within the Waihi SFA to provide for additional ore processing associated with the WNP.

(l) An upgrade of the existing Water Treatment Plant (WTP) located within the Waihi SFA, to double its current treatment capacity to provide for the treatment requirements of the WNP.

(m) The establishment of new treated water discharge pipelines.

(n) The handling and salvage of native frogs, lizards and avifauna on both public conservation land and privately owned land.

(o) On public conservation land: mining and exploration activities; surface water, groundwater and geotechnical investigations and monitoring (including the installation, maintenance and replacement of equipment, and continued use of existing equipment); long term monitoring of native frogs and research associated with the efficacy of predator control strategies and techniques to improve populations of native frogs; conservation planting and habitat enhancement activities (including pest control, monitoring and maintenance); low impact monitoring activities; continued occupation for a laydown and bridge footings for the existing Mill Bridge, and an existing heavy vehicle crossing of the Ohinemuri River.

(p) The damming or diverting of watercourses. And

(q) The salvaging of aquatic species from the footprints of the WRS, the NRS, and TSF3, and their release into nearby streams.

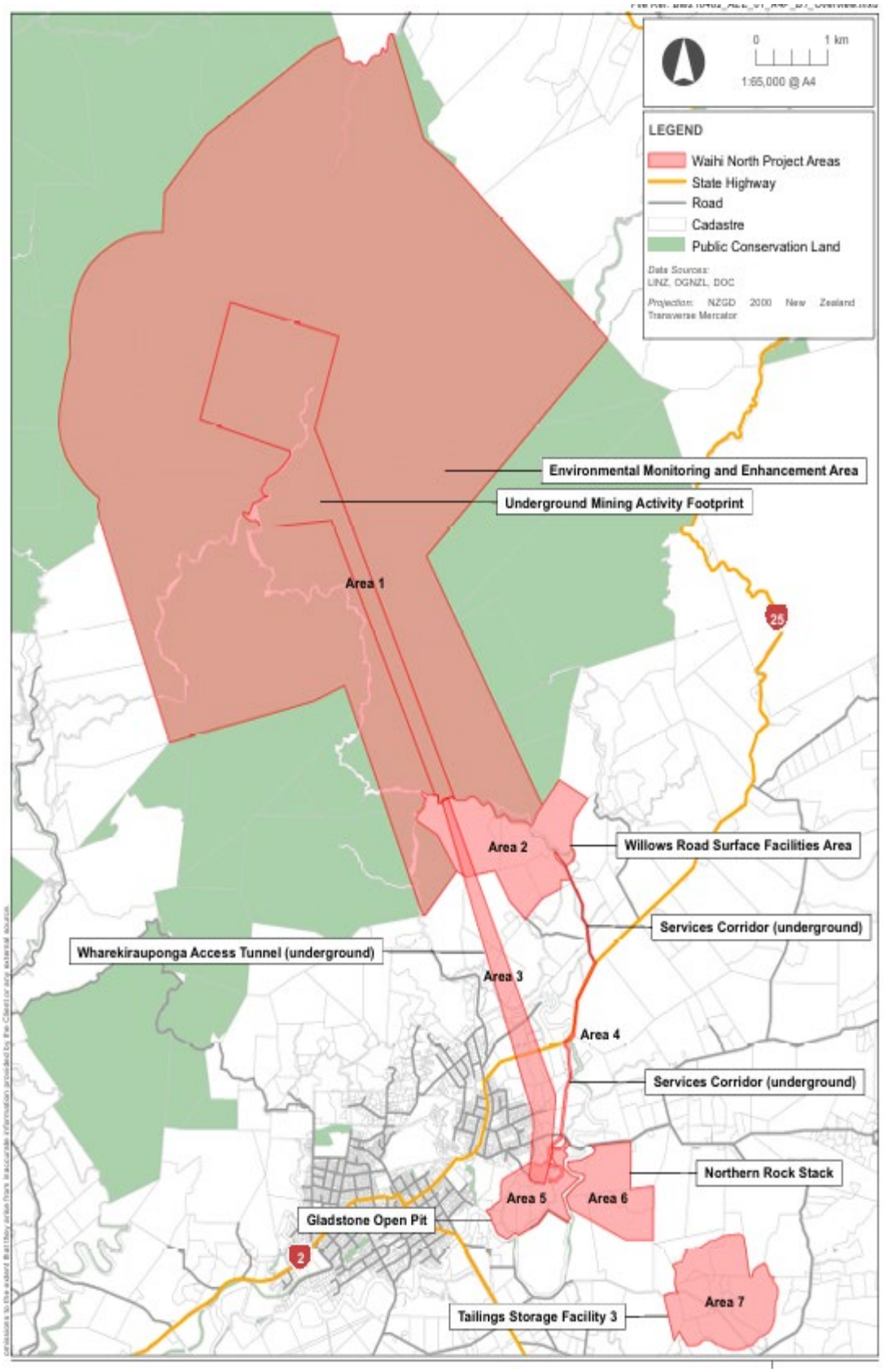


Figure 1: Location of activities.

[10] OGNZL also proposes to establish and implement an $8.4 million predator control and ecological enhancement project (the Waihi North Biodiversity Project or WNBP) within an area of up to 18,870 ha of the southern CFP. The WNBP is intended to achieve long-term (intergenerational) positive ecological outcomes for the area and is additional to the measures necessary to mitigate, offset or compensate for the environmental effects associated with the WNP. The WNBP is said by OGNZL to align with New Zealand's goal of being predator-free by 2050. The specific objectives and details of the WNBP will be developed and implemented in partnership with tangata whenua and other key stakeholders.

[11] The WNP relies on the construction, operation, and maintenance of a buried services trench (Services Trench) connecting the Willows SFA to the Waihi SFA. This Services Trench has been consented by WRC and HDC. An application for an easement required for the Services Trench has been approved by the Department of Conservation. No approvals are being sought for the Service Trench as part of this FTAA application.

Resource consents

[12] The Panel has reviewed all the documentation and the further information provided by OGNZL and other participants and lists the necessary resource consents in Appendix A. The Panel agrees with OGNZL that, in terms of the relevant regional and district plans the overall activity status of the resource consents required is:

(a) Non-complying for the Hauraki District Plan (HDP) consents;

(b) Non-complying for the Thames Coromandel District Plan (TDP) consents; [4] and

(c) Non-complying for the Waikato Regional Plan (WRP) consents.

[13] Discretionary land-use and discharge consents and a water permit are required under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

[4] In their comments TCDC advised that overall, it was considered that the proposal would be a non-complying activity pursuant to Rule 4.4 of the TCDC District Plan because the activity is within the Conservation Zone and Rural Zone and is subject to the Outstanding Natural Features and Landscapes overlay and takes on the activity status in Rule 8 Table 1A. We note that this makes no difference to the overall 'bundled' consent category.

[14] A restricted discretionary land-use consent is required under Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NES:ET).

[15] Under the "bundling" principle the overall activity status for the WNP resource consents is a non-complying Activity.

Approvals relating to the Crown Minerals Act

[16] OGNZL holds an existing Access Arrangement 48614-AA for its operations within the CFP. OGNZL have sought to replace this existing Access Arrangement with a new Access Arrangement for activities within public conservation land associated with Mining Permit 60541 (Wharekirauponga Access Arrangement) as follows:

(a) Exploratory drilling activities;

(b) The installation and maintenance of ventilation shafts;

(c) Minimum impact activities (as defined by the Crown Minerals Act);

(d) The installation and maintenance of piezometers at any existing and all new drill sites and ventilation shaft sites, including an extension of term for all existing piezometers installed at drill and camp sites under Concession 87585-OTH;

(e) Permeability testing in new piezometer holes;

(f) The installation and maintenance of two shallow piezometers at each of a maximum of six wetlands and two control wetlands;

(g) The installation and maintenance of three river pumps for extracting surface water;

(h) The installation and maintenance of eight river flow monitoring stations, including an extension of term for all existing flow monitoring stations installed at drill sites under concession 87585-OTH;

(i) The installation and maintenance of two rain gauges and a meteorological monitoring station, including an extension of term for all existing meteorological monitoring equipment installed under concession 87585-OTH;

(j) The installation and maintenance of a telemetry system to transmit environmental data, including the continued use of the existing telemetry system authorised under concession 101993-OTH;

(k) The installation and maintenance of fauna release sites, including the installation of an electric fence and fenced frog release pens;

(l) Pest control and monitoring;

(m) Continued use of a track counter and dust monitor authorised by concession 101993-OTH;

(n) Low impact surface and groundwater, ecological, noise and vibration monitoring;

(o) Tent-based camping anywhere within the area to support field work;

(p) Locating portacoms and a portaloo at up to two drill sites at any time, to support environmental monitoring and pest control field work;

(q) Helicopter access throughout the life of the mine and post-closure period for equipment lifting and personnel access;

(r) Planting of native vegetation and maintenance of planted areas throughout the life of the WNP; and

(s) The use of drones.[5]

[5] In addition to above, the Wharekirauponga Access Arrangement sought by OGNZL includes all activities identified in Section 4.2.5 of the application in respect to the activities requiring resource consent from HDC and WRC listed under the "Area 1" and "Activities Which May Take Place in any Area" headings.

[17] The proposed Wharekirauponga Access Arrangement does not encompass mining carried out below the surface of the land.

[18] OGNZL also holds Access Arrangement 62342 with the Department of Conservation to undertake mining operations on public conservation land at Community Buildings – Waihi Scout Hall and Conservation Area – Mueller Street, Waihi. OGNZL has sought to vary this access arrangement to encompass WNP activities that are within the Favona Mining Permit area (Favona Access Arrangement). These activities include rehabilitation planting with continued access for planting maintenance and pest control at various locations along the Ohinemuri River; continued occupation for a lay down yard and bridge footings for the Mill Bridge; a heavy vehicle crossing of the Ohinemuri River; and continued occupation, upgrade and maintenance of a treated water discharge line and manifold on the banks of the Ohinemuri River. OGNZL are seeking to align the conditions of the Favona Access Arrangement with those sought as part of the Wharekirauponga Access Arrangement.

Approvals relating to concessions under the Conservation Act

[19] OGNZL has sought two concessions under the Conservation Act – referred to as the Northern Area Concession and the Willows Area Concession.

[20] Within the Northern Concession Area, OGNZL has sought approval for activities occurring on public conservation land, but outside the Access Arrangement and Mining Permit area. Those activities include pest control and monitoring within the CFP (excluding any areas listed in Schedule 4 of the Conservation Act) associated with the WNP; the installation and maintenance of a telemetry system; the installation and maintenance of river flow monitoring stations and near-stream piezometers; the continued use of a flow tracker for flow gauging; and low impact monitoring activities.

[21] Within the Willows Concession Area, OGNZL has sought approval for activities occurring on public conservation land, but outside the Access Arrangement and Mining Permit area. These activities include rehabilitation planting and access for planting maintenance and pest control.

An approval under the Wildlife Act 1953

[22] OGNZL have sought approval under the Wildlife Act for activities that include:

(a) Monitoring of leiopelmatid frogs within the vibration impact area, Wharekirauponga Animal Pest Management Area (WAPMA) and a control area, all of which are located within the CFP;

(b) Monitoring of leiopelmatid frogs in waterways within and outside the area potentially affected by the dewatering of the WUG, all of which are located within the CFP (excluding any areas listed in Schedule 4 of the Conservation Act);

(c) Handling, salvage and relocation of leiopelmatid frogs and lizards in order to enable vegetation clearance at the TSF3, NRS, GOP and Willows SFA, all of which are located on OGNZL owned land; and

(d) Handling, salvage and relocation of leiopelmatid frogs and lizards in order to enable vegetation clearance for drill sites and pumping test and ventilation shaft sites located within the CFP.

An archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014

[23] OGNZL have sought approval for:

(a) Effects on a number of listed heritage features, including partial removal of:

(i) T13/961 - The Mataura or Waihi Gold Mining Co. Water Race (Area 2);

(ii) T13/963 - High-Level Walmsley Timber Tramway (Area 2);

(iii) T13/820 - Winner Hill gold mining complex (Area 5 - GOP);

(iv) T13/ 817 - Lower-Level Water Race (Area 5 - GOP);

(b) Activities in Area 1, including the establishment of ventilation shafts and drill sites, in proximity to the Royal Standard Battery and Gold Mining Area (T12/681) and Royal Standard Gold Mining Tramway (T12/1290); and

(c) Works in Areas 6 and 7 that have the potential to unearth unknown heritage features.

[24] OGNZL acknowledge that there is potential for further (yet unidentified) heritage and archaeological values to be discovered as the WNP progresses. OGNZL seek an Authority that will be applicable to the entirety of the WNP work areas, with the exception of the proposed works within Areas 2 and 4.[6]

Approvals for Complex Fisheries Activities

[25] OGNZL has sought dispensation under Regulation 43 of the Freshwater Fisheries Regulations for the Northern Uphill Diversion Drain, being a diversion of watercourse TB1 around the Northern Rock Stack; and the Southern Uphill Diversion Drain, being a diversion of the Ruahorehore Stream around TSF3.

[26] OGNZL considers that the Northern and Southern Uphill Diversion Drains are designed to maintain fish passage (and habitats) to a standard that is similar to what presently exists, and a dispensation has been sought to not include a fish facility.

[27] Approvals for standard freshwater fisheries activities are included in the relevant approvals relating to RMA consents for structures in the beds of streams and rivers (s 13, RMA) and damming and diversion of water (s 14, RMA).[7]

---

6 The Services Trench and does not form part of this application.

7 There are several approvals required for the WNP that are outside of the FTAA (and are therefore not considered further in this application) which are required under the Fisheries Regulations.

Procedure

The FTAA context

[28] The Panel has been conscious of the emphasis on time limited decision-making in the present process, the purpose of the FTAA in s 3 to facilitate the delivery of infrastructure and development projects with significant regional or national benefits, and the procedural principles in s 10 of the FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the Panel's functions, duties and powers.

Panel Convener steps

[29] The Panel was set up under s 50 of the FTAA with effect from 14 July 2025.

Initial Panel briefing and site visit

[30] The Panel undertook a site visit on 24 July 2025. The Panel also attended a briefing session hosted by OGNZL on 25 July 2025.

Other Panel meetings

[31] Much of the Panel's correspondence, deliberations and decision-making occurred over email following the receipt of comments (including on the draft Decision and approval conditions) and the Panel's review of available documentation. Notwithstanding this, the Panel met virtually via Microsoft Teams or in person on the following occasions:

(a) 14 July 2025;

(b) 18 July 2025;

(c) 25 July 2025;

(d) 29 August 2025;

(e) 5 September 2025;

(f) 12 September 2025;

(g) 22 September 2025;

(h) 30 September 2025;

(i) 6 October 2025;

(j) 15 October 2025;

(k) 16 October 2025;

(l) 4 November 2025;

(m) 21 November 2025; and

(n) 15 – 16 December 2025.

Comments and reports on the application

[32] The FTAA does not contain a notification process and there is no obligation to hold a hearing. The primary mechanism by which third parties can provide information to a Panel is through the provision of comments (s 53, FTAA).

[33] The Panel invited comments in accordance with s 53. Comments received from the parties are summarised in Appendix J. Also considered were the reports required by ss 18 and 51 of the FTAA.

[34] Under s 72 of the FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development. No comments were received.

[35] The Panel thanks all parties who commented for their contributions. The matters raised in the comments are primarily discussed in Parts E and F of this Decision under the relevant effects-based headings to which the comments relate.

OGNZL's response to invited persons comments

[36] OGNZL responded to the s 53 comments. This response included, amongst other matters, an updated set of draft conditions for all of the approvals sought.

[37] The Panel has considered OGNZL's responses, and, where appropriate, refers to those responses primarily in Parts E and F of this Decision.

Appointment of technical advisor

[38] The Panel appointed Carey Vivian as a technical adviser to assist the Panel with drafting. This appointment was made under clause 10(3) of Schedule 3 of the FTAA.

Further information

[39] Panel members conferred in person or virtually via Microsoft Teams with invited parties as to:

(a) Ecology (on 13 October 2025);

(b) Economic benefits (on 14 October 2025);

(c) Bonds (on 24 October 2025);

(d) As to iwi matters on 5 November 2025, with Ngāti Tara Tokanui and Ngāti Pū, separately, 14 November with Ngāti Hako and on 20 November with Ngāti Porou ki Hauraki;

(e) Blasting and vibration (on 20 November 2025).

[40] As well, the Panel, from time to time, sought further clarifying information, mainly from OGNZL.

[41] A draft of this Decision (including proposed conditions) was circulated to relevant parties and their comments have, where appropriate, been taken into account.

No hearing required

[42] The Panel exercised its discretion under s 56 of the FTAA to not require a hearing on any issue. The Panel was able to adequately consider all issues based on the information available including the Application, comments received, responses to comments, the conferences already mentioned, and the further information provided by OGNZL, DOC, HNZPT, the councils and invited persons.

Timing of the Panel Decision

[43] In accordance with the Panel convenor minute dated 4 July 2025 the Panel is to issue its decision documents on or before 18 December 2025.

PART C: GENERAL LEGAL CONTEXT

What this Part is about

[1] OGNZL seeks all necessary approvals for the construction, operation, maintenance and ultimate the closure of the WNP. These involve:

(a) resource consents that would otherwise be applied for under the RMA;

(b) access arrangements (including a variation of an existing access arrangement) that would otherwise be applied for under the Crown Minerals Act;

(c) concessions that would otherwise be applied for under the Conservation Act;

(d) an authority that would otherwise be applied for under the Wildlife Act;

(e) an authority that would otherwise be applied for under the HNZPT Act; and

(f) complex freshwater fisheries approvals.

[2] Schedules to the FTAA set out decision-making criteria that apply in relation to the different types of approval that can be granted. They are reasonably specific and best understood, and therefore are discussed, when we come to deal with the particular approvals sought. And we will likewise defer discussion of the FTAA provisions that are particularly relevant in relation to iwi authorities until we discuss their position.

[3] With those exceptions, this Part discusses the general operation of the FTAA.

The scheme of the FTAA

The purpose of the FTAA

[4] Section 3 of the FTAA states:

> The purpose of this Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

[5] The FTAA provides a single process for seeking a range of approvals that would otherwise have to be sought under different statutes and by different processes. This is provided for in s 42 and the approvals that can be granted include all those sought by the Applicant.

General provisions that apply in relation to all fast-track approval applications

[6] Section 81 provides:

> (1) A panel must, for each approval sought in a substantive application, decide whether to—
>
> (a) grant the approval and set any conditions to be imposed on the approval; or
>
> (b) decline the approval.
>
> (2) For the purpose of making the decision, the panel—
>
> (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:
>
> (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
>
> …
>
> (d) must comply with section 83 in setting conditions:
>
> ...
>
> (f) may decline the approval only in accordance with section 85.

[7] Section 81(3) refers to the schedules to the FTAA that provide specific criteria to be taken into account in relation to the different types of applications that may be dealt with under the FTAA. As noted already, they are discussed later when we address the particular approvals that are sought.

[8] Section 81(4) provides:

> When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.

[9] Sections 83 and 85 relevantly provide:

> **83 Conditions must be no more onerous than necessary**
>
> When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.
>
> ...
>
> **85 When panel must or may decline approvals**
>
> (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
>
> (a) there are 1 or more adverse impacts in relation to the approval sought; and
>
> (b) those adverse impacts are sufficiently significant to be out of proportion to the projects regional or national benefits that the panel has considered under section 81(4), even after taking into account—
>
> > (i) any conditions that the panel may set in relation to those adverse impacts; and
> >
> > (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.
>
> (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
>
> (5) In subsections (3) and (4), adverse impact means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.

[10] Section 85(4) means that non-compliance with say avoidance policies that would usually preclude the granting of an approval is not itself fatal to an application.[8] As we will explain later, there are provisions in the Schedules that are generally to a similar effect.

Application of s 85(3)

[11] Consistently with the approach adopted by other Panels, we see the exercise provided for by s 85(3) as requiring assessments:

---

[8] For an example of a consent being refused on this basis, see *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* – [2014] NZSC 38; [2014] 1 NZLR 593

(a) of the extent of the WNP's regional or national benefits;

(b) of the significance of adverse impacts; and

(c) whether the adverse impacts are "sufficiently significant" to be out of proportion to the WNP's regional or national benefits after allowing for, amongst other things, compensation that may be provided.

A general comment on the way the Schedules work

[12] As we have explained, we will leave for later in this Decision detailed reviews of the ways in which the decision-making criteria operate in respect of the different approvals that are sought. However, a brief comment at this point on the general way in which they operate is appropriate.

[13] The Schedules specify that the Panel must take into account a list of criteria. These lists always start with the "purpose of this Act" and direct the Panel to give the greatest weight to that purpose. It will be recalled that that purpose is:

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

[14] By way of illustration, clause 17(1) of Schedule 5 (which applies to resource consents) provides:

> **17 Criteria and other matters for assessment of consent application**
>
> (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
>
> (a) the purpose of this Act; and
>
> (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
>
> (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
>
> Clauses 17(3) and (4) provide:

> (3) Subclause (4) applies to any provision of the Resource Management Act (including, for example, section 87A(6) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
>
> (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.

[15] By way of explanation, s 87A(6) of the RMA precludes the granting of an approval for a prohibited activity. The effect of cl 17(4) is that if approval is sought for a prohibited activity the panel must recognise and take into account that s 87A(6) would normally preclude the granting of consent but may nonetheless grant the approval sought.

PART D: IWI GROUPS AND THE REQUIREMENTS OF THE FTAA

What this Part is about

[1] The FTAA imposes a number of requirements on the procedure we must adopt and the decisions we can make. In this Part we review these requirements.

[2] The particular concerns that iwi groups raised with us are addressed later, in section E2.

The relevant provisions of the FTAA

The primarily relevant provisions of the FTAA

[3] Section 7(1)(a) of the FTAA provides:

> All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
>
> (a) the obligations arising under existing Treaty settlements ...

[4] Section 82 is in these terms:

> **Effect of Treaty settlements and other obligations on decision making**
>
> (1) This section applies if a Treaty settlement is relevant to an approval.
>
> (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
>
> (3) The panel must also consider whether granting the approval would comply with section 7.
>
> (4) In this section, *document*—
>
> (a) means any document, arrangement, or other matter; and
>
> (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

[5] Section 84 provides:

> **84 Conditions relating to Treaty settlements and recognised customary rights**
>
> (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement ...

(2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

Definitions

[6] "Treaty settlements" is defined in s 4 as meaning:

(a) a Treaty settlement Act; or

(b) a Treaty settlement deed.

[7] A "Treaty settlement Act" is "an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975."

[8] A "Treaty settlement deed" means:

(a) a deed or other agreement that—

(i) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and

(ii) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and

(b) to avoid doubt, includes a deed or other agreement of the kind described in paragraph (a) that relates to the claims of a collective or combination of Māori groups; but

(c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed.

Section 18

[9] Section 18(2) of the FTAA) – along with s 49 – requires the preparation of a report that addresses a list of specified matters. They include:

(a) any relevant iwi authorities and relevant Treaty settlement entities:

(b) any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area:

(c) the relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of the Resource Management Act 1991:

(d) any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area:

...

(k) any other Māori groups with relevant interests:

...

[10] The expressions "relevant iwi authorities" and "Māori groups with relevant interests" are not defined.

Clause 5, Schedule 3 of the FTAA

[11] Schedule 3 of the FTAA deals, amongst other things, with the appointment and processes of panels.

[12] Clause 5 relevantly provides:

> **5 Conduct of hearings and other procedural matters in context of Treaty settlements and other arrangements**
>
> (1) This clause applies if any Treaty settlement Act, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or any other iwi participation legislation, or any Mana Whakahono a Rohe or joint management agreement, includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following:
>
> (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991:
>
> (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process:
>
> (c) any consultation requirements with iwi or hapū:
>
> (d) any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under this Act.
>
> (2) The panel convener or panel must—
>
> (a) comply with the arrangements in the legislation, arrangement, or agreement referred to in subclause (1) as if they were a relevant decision maker (such as a local authority, department, Crown entity, or board of inquiry) ... .

The Ministry of the Environment's section 18 report

[13] The Ministry of the Environment's s 18 report identifies the Ngāi Tai ki Tāmaki Claims Settlement Act 2018 as the only relevant Treaty settlement Act and deeds of settlement between

the Crown and Pare Hauraki Collective (in 2018) and Ngāti Tara Tokanui (in 2022) as the relevant Treaty settlement deeds.

[14] It listed a number of groups which it considered to be "the relevant iwi authorities for the project area". This list did not include Ngāti Porou ki Hauraki who were, however, identified (as Ngāti Porou ki Harataunga ki Mataora) as having "relevant interests" under s 18(2)(k). All those identified as relevant Māori authorities and Ngāti Porou ki Hauraki were invited to comment on the application under s 53 of the FTAA.

Ngāi Tai ki Tāmaki Claims Settlement Act 2018

[15] This is the only Treaty Settlement Act that could be relevant to the WNP.

[16] Under this Act, the Coromandel Peninsula is within Ngāi Tai ki Tāmaki's "area of interest" but the "statutory areas" referred to in the Act do not encompass the land affected by the WNP.

[17] We do not see its provisions as material to our decision-making, and we note that Ngāi Tai ki Tāmaki has elected not to participate in this consenting process.

The Pare Hauraki Collective Redress Deed and Settlement Bill

[18] The Pare Hauraki Collective Redress Deed is between the Crown and 12 iwi, including three who participated in our process, namely Ngāti Hako, Ngāi Tai ki Tāmaki and Ngāti Porou ki Hauraki.

[19] Section 4 of the deed sets out a "programme for a culture of natural resource partnership". Clauses 14.17, 14.18 and 14.20 provide:

> 4.17 Effective implementation of the Programme requires mobilisation of commitments or resources by Pare Hauraki and government (central and local).
>
> 4.18 Commitments to a whole of world approach that:
>
> 4.18.1 produces holistic and vertically integrated policy and planning instruments; and
>
> 4.18.2 encourages cross-boundary initiatives.
>
> ...

> 4.20 Processes to effect meaningful natural resource partnerships, including to:
>
> 4.20.1 restore the mana of the Iwi of Hauraki to make decisions in relation to the Pare Hauraki world and exercise kaitiakitanga;
>
> 4.20.2 promote iwi as decision makers along with government (central and local) on the use, development, management and protection of all natural resources;
>
> 4.20.3 commit to enabling and supporting te reo Pare Hauraki me ona tikanga;
>
> 4.20.4 provide for cultural use and access by the Iwi of Hauraki to their ancestral maunga, moana, awa and other taonga;
>
> 4.20.5 strengthen processes for early engagement on issues; and
>
> 4.20.6 ensure working together between the Iwi of Hauraki and government (central and local) using shared knowledge, information and expertise.

[20] This deed also provides that settlement legislation will establish a statutory authority, the Waihou, Piako, Coromandel Catchment Authority, the purpose of which will be:

> .. to provide co-governance, oversight and direction for the taonga that is the waterways of the Coromandel, Waihou and Piako catchments ...

One of its intended functions is to:

> ... prepare and approve the Waihou, Piako and Coromandel Catchments Plan for the waterways of the Waihou, Piako and Coromandel catchments ... .;

[21] The Pare Hauraki Collective Redress Bill which is to give effect to this deed is currently before Parliament.

[22] Clauses 64 to 85 of that Bill provide for the establishment of a Pare Hauraki conservation management plan (which will extend to the Coromandel Peninsula), a review of the Waikato Conservation Management Strategy, the preparation of a conservation management plan for Pare Hauraki, and the transfer of decision making and review in relation to certain activities. As well, Schedule 4 creates an iterative decision-making framework, which, if the Bill had been enacted, would have applied to aspects of the WNP.

[23] Clauses 86 – 129 provide for the Waihou, Piako, and Coromandel Catchment Authority to have functions that correspond to those contemplated by the settlement deed.

[24] The Pare Hauraki Collective Redress Deed is largely conditional on what is now the Pare Hauraki Collective Redress Bill being passed. [9] In those respects (that is the provisions which remain conditional) it has therefore not come into effect. So, on the face of it, there are no "obligations" under it, in terms of s 7(1)(a) of the FTAA. We will come back to this later.

The Ngāti Tara Tokanui deed of settlement and settlement bill

[25] The deed was executed on 28 July 2022. As is customary, it is conditional on settlement legislation coming into effect, a point to which, as already noted, we will return shortly.

[26] The deed anticipates that:

(a) the settlement legislation will:

(i) provide a Crown acknowledgement of the statements by Ngāti Tara Tokanui of their particular cultural, spiritual, historical, and traditional association with a number or areas including the Ohinemuri River and its tributaries (see clause 5.13.1(d));

(ii) require "consent authorities", to have regard to the statutory acknowledgement (clause 5.3.2); and

(b) The parties will enter into a conservation relationship agreement (clause 5.19).

[27] The Ngāti Tara Tokanui Claims Settlement Bill is currently before Parliament. It is consistent with the settlement deed. As giving effect to the commitment to enter into a relationship agreement with the Department of Conservation does not require legislative sanction, it is not addressed in the Bill.

Recognition of and compliance with Treaty settlements

[28] OGNZL has engaged extensively with iwi groups. The engagement started before the FTAA was enacted, at a time when OGNZL was in the process of pursuing approvals for the

[9] There are some provisions in the deed which became immediately effective, but they are not material for present purposes, see cl 16.9.

WNP under, amongst other legislation, the RMA. We note that OGNZL's engagement with Ngāti Porou ki Hauraki broke down at this time and has not resumed. The history of OGNZL's involvement with iwi is addressed in the Application (Section B.3) and in OGNZL's response to the s 53 comments (Part 3 – 9 Appendix I). Such consultation has been on-going.

[29] Minutes 7, 8 and 9 of the Panel Convenor set out the process she followed in relation to the appointment of this Panel. Schedule 3 to Minute 7 sets out the "relevant iwi authorities and relevant Treaty settlement entities" who were consulted and Minutes 8 and 9 record some difficulties that were experienced and how they were overcome.

[30] As noted, we invited (under s 53) the "relevant iwi authorities for the project area" as identified in the s 18 report to comment and also Ngāti Porou ki Hauraki, and we have offered opportunities for further engagement to those who commented.

[31] The Ngāi Tai ki Tāmaki Claims Settlement Act 2018 has not been relied on by anyone and we do not see it as material to our decision-making.

[32] To return to a point already flagged, the Treaty settlement deeds that have yet to result in Treaty settlement legislation are largely conditional on such legislation being passed. This means that no relevant contractual obligations exist. On a strict view, this might be thought to mean that there no "obligations" for the purposes of s 7(1)(a) and nothing that requires compliance for the purpose of s 82(2).

[33] We do not take that strict view. We see those settlement agreements as creating good faith obligations that extend to not acting in a way that breaches legitimate understandings of the parties as to what will happen between execution of the deeds and the enactment of settlement legislation. Recognition of good faith obligations is consistent with s 84(1) of the FTTA which refers to recognition and protection of Treaty settlements. Indeed, since Treaty settlements are often (probably customarily) conditional on the enactment of settlement legislation, there would not be much point in the references to them in the FTTA unless a broad view of this kind is taken.

[34] Such good faith obligations (or the recognition and protection of Treaty settlements) cannot logically extend to require compliance with what, once Treaty settlement legislation is

passed, will be obligations predicated on the creation of new statutory authorities (such as the proposed Waihou, Piako, and Coromandel Catchment Authority) and a statutory scheme that are not currently in existence. This is particularly relevant to the Pare Hauraki Collective Redress Deed and Settlement Bill.

Conclusions as to sections 7(1)(a) and 82 and clause 5 of Schedule 3 of the FTAA

[35] As is apparent, there has been substantial consultation with iwi groups by OGNZL. As well, the Panel Convenor consulted iwi groups on the appointment of this Panel. Further, we have engaged with iwi groups participating in the process in ways that went beyond those offered to other participants. And we take into account the acknowledgment by the Crown of Ngāti Tara Tokanui's association with the Ohinemuri River.

[36] For the reasons generally provided in this Part, we conclude that:

(a) The process has been conducted in way that is not inconsistent with obligations under Treaty settlements (for the purposes of s 7(1)(a));

(b) Granting of the approvals complies with s 7(1) (for the purposes of s 84(3));

(c) There are no conditions beyond those that we are imposing that would be appropriate for recognition or protection of Treaty settlements (for the purpose of s 84(1)); and

(d) There being no relevant Treaty settlement legislation, clause 5 of Schedule 3 is not engaged.

PART E: EFFECTS

[1] In each of the sections in Part E of this Decision we have included a heading titled "Conditions". The discussion of conditions in those sections relates to amendments that we made to OGNZL's proposed conditions in response to matters raised in the s 51 reports and s 53 comments that we received from various parties. We included that discussion so that the draft Decision that accompanied the draft conditions provided an explanation of those amendments.

[2] We generally discuss further amendments made in response to the s 70 comments we received on the draft conditions in Part N of this Decision. Consequently, readers should refer to both the "Conditions" headings in the various sections of Part E and the further discussion in Part N to fully understand the rationale for the Panel's final suites of conditions for the various approvals required for the WNP.

E1: Management Plans

General comments

[3] OGNZL has proposed a suite of management plans that will manage the detailed design and construction of certain aspects of the WNP together with some of the effects of those activities.

[4] Management plans are routinely used for major infrastructure and construction projects. They are a suitable mechanism for ensuring that "outcome based" conditions are complied with and detailed environmental effects are managed appropriately.

[5] Management plans avoid cluttering conditions with detail in respect of say construction works or mitigation actions that may not respond appropriately to circumstances as they develop over time. Where implementation of a project will occur over many years (in the case of the WNP over 18 years), it is likely to be impracticable to anticipate all circumstances that may arise and how such circumstances can be best addressed when they do. In part this is because it will not necessarily be possible to anticipate technological developments or the advance of knowledge in respects that are material to the effects to be managed (either

generally or in relation to specific effects). These considerations apply particularly in respect of a project of the scale and technical complexity of the WNP.

[6] The caveat is that each management plan condition must specify the purpose or objective of the plan; the minimum contents of the plan; who is to prepare it; and who else should be consulted or involved in that process. If there is conflict between the management plan and the conditions, then the conditions must prevail.

[7] The management plan conditions proposed by OGNZL generally met the above requirements. The primary issue with them is that they did not specify a certification process. Accordingly, we have inserted Condition C4B in the Combined HDC and WRC suite of conditions setting out a certification process. The wording of that condition draws on wording used for the Taheke Geothermal Project which was granted consent in November 2024 under the COVID-19 Recovery (Fast-Track Consenting) Act 2020.

[8] It is routine for a management plan to be submitted to the appropriate council and thereafter 'certified'. In this case OGNZL initially proposed that several management plans should instead be approved by the Panel, namely the:

(a) WUG Ecology and Landscape Management Plan (ELMP-WUG);

(b) Waihi Area Ecology and Landscape Management Plan (ELMP-WA);

(c) CFP Kauri Dieback Management Plan (CFP-KDMP).

(d) Blasting and Vibration Management Plan (BVMP);

(e) Wharekirauponga Pest Animal Management Plan (WPAMP);

(f) Wharekirauponga Underground Mine Water Management Plan (WUG-WMP);and

(g) Archaeological Management Plan (AMP).

[9] We prefer the orthodox approach that management plans are submitted to the relevant council for assessment and certification. Councils can draw on appropriate specialist expertise (whether in-house or contracted) to determine if each management plan satisfies the requirements of the relevant conditions. Having the councils initially certify these management

plans is also consistent with the proposed procedure in relation to amendments whereby any amendments to the plans will be subject to a 'recertification' by the councils. It is efficient to have the councils undertake both the initial certification and any subsequent recertification.

[10] We note and agree with HDC's planning assessment comment that OGNZL initially proposed several conditions that included provision for certification by parties other than the consent authority. HDC considered that certification was the respective council's responsibility and that could not be abrogated or delegated to a third party. HDC considered third parties could be involved in a review process for a matter prior to it being submitted for certification.

[11] Accordingly, we have required all of the WNP management plans to be certified by the relevant councils, including those that OGNZL sought to have approved by the Panel. We do not consider that would impose an undue time or cost burden on OGNZL because the plans that OGNZL sought to have the Panel approve were included in the Application and we understand that the relevant councils are aware of their contents due to the previous extensive liaison between OGNZL and the councils.

[12] We were initially of the view that the management plans that OGNZL sought to have the Panel approve should be provided to the councils within 20 working days of the commencement of the consents, given that they were included in the Application. However, on 20 November 2025 we received a Memorandum from counsel for OGNZL advising that in recognition of the Panel's 3 October 2025 preliminary advice that we would be requiring all management plans to be certified by the councils, OGNZL subsequently proposed amendments to the 1 September 2025 conditions to that effect.

[13] In that same Memorandum counsel suggested numerous changes to the dates by which all of the various management plans (including those that OGNZL had initially sought to have certified by the Panel) would need to be provided to the councils. Counsel advised that these changes had been discussed and agreed with the Waikato Regional Council and Hauraki District Council. Accordingly, we incorporated those changes in our draft of the Combined HDC and WRC Conditions.

[14] Counsel also suggested that the Native Frog Monitoring Plan (NFMP) should be provided at least four years prior to the commencement of WUG stoping activities, noting that

DOC had not agreed to that timeframe. We included the four year time frame in our draft conditions pending the receipt of comments on those conditions. Following the receipt of comments on conditions from DOC we have required the NFMP to be provided at least four years prior to the commencement WUG stoping activities or two years prior to vegetation clearance in relation to drill sites/vent shafts and portable rig sites, whichever occurs first.

Particular ss 51 and 53 comments

[15] In its s 53 comments TCDC expressed concern about having a certification role for the ELMP-WUG, noting it did not have any in-house experts on the matters addressed by that document and having to certify it would impose a significant cost burden on the Council. TCDC also suggested that works affected by the Accidental Discovery Protocol should be addressed in a detailed Construction Management Plan. However, in their s 70 comments they expressed a desire to certify the Siting Report and the Construction Management Plan. We have amended the TCDC landuse consent conditions accordingly.

[16] In its s 51 report DOC report expressed concern about the way management plans are used in conjunction with conditions in relation to the DOC approvals. DOC considered its role in considering amendments to the management plans for the purposes of the conservation approvals was unclear. DOC was also concerned about the lack of specificity in some management plan objectives, including the Waihi Area Water Quality Management Plan.

[17] Coromandel Watchdog was concerned that there was no cyanide management plan and considered there should be a Social Impact Management Plan.

[18] The Waihi Community Forum was concerned that management plans that are required to be certified could be changed without further community input.

[19] Ngāti Porou ki Hauraki was concerned with what it saw as over-reliance on management plans given the lack of a requirement for consultation with mana whenua regarding any variations to the management plans. Comments from iwi groups also noted the need for a comprehensive groundwater management plan and concerns as to the lateral extent of the GOP and the lack of tangible benefits for iwi members from recent mining activity around Waihi.

[20] There were also plan specific concerns from Waikato Conservation Board, DOC, Forest and Bird and Coromandel Watchdog. These are addressed, where relevant, in other Part E sections of this Decision.

OGNZL response to comments

[21] OGNZL said that it was clear that the management plan approach it had proposed for the approvals administered by DOC would introduce unfamiliar requirements, with associated risks of administrative complexity and delay. Accordingly, OGNZL recast the proposed DOC approval conditions to significantly reduce reliance on management plans and instead to include more detail in the conditions themselves. We find that to be appropriate.

[22] Regarding the Waihi Community Forum's concerns, OGNZL noted that any amendments to management plans can only be made if they do not result in effects that are greater than those anticipated at the time of any approvals being granted.

[23] As to specific concerns from the iwi authorities, Kyle Welton (external affairs and social performance manager of OGNZL) noted that a Groundwater Management Plan and Settlement Monitoring and Management Plan had been developed that incorporated the measures requested, there would be a GOP Ground Control Management Plan, and the Social Impact Management Plan and a Waihi Skills and Development Training Action Plan would help to ensure that the WNP delivered tangible positive outcomes, including for iwi members.

Panel findings

[24] We find the proposed use of management plans to be appropriate provided that the conditions of consent associated with them are robust.

[25] Given the minor activities occurring in the TCDC district (monitoring and restoration), we have limited certification of the ELMP-WUG and the KDMP to the HDC and WRC in consultation with the TCDC. We have required any proposed amendment to the ELMP-WUG or KDMP that is specific to the TCDC District to be submitted to that Council for its information, with the Council having an opportunity to comment on the amendment prior to its finalisation. This is the same process that will be followed for input from DOC.

[26] We considered that it might be unduly onerous to require the Portable Drill Rig Site works affected by the Accidental Discovery Protocol in the TCDC District to be addressed in a detailed Construction Management Plan. Nevertheless, OGNZL volunteered consent conditions to that effect in response to the TCDC's comments and so we have included those conditions in the TCDC consent, subject to omitting what we considered to be irrelevant clauses.

[27] Regarding DOC's concerns about their input to management plans and following the receipt of their comments on conditions, we have ensured that the full range of management plans that will be certified by the councils but to which DOC should have input is listed in Combined HDC and WRC condition C5AA. Conditions C8A to C8D set out the process for DOC involvement in considering amendments to a certified management plan. We regard those conditions as clear and certain and have not changed them in response to DOC's concerns, other than to amend C8A to cross-refer to C5AA. We also find that WRC conditions G30 and G31 regarding the Waihi Area Water Quality Management Plan are sufficiently clear and certain, noting WRC did not seek any amendments to those conditions.

[28] However, as we discuss in Part N of this Decision, following the receipt of DOC's comments on conditions we have amended the Access Arrangement and Concession conditions so that the management plans relevant to the conservation estate are now to be certified by DOC. Any amendments to those DOC certified management plans will be subject to a management plan variation process administered by DOC. This dual certification and plan amendment process is an unavoidable consequence of the statutory regime applying to Access Arrangements and Concessions.

[29] We acknowledge the concerns of the Waihi Community Forum and iwi group concerns as to limited participation in the certification and variation process. We are, however, comfortable with what is proposed. Conditions C7, C10, C11 and C12 of the Combined HDC and WRC Consent conditions provide for input into the development and amendment of particular management plans. As well, it must be remembered that the management plans address how outcomes specified in conditions will be met, which is largely a technical matter. Further, as noted in OGNZL's responses, there is no opportunity to increase the envelope of effects through amendments to a management plan.

Conditions

[30] As discussed above we initially amended the Combined HDC and WRC conditions to:

(a) Require all management plans to be certified by the relevant councils;

(b) Specify a certification process (condition C4B);

(c) Require all activities authorised by the consents to be carried out in accordance with the certified monitoring plans, management plans or other certified documents (condition C5B); and

(d) Specify that in the event of any conflict or inconsistency between the conditions of the consents and the provisions of a certified a management plan, monitoring plan or any other document, the conditions must prevail (condition C5C).

[31] As we discuss in Part N of this Decision, following the receipt of comments on conditions we made further amendments to the management plan conditions, including in response to Forest and Bird requiring the management plans that will be submitted to the relevant council for certification to be in general accordance with the draft management plans that formed part of the OGNZL's FTAA Substantive Application (condition C5AAA).

[32] We have amended the TCDC conditions as outlined above.

[33] Any unresolved dispute between the consent-holder and a certifying Council as to whether a proposed management plan should be certified will have to be resolved by the courts.

E2: Cultural Effects

Whāia te iti kahurangi, ki te tūohu koe, me he maunga teitei.

Pursue that which is precious, and if you stumble, let it be to a lofty mountain.

Focus

[34] The cultural effects that are relevant are those that affect iwi and hapū and their members, recognising the centrality of whakapapa (genealogy), whenua (land), and Mātauranga Māori in their identity and wellbeing.

Engagement with iwi and hapū

[35] As noted, we invited comments (under s 53) from the "relevant iwi authorities" for the project area as identified in the Ministry of the Environment's 18 report and also Ngāti Porou ki Hauraki (who perhaps should have been so identified).

[36] Comments were received from:

(a) Ngāti Porou ki Hauraki;

(b) Ngāti Tara Tokanui, Ngāti Koi; and

(c) Hako Tūpuna Trust.

We also received a cultural impact assessment prepared on behalf of Ngāti Pū.

[37] The Panel extended further opportunities for engagement to the four iwi and hapū. These were taken up.

Cultural impacts

[38] The iwi and hapū raised a wide range of concerns, many of which overlap environmental issues raised by others who oppose the WNP. However, these concerns are from

a Te Ao Māori world view, reflecting centuries of whakapapa-based association with the land and waterways affected.[10] The assessment of these impacts must acknowledge the historical context of mining in and around Waihi, which has resulted in significant harm to iwi and hapū including:[11]

(a) Degradation of the Ohinemuri River and associated mahinga kai (food gathering sites);

(b) Damage to wāhi tapu (sacred sites);

(c) Loss of Māori land and tino rangatiratanga over resources;

(d) Severe limitations on the exercise of kaitiakitanga, including in relation to taonga species;

(e) Inadequate engagement by mining companies with Māori; and

(f) Ongoing scepticism about the benefits of recent mining activity for Māori communities (see section E24 – Social impacts).

[39] There is widespread frustration with consultation processes that are perceived as tokenistic or "tick-box" exercises. There is a clear aspiration for meaningful, ongoing iwi involvement in decision-making, consistent with the principles of partnership and co-governance.

[40] As we have already noted, the relationship between Ngāti Porou ki Hauraki and OGNZL broke down prior to the Application being lodged. As a result, a CIA that had been commissioned was not completed. This means that the information before us in relation to Ngāti Porou ki Hauraki is more limited than would otherwise have been the case. We are, however, required to deal with the Application on the basis of the material that is to hand.

[10] One very specific concern involves the Pukehangi Maunga which, under reasonably advanced treaty settlement negotiations, is to be vested (above the 580-metre contour) in Ngāti Hako and Ngāti Maru. This we have addressed in the conditions.

[11] These were discussed at length in *The Hauraki Report*, the Waitangi Tribunal (WAI 686, 2006).

[41] Iwi responses to s 53 invitations are summarised in Appendix J of this Decision and many are dealt with in later sections of this Part.

The granting of the approvals sought

[42] In the groups we engaged with, there is a recognised cultural deficit with the FTAA process, and for many Māori, this cultural deficit will increase if the WNP is implemented. The WNP will affect land and taonga species with which iwi and hapū have deep and enduring connections. We acknowledge that the implementation of the WNP (and the FTAA process) will cause distress to Māori, and for many, this may feel like a continuation of historical injustices.

[43] In weighing the significance of approval in this context, of relevance are the following factors:

(a) There is no single Māori view as to the WNP. Of the four iwi and hapū who engaged with the process, one supports the WNP (subject to strict conditions) while the other three oppose it. There is diversity of opinion within iwi and hapū.

(b) The discussion of environmental effects that is provided later in this Part. We assess the tangible effects of implementation of the WNP as distinctly less adverse than those anticipated in some of the material that iwi and hapū put before us. And

(c) The tangata whenua conditions in the HDC and WRC Combined Conditions which we are about to discuss.

The tangata whenua conditions in the HDC and WRC Combined Conditions

The conditions we are imposing

[44] Under the conditions that we impose:

(a) Ngāti Porou ki Hauraki and Ngāti Pū are added to the Iwi Advisory Group (IAG), (see C9 of the Combined HDC and WRC Conditions) and any other

group (including those who have relevant interests in the area) may be invited to join;

(b) C10 and C15 of the Combined HDC and WRC Conditions clarify that iwi and hapū may form their own relationship agreements with OGNZL and generally engage directly with OGNZL;[12]

(c) The Iwi Advisory Group (IAG) will appoint members to the Peer Review Committee (Combined HDC and WRC Conditions, C50 to C58) and the Expert Groundwater Panel (WRC Conditions UG-33 to UG38), with minutes circulated to all IAG members;

(d) Under Combined HDC and WRC Conditions C10, C16 and C18A, the IAG is involved in the development of the Cultural Practices Plan and the Mātauranga Māori Monitoring Programme, ensuring Mātauranga Māori is embedded in monitoring and management;

(e) Under C10, C11 and C12 of the Combined HDC and WRC conditions, the IAG will provide input into critical management and other plans;

(f) Under C14 of Combined HDC and WRC Conditions, OGNZL must meet the reasonable costs of all iwi representatives and the IAG may co-opt advice from OGNZL or independent experts to be paid for by OGNZL;

(g) C16 - C22 of the Combined HDC and WRC Conditions provide for a cultural awareness programme to be prepared and delivered by IAG members;

(h) C29 of the Combined HDC and WRC Conditions ensures that iwi and hapū are central to implementing the accidental discovery protocol;

(i) Under C30-C42 of the Combined HDC and WRC conditions, iwi and hapū will be involved in the design, implementation and governance of the WNBP; and

[12] We note that there is an existing partnership relationship between Ngāti Tara Tokanui Trust and OGNZL.

(j) C93–C99 of the Combined HDC conditions provide for a Waihi Skills Development and Training Action Plan, to be developed collaboratively with iwi and hapū supporting Māori employment and capacity-building.

Concerns about the way the IAG operates

[45] There is considerable iwi discomfort with current operations of the IAG. The way it operates does not always reflect the overlapping and distinct mana whenua interests of iwi and hapū, or the diversity of active, versus non-active iwi, hapū or membership. Consensus can be difficult to achieve. As well there are also significant concerns about the extent of its role.

[46] We discuss each of these concerns separately.

Non-recognition of distinct mana whenua interests

[47] It was suggested in comments on our draft conditions that we should inquire into and make findings as to the detail of the relevant mana whenua interests.

[48] We do not see this as necessary or appropriate (or even possible) given:

(a) The particularity of ss 7 and 82 of the FTAA. These focus on obligations arising out of Treaty settlements and customary rights that have been formally recognised.

(b) The role of the Ministry of the Environment under ss 18 and 49. Under s 18, the Ministry for the Environment must identify, amongst other things, "relevant iwi authorities" and Treaty settlements. Unsurprisingly, it does not require precise identification of the underlying mana whenua interests.

(c) The general scheme of the FTAA, including s 85 and the decision-making criteria stipulated in the Schedules.

(d) The tightness of the timetable to which we are subject.

[49] We are conscious of our obligation under s 6(e) of the RMA to:

> recognise and provide for:
>
> ...
>
> (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga ... .

[50] We consider that we can meet this obligation without making findings as to the detail of competing mana whenua interests in the land and resources affected by the WNP. Instead, we accept that the iwi and hapū who participated in the process can invoke s 6(e) and we have imposed conditions accordingly. We recognise that because of the dilution effect already referred to, this is not completely satisfactory. However, we see it as the best we can practically do and consider that it is consistent with the FTAA.

Consensus difficulties

[51] It is clear that the overlapping and distinct interests of iwi and hapū have made consensus difficult to achieve.

[52] We think it would assist if an independent facilitator nominated by iwi and hapū is engaged by OGNZL to facilitate the operation of the IAG so as to result in collaborative outcomes for Te Ao Māori, workstreams, nominations to committees, co-design of support programmes, communications, reporting, and representation in other forums (such as the Martha Trust.

[53] An engagement process that has been co-designed would be desirable. Recognising this, we have made provision in the conditions for a replacement Partnership Engagement Group (a name which is only a placeholder for whatever name iwi and hapū come up with) to be established with the agreement of all iwi parties (see C9 of the Combined HDC and WRC Conditions). A facilitator may assist in achieving agreement on the establishment of such a replacement.

[54] In further acknowledgment of the expressed disassociation with the past operation of the IAG and the benefits of co-designed processes, we have amended Combined HDC and WRC Consent condition C9 to include a requirement for OGNZL to, shortly after the initial establishment of the IAG, invite the IAG to participate in the co-development of a Terms of Reference for it.

Limitations on the role of the IAG

[55] The current inclusion of "advisory" in the name Iwi Advisory Group suggests a level of involvement that is confined to consultation and input. This is not a completely accurate summary of the IAG's role, for instance in relation to the cultural practices plan (see C16), cultural awareness programme (see C19 - C21) and the WNBP (see C32 – C42). As well, the tangata whenua conditions mean that iwi and hapū will be well-positioned to monitor the effects of the WNP. But all of this falls short of the partnership and decision-making roles to which iwi and hapū aspire.

[56] If iwi and hapū aspirations for partnership and decision-making roles are to be realised, considerable effort, goodwill and time will be required to develop practical solutions that will work and fit into the legislative scheme and regulatory structure. We do not think that such practical solutions will involve rights of veto of the kind suggested in some of the material we have received. But with positive attitudes on all sides, solutions may be achievable. As to this, we are confident that OGNZL recognises that its ability to carry out mining operations in and around Waihi depends on its social licence. We accept, however, that it is uncertain whether such solutions will be found.

[57] Depending on what may be agreed between OGNZL and iwi and hapū a change to the tangata whenua conditions may be necessary. If so, this can be achieved by an application under s 127 of the RMA.

What do the current tangata whenua conditions achieve?

[58] Despite what we recognise as the limitations of the IAG structure, we see the relevant conditions as we have revised them as providing a framework within which the IAG can be a mechanism for:

(a) encouraging partnership, participation and protection;

(b) recognising and promoting "the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga" (see s 6(e) of the RMA);

(c) promoting kaitiakitanga (see s 7(f) of the RMA); and

The conditions also provide a framework in which further progress can be made.

Where we get to

[59] We recognise that the cultural deficits we have identified weigh against the approval of the WNP. This is mitigated by the conditions. These offer Māori opportunities for participation in the implementation of the WNP, including monitoring, supervision, kaitiakitanga, and, in relation to the WNBP, co-governance. The conditions also set the scene for what could be further progress in the future, including recognition of Mātauranga Māori in decision-making. There nonetheless remains a residual cultural deficit, the significance of which is to be assessed in light of the provisions of the FTAA.

Ehara taku toa i te toa takitahi, engari he toa takitini.

My strength is not that of an individual, but that of the collective.

E3: Effects on Groundwater Flows And Stream Depletion

[60] Effects on surface and groundwater are spread across a range of proposed areas, mine operations and infrastructure. There are also significant areas of cross-over with other specific sections of this Decision. Rather than split effects based on the geographical Areas set out in the Application, we have instead chosen to divide effects on surface water and groundwater into underground elements and surface elements.

[61] This section of the Decision addresses physical effects on streams and stream flow as well as physical effects on groundwater. Water quality effects are addressed in sections E4 and E9, geochemistry effects are addressed in section E13, and effects on wetlands are assessed in section E10.

Effects associated with WUG

[62] Williamson Water & Land Advisory (WWLA) 2025a provided an overall assessment that covered the underground elements of the WUG. That document draws on additional groundwater modelling work undertaken by Intera (2024), Flow Solutions (2023) and GHD (2025e).

[63] The key geological unit for mining is the mineralised Rhyolite of the Edmonds and Maratoto Formations. The mineralised units are overlain by post-mineralisation Andesites and there is typically a weathered zone and a zone of clay alteration encountered between these two units, which has been identified as an aquiclude.

[64] For large parts of the proposed WUG the upper Andesite overlies Rhyolite. WWLA (2025a) indicated that the overlying Andesite rock is not expected to drain as a result of dewatering the Rhyolite rockmass, because of its lower permeability and the presence of a weathering layer at the top of the Rhyolite that acts as an aquitard, limiting the amount of vertical drainage. However, the overlying Andesite is not present in the central part of the catchment, in an area located around the confluence of the Teawaotemutu Stream, Edmonds Stream and start of the Wharekirauponga Stream.

[65] Additionally, in the area that the Rhyolite is exposed at surface, the main EG Vein, the T stream vein and a number of other veins are present. Immediately adjacent to the veins, rock

is silicified and highly fractured with variable permeability expected depending on the degree of fracturing.

[66] The conceptual groundwater model prepared by WWLA indicated that groundwater recharge is primarily through direct rainfall and catchment through flow. Groundwater discharges occur at the contact with the overlying Andesite at or around RL 300m, through the T Stream and EG veins where these are intercepted or truncated by stream channels (at RL 180m and RL 100m respectively), and through a warm spring located at the intersection of the EG main vein and the Wharekirauponga Stream.

[67] Outside of these deeper outflows, WWLA considered that the stream section below an elevation of around RL 250m had no deep groundwater discharge from the Rhyolite rock mass and given it does not create baseflow, no loss to stream flows was expected to occur due to mine dewatering.

[68] Intera (2024) modelling of groundwater inflows to the mine indicated maximum groundwater inflow rates of 38 l/s for peak flows at upper 95th percentile, stabilizing to values under 28 l/s from 2029 until the end of mining. These long-term inflows are expected to result in significant groundwater drawdown within the Rhyolite rock mass, with the largest drawdowns at and adjacent to the vein network. This could result in connection between the deep and shallow aquifer systems within the area where Rhyolite host rocks are exposed at the surface. This is identified by WWLA as around 1.5 km^2 or 2% of the catchment surface area.

[69] Effects on groundwater aquifers are expected to be limited to the Rhyolite host rock, where significant dewatering is expected during mining, but no adverse effects are anticipated, and coastal flows are expected to be maintained.

[70] Catchment wide, dewatering effects on surface water flows have been modelled as a 2-13% reduction in 7-day mean annual low flow. WWLA (2025a) described "larger modelled reductions…" in the Edmonds and Thompson catchments, where "…reductions in 7 Day MALF approach the lower end of the current estimated Annual Low Flow (ALF)".

[71] Additionally, WWLA indicated that there is "…one location where the Wharekirauponga Stream bed passes over the mining area where deep dewatering could create

connectivity to the shallow aquifer system and, therefore, affect surface waters." This is expected to affect a cumulative 1,200 m of second and third order streams.

[72] WWLA indicated that the two springs (Warm Spring and EG Vein discharge point) that source deep groundwater within the catchment are expected to cease flowing for the duration of mining. They note further that:

(a) The springs are expected to recommence flowing once groundwater has recovered post mining (noting that the warm spring is expected become a cold spring post-mining); and

(b) The loss in flow of 3.5 l/s and 5 l/s from these two springs is considered by WWLA to be minor in the context of average catchment flows that exceed 200 l/s.

Comments received

[73] Groundwater and surface water effects of the WUG are a key part of the WNP and comments were received from WRC; DOC; iwi groups Ngāti Hako, Ngāti Pū, Ngāti Porou ki Hauraki and Ngāti Tara Tokanui, Ngāti Koi; Waikato Conservation Board; Forest and Bird; Coromandel Watchdog and various lay submitters.

[74] The main issues raised can be broadly summarised as:

(a) concerns around the current level of uncertainty in the modelling of groundwater dewatering and the associated effects on surface water;

(b) potential for direct connection between the underground mine and surface water;

(c) the loss of the warm spring and associated uncertainty as to whether it will return post mining and in what capacity (warm or cold);

(d) the effectiveness of the proposed monitoring and contingency measures; and

(e) potential for drawdown to impact on nearby groundwater takes.

[75] Alan Pattle from PDP (2025) provided a technical review of groundwater and surface water effects for WRC. He also had a role in the technical review of documents in the previous consent application process. Mr Pattle's key issue with the assessments completed related to the level of certainty in the conceptual site model (CSM), specifically the clay altered weathered layer that separates deep and shallow groundwater in the Wharekirauponga Catchment, and the permeability of the silicified zone around veins within the stream channel (a potential source of connection of surface water to the underground mine).

[76] Mr Pattle noted the unsaturated zone and strong vertical flow gradients in deep groundwater reduced the likelihood of reductions in stream flow in the Wharekirauponga Catchment. He also identified the extent of predictive modelling that had been undertaken and the attempts to allow for uncertainty in the CSM by increasing the permeability of the clay altered weathered layer. However, he suggested that while this was a reasonable modelling approach, the modelling did not allow for uncertainty in the configuration and extent of the clay altered weathered layer in the CSM itself.

[77] Mr Pattle's review of the proposed Water Management Plan indicated that the approach proposed by OGNZL had been successfully applied at other sites and was reasonable. He also considered that the proposed monitoring approach was reasonable, noting it may require revision as more data is gathered during mining operations.

[78] Subject to minor modifications proposed to the conditions (incorporated in OGNZL's updated WRC conditions) Mr Pattle was satisfied that the conditions were "…well structured and comprehensive..." and that "…the conditions are sufficiently rigorous to ensure that any unexpected effects will be addressed and mitigated in a timely manner".

OGNZL response to comments

[79] For OGNZL Chris Simpson provided a response to comments on groundwater and surface water effects.[13] He specifically addressed the comments made by Coromandel Watchdog, Forest and Bird and Iwi groups. Mr Simpson noted that OGNZL's effects assessment conservatively assumed a high level of connectivity between deep and shallow groundwater and that was the basis of the stream depletion assessments.

[13] Statement of evidence dated 1 September 2025.

[80] He also noted that ongoing pump tests completed since the technical reports were issued with the Application documents "…supports the conceptual hydrogeological model of the deep aquifer being separated from the shallow aquifer and surface water i.e. a low level of connectivity between the aquifers". He considered that this meant that "…the envelope of effect will only reduce relative to the conservative assessment presented in the AEE".

[81] Mr Simpson noted the effectiveness of resin and cement grouting in reducing groundwater inflows to underground tunnels and mines in Waihi, and that this was a suitable method of managing zones of highly fractured ground exhibiting high inflow. He re-iterated OGNZL's proposed monitoring allowed for the early detection of groundwater depressurisation at depth, monitoring of the shallow groundwater system and surface stream gauging. He considered "…responses to observed trends or trigger level exceedances will essentially be immediate if the situation that arises necessitates an immediate response. Condition UG.7 is clear about that."

[82] Mr Simpson acknowledged the loss of the warm spring and the long-term uncertainty around whether it may or may not return on completion of mining activities.

[83] In their tabulated response to comments OGNZL reiterated the significant distance (several km) between dewatering effects and neighbouring groundwater bores. This was also addressed in the Application documentation.

Statutory instruments

[84] The primary statutory documents of relevance are the NPS:FM and the Waikato RPS and Waikato Regional Plan (WRP). We discuss those documents in Part G of this Decision.

Panel findings

[85] While the Panel recognises that there is still some uncertainty associated with the groundwater models and consequential effects on surface water flows, this is not unusual for pre-development investigations and is acceptable in this instance given restrictions on investigations within the CFP. We need to balance this remaining uncertainty against the robustness of the work completed to date, the level of conservatism in the assessments, whether adequate provision is made for monitoring, whether appropriate contingencies and mitigation

measures exist, and whether the proposed consent conditions appropriately address these issues.

[86] On balance, we find that the groundwater and surface water effects of the WUG are largely temporary (with the noted potential for permanent loss of the warm spring) and that subject to the imposition of appropriate conditions of consent those effects can be appropriately avoided, remedied or mitigated.

Conditions

[87] Overall, we find that the revised 1 September 2025 conditions that were proposed by OGNZL will appropriately manage groundwater and surface water effects associated with the WUG. However, we undertook refinement of several conditions as follows:

(a) Amending conditions WRC conditions UG4.c and UG22.b.iii to clarify what is meant by more than minor.

(b) Amending WRC condition UG 33 to specify a minimum membership of the Expert Panel, including a tangata whenua representative. And

(c) Including Area 1 in the conditions C43 and C45 of the Combined HDC and WRC conditions. Given the uncertainties in the groundwater and settlement modelling, the Panel considers that this is needed so that the predicted effects can be verified by actual response data recorded during mining.

Effects Associated with the Dual Tunnel

[88] WWLA (2025c) prepared an assessment of the dewatering effects associated with the Dual Tunnel based on a conceptual ground model prepared by GHD in 2022. No ground investigation or testing was completed for the WUG dual tunnel. The conceptual geological model indicated that low permeability andesite was expected for a large part of the dual tunnel alignment, with a localised fault zone adjacent to the Waiharakeke Stream expected to be the main location where connection between tunnel dewatering and surface effects could eventuate.

[89] The conceptualised nature of the assessment is recognised by WWLA, but they consider that it is justified based on similar geology to that at Waihi and that the proposed tunnelling methodology will "…ensure drainage effects are avoided or managed to be minimal."

[90] Proposed mitigation includes sealing any high inflow zones within the tunnels and allowing only rock mass drainage to occur. WWLA indicated that the key risk was "…how much baseflow loss will occur in the Waiharakeke Stream when the tunnel passes beneath it." They calculated this to be 520 m^3/day assuming free draining conditions exist for 30 days before the tunnel is sealed in this zone. They indicated that the stream losses would be insignificant compared to the baseflow in the Waiharakeke Stream. WWLA considered this effect on stream flows and springs to be less than minor.

[91] Due to the limited connectivity expected between the deep groundwater and surface groundwater and the limited spatial effect of dewatering, the effects on aquifers, nearby bores, saline intrusion and ground and surface water quality were all considered to be less than minor.

Comments received

[92] The comments received on the WUG as set out above equally apply to the Dual Tunnels, recognising the Dual Tunnel's limited spatial footprint compared to the WUG itself.

[93] Forest and Bird made specific comment on ground and surface water effects in relation to the Dual Tunnel. They were of the opinion (at para 116 of their comments) that monitoring of the Dual Tunnel should be undertaken as the assessment undertaken "…does not account for effects that may have low probability but high potential impact, including dewatering of wetlands and other waterbodies."

OGNZL response to comments

[94] For OGNZL Chris Simpson provided a response to Forest and Bird's comments relating to groundwater effects of the Dual Tunnel. He was of the view that monitoring was not required as any effects would be limited in magnitude, short lived and localised. That was based on the ability of OGNZL to grout zones of significant inflows encountered and the low permeability of the surrounding rock mass outside of significant zones of faulting or veining.

Statutory instruments

[95] The primary statutory documents of relevance are the NPS:FM and the Waikato RPS and WRP. We discuss those documents in Part G of this Decision.

Panel findings

[96] The Panel understands that access to the Dual Tunnel alignment has not been possible and that the groundwater model that has formed the basis for the assessment of groundwater and surface water effects for this element of the WNP is highly conceptualised. That results in a significant level of uncertainty in the model, with in-situ conditions being assumed to be like those that exist throughout OGNZL's existing Waihi underground mining operations. OGNZL is of the view that the ability to drill ahead of the tunnel advance and treat high inflow areas by grouting is sufficient to mitigate any groundwater and surface water risks that may result from the dual tunnel.

[97] In general, the level of monitoring that should be considered for any infrastructure element is directly related to the risk of an adverse environmental outcome and how much detail is available for the design of that element. In this instance, the entire alignment of the dual tunnel's geology is at a conceptual level only, and on that basis the Panel considers that this necessitates some form of surface water monitoring.

[98] Overall, we consider that the Dual Tunnel groundwater and surface water effects can be appropriately avoided, remedied or mitigated, subject to the imposition of appropriate conditions of consent. We have however inserted additional consent conditions as set out below.

Conditions

[99] Having considered the above matters the Panel concluded that additional resource consent conditions were required to ensure that adequate monitoring was undertaken in terms of potential adverse effects from the Dual Tunnel on groundwater and surface water flows. That monitoring should include:

(a) The monitoring of surface water flows in Waiharakeke Stream in accordance with new WRC condition UG.18A;

(b) Specific monitoring of all collected groundwater inflows into the tunnel within a zone defined by a distance of 70 m either side of the alignment of the overlying Waiharakeke Stream invert to assess the effectiveness of grouting and potential for direct connection with the stream above. If collected groundwater inflows are in general accordance with rock mass groundwater inflows from elsewhere within the dual tunnels then then monitoring may be discontinued after a period of 12 months. We inserted new WRC conditions UG.22.ca and UG.22.cb to achieve that outcome.

[100] The Panel finds that the most appropriate place for this monitoring to be captured is within the proposed dewatering and settlement monitoring plan proposed in conditions C43 to C46 of the combined HDC and WRC conditions. Consequently, we have included Area 1 in conditions C43 and C46.

Effects associated with WUG Access Tunnel

[101] Effects on groundwater and surface water associated with the WUG Access Tunnel were addressed in WWLA (2025c). The main area of potential effect was expected to be at the tunnel decline where the first 300m may traverse through younger volcanics (ignimbrite). This has the potential to dewater the shallow near surface groundwater table.

[102] Between chainage 300m and 700m of the tunnel there is an identified risk of mixed face conditions with transitions between younger volcanics (ignimbrite) and older underlying andesite (inferred to be Whiritoa Andesite or the Waipupu Formation andesite, based on Golder, Sept 2021 appended to WWLA 2025c).

[103] At the decline section of the tunnel, in the vicinity of the WTP, groundwater monitoring (P60, P61, P64, P75) indicated a lowered or absent water table in the near surface and depressurised conditions in the andesite due to existing mine dewatering from the Favona underground mine. This existing dewatered state was expected to extend to a depth of 70m.

[104] Once the decline has entered into the underlying andesite, dewatering effects are expected to be limited to immediately around the tunnel itself due to the low permeability of these materials and the separation of the perched shallow groundwater system which has

substantially greater storage and rainfall recharge. This effect has been demonstrated by long term groundwater monitoring records provided in Engineering Geology Limited (EGL) (2025f).

[105] The exceptions to this are the fault zones. Two of these are shown in long section along the tunnel length, and more permeable fracture zones are expected to be encountered which may result in a higher rate of dewatering. Specific treatment by grout sealing is proposed to address these zones and mitigate the effect of inflows.

[106] Through chainage 1000 m to 2400 m. the tunnel is in a down-thrown graben, where younger (Whiritoa Formation) andesites are overlain by Ohinemuri Subgroup tuffs and ignimbrites. WWLA acknowledge that the contact between these units is poorly defined and that there is a risk of the tunnel intersecting the younger volcanics which could result in much higher groundwater inflows requiring mitigation measures. However, the nature of those mitigation measures is not defined.

[107] The low permeability in the andesite rock mass within which the tunnel will be driven is a key basis for WWLA concluding that there is likely to be little effect (less than minor) on either aquifers, springs and streams or nearby water bores. Mitigation proposed is by way of probe drilling ahead of the advancing face and grouting of more permeable structures. WWLA (2025c) proposed groundwater monitoring for the decline by way of existing piezometers, while impacts on water wells are proposed to be monitored at the wells, within the existing network or in new purpose-built piezometers.

Comments received

[108] Few comments were received specific to the WUG Access Tunnel in relation groundwater and surface water effects. However, we acknowledge the general view of iwi groups regarding groundwater and surface water, and the comments of Mr Alan Pattle remain relevant for this aspect of the WNP. Mary O'Donohue (Culgen Farms) was concerned about the potential for groundwater drawdown to affect local bore water. Her property boundary is located approximately 400 m from the alignment of the WUG Access Tunnel.

OGNZL response to comments

[109] OGNZL responded to Ms O'Donohue's concern, indicating that monitoring of groundwater at the Willows SFA is part of the proposal and that mine dewatering is no closer than 5 km from the nearest bore. However, it is apparent that the closest mine infrastructure to Ms O'Donohue's property is the proposed WUG Access Tunnel not the mine itself. OGNZL have noted elsewhere in responses and in the Application documents that the proposal to undertake drilling ahead of the WUG Access Tunnel during construction and the grouting of high permeability fractured zones or vein systems is what is proposed to mitigate against groundwater drawdown related to the WUG Access Tunnel's construction and operation.

Panel findings

[110] Overall, the Panel consider that the groundwater and surface water effects associated with the WUG Access Tunnel can be appropriately avoided, remedied or mitigated. However, it is apparent that the groundwater model that supports the dewatering assessment is highly conceptual, with an identified risk of intercepting the overlying younger volcanics, which could result in much more significant inflows during construction.

Conditions

[111] Conditions to monitor and manage dewatering are set out in the Combined HDC and WRC conditions at conditions C43 to C46. The scope of these conditions is considered appropriate to manage dewatering risks for the WUG Access Tunnel.

Effects Associated with the GOP and the GOP TSF

[112] Surface and groundwater effects associated with the GOP and GOP TSF were addressed by GHD (2025d). The GOP is expected to remove a portion of the upper catchment of the TB5 tributary and part of the upper catchment and channel of the TB4 tributary. It is also anticipated that both shallow and deep dewatering will occur around the GOP. The initial effects relate to dewatering the GOP during excavation, and early stages of tailings placement. The dewatering effect is expected to be temporary, lasting for the duration of mining and operation the GOP TSF underdrainage system.

[113] GHD (2025d) indicated that there is a separation between shallow and deep groundwater systems in the vicinity of the proposed GOP. Deeper groundwater has already been largely depressurised due to existing underground mining and this has provided under drainage to the shallow system in places, despite a weathering layer separating the upper and lower volcanic units. Consequently, little effect is anticipated on deep groundwater beyond the vein system itself, which is expected to be further dewatered to the southwest of the GOP. Dewatering of the andesite rock mass beyond the vein system itself is not expected, based on experience with the vein system in mining elsewhere in Waihi.

[114] Locally shallow groundwater is expected to be reduced by 3-8 m with a zone of influence extending up to 290 m to the south and 210 m to the west, with smaller zones of influence predicted to the north and east. Modelling of the dewatering associated with GOP excavation indicated a reduction in baseflow to the Ohinemuri River of approximately 55 m^3/day west of the pit and less than 1 m^3/day to the east. These reductions are considered to be unmeasurable as the median flows in the Ohinemuri River are in the order of 63,200 m^3/day.

[115] OGNZL proposes to return dewatered groundwater and rainfall runoff captured within the GOP back into the Ohinemuri River via the WTP. Accordingly, OGNZL anticipates the actual effect on flows in the Ohinemuri River will be net neutral or a slight increase in flows. No effects on groundwater users are anticipated because there are no groundwater users within the zone of expected dewatering.

[116] When the GOP is reconfigured to support tailings disposal, dewatering is expected to continue via the underdrainage system which presents a similar dewatering scenario to the GOP operations. Once mining has been completed, the proposed Martha Pit lake will have an expected level of reduced level (RL) of 1104 m. Widespread recovery of deep groundwater levels throughout Waihi is expected to occur at that time due to the interconnected underground mine network. For the GOP TSF, this is expected to result in upward flow gradients into the shallow groundwater system.

[117] In the long-term post-closure, groundwater discharge is expected towards the west where the GOP face comprises permeable younger volcanics which will be in contact with the saturated rock backfill that makes up the foundation of the GOP TSF. A flow of approximately

65 m^3/day is expected into shallow groundwater, which will discharge subsequently to surface water and eventually the Ohinemuri River.

[118] After the deep groundwater system recovers post-mining, an additional 100 m^3/day is predicted to discharge to the Ohinemuri River from the catchment area west of the GOP TSF (OH6). This is considered to be a negligible long-term effect in the context of the wider increase in groundwater flows in the Waihi area and in the context of average flows of 63,200 m^3/day in the Ohinemuri River.

[119] In the long term, post-closure, no impacts are expected on groundwater users or users of surface water from the Ohinemuri River in terms of increased or decreased flows.

Comments received

[120] Forest and Bird were concerned about the loss of the headwaters of the Gladstone Stream (comprising 47 m of intermittent stream length), and temporary reductions in surface water flow to the stream channel (and eventually the Gladstone Wetland), as well as the drawdown of shallow groundwater in this area.

OGNZL response to comments

[121] There was no specific response to the Forest and Bird comments related to temporary flow loss to the Gladstone Stream headwaters.

Statutory instruments

[122] No specific statutory instrument provisions were brought to our attention by commentators. We address the NPS:FM and relevant WRC instruments in Part G of this Decision.

Panel findings

[123] Subject to the imposition of appropriate conditions of consent, and notwithstanding Forest and Bird's concerns, we find that groundwater and surface water effects associated with the GOP and GOP TSF will be appropriately avoided, remedied or mitigated.

Conditions

[124] Having considered that above matters, the Panel considered that OGNZL's proposed 1 September 2025 consent conditions appropriately manage groundwater and surface water effects relating to GOP and GOP TSF.

Effects Associated with the Northern Rock Stack

[125] The NRS is proposed to temporarily store both Non-Acid Forming (NAF) and Potentially Acid Forming (PAF) materials to a maximum elevation of RL 1,173 m. The stored materials are to be used to backfill and rehabilitate mining areas as part of mine closure, leaving a remnant rock stack with an elevation of approximately RL 1148 m. The effects on groundwater and surface water were set out in GHD (2025d). These included effects of or on:

(a) Construction over an existing perennial stream and its tributaries, which currently discharge into the Ohinemuri River.

(b) Groundwater levels and baseflow to the Ohinemuri River during operation and after closure. And

(c) Groundwater and river water quality arising from seepage through the NRS during operations and post closure. This aspect is related to geochemistry and is addressed in section E13 of this Decision.

[126] At the site of the NRS the groundwater system is entirely shallow, due to downthrow across the Golden Valley Fault, meaning that separation between a deep and shallow groundwater system is not apparent locally below the NRS.

[127] The assessment completed by GHD (2025d) indicated only small changes to shallow groundwater levels in the foundation and immediate surrounds of the NRS. Local groundwater discharge to the Ohinemuri River is expected to be significantly reduced due to the collection of groundwater by the sub-soil drainage network and due to rainfall recharge being intercepted by the NRS and its perimeter drains. Additionally, there is expected to be a permanent, small drawdown of shallow groundwater in the southeastern boundary of the NRS where the proposed uphill diversion drain will intercept shallow groundwater. A zone of influence of

1 to10 m is predicted there, which is anticipated to intercept shallow groundwater flows of around 10-70 m^3/day, reducing over time. This is not expected to significantly influence the wider groundwater and surface water flow regime.

[128] While changes to the groundwater regime are expected to result from the construction of the NRS, OGNZL expect that the overall effect on the eventual receiving waters will not be significantly different due to:

(a) the slow percolation of leachate through the soil liner; and

(b) treated water sourced from the sub-soil drains and perimeter drains being discharged directly to the Ohinemuri River.

[129] Surface water effects related to the removal of a large portion of the TS1 Ohinemuri tributary and its replacement with the Uphill Diversion drain, along with the interception of rainfall over the footprint of the NRS. While the NRS will modify surface water flow paths and potential locations for infiltration to groundwater, GHD considered that the volume of discharge to the Ohinemuri River would be similar to the current conditions as no additional water is being introduced to the system.

[130] Consequently, GHD anticipated that effects "…on surface water flow and levels in the Ohinemuri River during operation and after closure of the NRS are therefore expected to be unmeasurable."

Comments received

[131] There were no specific comments made on the groundwater and surface water effects associated with the NRS.

Statutory instruments

[132] No specific statutory instrument provisions were brought to our attention by commentators. We address the NPS:FM and relevant WRC instruments in in Part G of this Decision.

Panel findings

[133] Subject to the imposition of appropriate conditions of consent we find that groundwater and surface water effects associated with the NRS will be appropriately avoided, remedied or mitigated.

Conditions

[134] The Panel consider that OGNZL's proposed 1 September 2025 consent conditions appropriately manage groundwater and surface water effects relating to NRS.

Effects Associated with Tailings Storage Facility 3

[135] TSF3 will be developed within the Ruahorehore catchment, immediately adjacent to TSF1 which will form the western flank of TSF3. It will be constructed against elevated topography towards the north and east will have a constructed rock and soil embankment along its southern edge to detain the tailings slurry and supernatant water.

[136] Conceptually, the proposed footprint of TSF3 is underlain by alluvium, colluvium and reworked rhyolitic tuff containing shallow groundwater. This is in turn underlain by welded and non-welded rhyolitic tuff and rhyolite flows within which deeper groundwater occurs. Shallow groundwater is affected by farm drains and the Ruahorehore Stream, while deeper groundwater is affected by flows from the ridgeline to the north, resulting in slight artesian groundwater pressures being reported in wells near the Ruahorehore Stream.

[137] In terms of groundwater and surface water effects, there are three key stages to TSF3, namely construction, operations and closure.

[138] During construction a large-scale undercut is required of weak and soft soils, which are up to 20 m deep under the footprint of the TSF3 embankment. A section of the Ruahorehore Stream will also need to be diverted to allow for the construction of the TSF3 collection pond. This undercut is expected to result in the temporary dewatering of shallow groundwater, with a zone of influence expected to be up to 600 m. Inflows from shallow groundwater and from artesian flows from the deep groundwater system to the undercut are expected to be up to 2,450 m^3/day when excavation works are at their greatest depth. Once the excavation has been backfilled, groundwater levels are expected to recover, flooding the backfilled excavation.

[139] Potential effects on Ruahorehore Stream flow during construction will be mitigated by pumping clean abstracted groundwater from the foundation excavation and discharging it into the Stream. There are not expected to be any effects on groundwater or surface water users during the construction period.

[140] In the operational phase subsoil drains are expected to capture any seepage flows from TSF3, but after mine closure drains are expected to reduce in efficiency and eventually fail. During the operational and closure phases an increase in seepage flows into groundwater and an increase in groundwater levels is anticipated, but the expected contribution is small (5-10%) and long-term groundwater levels are expected to rise by approximately 25%. Increased seepage flows to groundwater are expected to eventually discharge to the Ohinemuri River. The increased groundwater levels may result in longer periods of waterlogged soils over the winter months in adjacent paddocks, but this is expected to be managed by the provision of surface drains.

[141] In the long term the Ruahorehore Stream is predicted to see an increase in surface water flows of 0.5 m^3/day over the length of stream adjacent to TSF3. Increased stream flows are expected to be sourced from clean water infiltration and runoff from the collection pond crest. This increase in flows is expected to be unmeasurable at the downstream Ruddocks Gauge monitoring location.

Comments received

[142] There were no specific comments made on the groundwater and surface water effects associated with TSF3.

Statutory instruments

[143] No specific statutory instrument provisions were brought to our attention by commentators. We address the NPS:FM in and relevant WRC instruments in Part G of this Decision.

Panel findings

[144] Subject to the imposition of appropriate conditions of consent we find that groundwater and surface water effects associated with the TSF3 are appropriately avoided, remedied or mitigated.

Conditions

[145] Overall, the Panel considers that OGNZL's 1 September 2025 revised consent conditions appropriately manage groundwater and surface water effects relating to TSF3.

Groundwater Effects Associated with the Willows Rock Stack

[146] The WRS is a temporary stockpile for waste rock that will be reused as part of the WUG rehabilitation and closure. OGNZL propose to locate the WRS within a tributary (R11) of the Mataura Stream for a period of approximately 13 years.

[147] GHD (2025d) indicated that a large component of rainfall in the catchment would report to the R11 tributary due to the steep slopes and low permeability ash soils. Contributions to surface water flows are also sourced from perched groundwater in the soil mantle and from the shallow andesite unit. Filling of the R11 tributary with waste rock is expected to result in an increase in groundwater recharge (up from 64 m^3/day to 181-271 m^3/day). This increase is not expected to impact the groundwater flow regime to the Mataura River as the flows will be captured within the underfill drainage network.

[148] Seepage flows captured by the underfill drainage network will be collected and sent to the WTP for eventual discharge to the Ohinemuri River.

[149] The stream flow from R11 will be lost for the duration that the WRS will remain in place. Flow gauging reported by GHD (2025d) indicated that this tributary accounts for approximately 1-2% of the overall flow from the Mataura Stream and the loss of this, together with reduced groundwater contributions (expected to reduce from 8 to 1-2 m^3/day) is still only likely to result in a 2.5% loss in flows to the Mataura Stream. GHD (2025d) suggested that this is within the range of error of the flow measuring devices and is therefore not expected to be a measurable loss. They note further that flows will be restored on remediation of the site.

Comments received

[150] No comments were received that relate to groundwater and surface water effects associated with the WRS.

Statutory instruments

[151] No specific statutory instrument provisions were brought to our attention by commentators. We address the NPS:FM in and relevant WRC instruments in Part G of this Decision.

Panel findings

[152] Subject to the imposition of appropriate conditions of consent we find that groundwater and surface water effects associated with the WRS are appropriately avoided, remedied or mitigated.

Conditions

[153] The Panel considers that OGNZL's 1 September 2025 revised consent conditions appropriately manage groundwater and surface water effects relating to the WRS , subject to some amendments that we have made to the monitoring to be undertaken.

E4: Effects on Ohinemuri River Water Quality

[154] Water quality management and treatment for OGNZL's existing activity is currently undertaken via a range of measures at source, and within a purpose-built Water Treatment Plant (WTP) at OGNZL's existing Waihi SFA.

[155] We note that in the long-term discharges from tailings areas and permanent rock stacks that remain upon closure of the mine will eventually discharge directly to the Ohinemuri River, but only once the water quality of those discharges can meet the relevant receiving water quality standards. Until that time those discharges will be treated through the WTP.

[156] The WTP treats all mine water associated with OGNZL's Waihi mining operations which is not of suitable quality to be discharged directly to the environment (via silt ponds), before it is discharged to the Ohinemuri River. As part of the WNP the WTP will be upgraded to cater for the additional water treatment demands arising from the operation of the WNP. OGNZL proposes to reconsent the discharge of treated water from the WTP to the Ohinemuri River on the same terms as existing discharge consents.

[157] OGNZL acknowledges that the existing water quality standards that are implemented at the WTP are essential for maintaining water quality, and in turn the ecological health of the Ohinemuri River. For OGNZL Boffa Miskell concluded that the ecological values of the Ohinemuri River had remained stable and persistent since operations at Martha Mine commenced. There was no evidence that the OGNZL activities had caused any detrimental effects to the ecological values of the Ohinemuri River, and the ecological values had been maintained as anticipated. Accordingly, Boffa Miskell concluded that re-consenting the WTP with the same receiving water quality standards would not result in detrimental effects on the ecological values of the Ohinemuri River

[158] The Greenway report (see section E15 of this Decision) concluded that the operation of the Ohinemuri Treated Wastewater Discharge would have no to very minor effects on local recreation patterns beside the river, and on in-river recreation, particularly contact recreation and angling.

Comments received

[159] For WRC Dr Ngaire Phillips suggested that the existing discharge limit for manganese could be lowered because the monitoring data shows that the water quality is well below that limit.[14]

[160] While not directly related to the WTP, WRC also advised that the "National Environmental Standards for Sources of Human Drinking Water (NES:DW) was relevant due to the location of the Waihi drinking water supply which originates from the upper reaches of Ohinemuri River. There was no consent condition proposed by OGNZL to address the NES:DW. In a similar vein HDC sought assurance that the quantity and quality of that water supply would not be adversely affected by the WNP, particularly given the ongoing growth that is anticipated in Waihi township.

[161] Fish and Game considered that trout had not been adequately considered and the use of previously consented discharges as a baseline for determining the acceptability of new or expanded discharges was contrary to best practice. Coromandel Watchdog and the Waihi Community Forum expressed general concerns about mining activity pollutants in the river.

[162] Tangata whenua described the Ohinemuri River and its tributaries as vulnerable, with the mana and mauri of the river cited as significantly diminished.[15] Concerns were expressed about effects on mahinga kai and taonga species. Ngāti Hako noted that the Ohinemuri River meets the Waihou river and flows into Tikapa Moana (Firth of Thames).

OGNZL response to comments

[163] In response to the comments of Fish and Game, Coromandel Watchdog, Waihi Community Forum and tangata whenua, for OGNZL Dr Ian Boothroyd advised 30 years of monitoring data showed no evidence of any adverse effects from the WTP discharge on the ecological values of the Ohinemuri River. That data included MCI and QMCI (macroinvertebrate communities) demonstrating that water and habitat quality remained poor to fair, both before and after the WTP discharge was established. In his opinion, as there were

[14] A maximum recorded level of 0.073 mg/l compared to a limit of 2.0 mg/l.
[15] Ngāti Porou ki Hauraki, Ngāti Tara Tokanui Trust, Ngāti Hako and Ngāti Pu.

no adverse effects resulting from the WTP discharge on the Ohinemuri River, there was no requirement for a specific mitigation response or a requirement to enhance the River values.

[164] Dr Boothroyd noted OGNZL's proposed additional monitoring in the vicinity of the WTP discharge for temperature and dissolved oxygen.[16] That was intended to assist in understanding what may be preventing improvements in the Ohinemuri River ecosystem, and also to inform the WRC freshwater planning process for the management of the river.

[165] In response to WRC's specific comment on the manganese discharge standard, OGNZL considered there was no basis for necessitating any change because the existing limit had been in place for the life of the mine, with no recorded effects on in-stream aquatic ecology.

[166] We discuss WRC's concern about whether or not total nitrogen in the discharge should be monitored in section E13 of this Decision. Suffice to say that we agree with OGNZL that in the absence of a regulatory catchment load limit for nitrogen there would be limited merit in undertaking that monitoring at this point in time.

[167] Regarding the NES:DW and the Waihi water supply take, OGNZL proposed an additional consent condition (WRC condition G33) to require notice to be given to HDC of any system failure in Area 2 that could result in adverse effects on the quality of water at the HDC water supply extraction points.

Statutory instruments

[168] We were referred to the NES:DW above. Apart from that, no other provisions in the statutory instruments were brought to our attention.

Panel findings

[169] Given that the existing WTP discharge standards appear to have avoided the occurrence of adverse effects on the aquatic ecology of the Ohinemuri River (as demonstrated in particular by the MCI and Quantitative MCI data) we see no need to amend those standards. In particular, while querying the discharge standard for manganese, WRC did not propose an alternative standard.

[16] B.43. Freshwater Ecological Assessment part 1, at sections 20.1.13 and 20.1.20.

[170] Regarding iwi concerns, we note OGNZL's intention (codified in conditions of consent) to resource the IAG and facilitate its involvement in developing a Mātauranga Māori Monitoring Programme inclusive of cultural health indicators and associated performance metrics for waterways and wetlands, which we understand will encapsulate the Ohinemuri River.

[171] We also consider that the existing WTP discharge standards applying to the Ohinemuri River will axiomatically also avoid adverse effects of that discharge on the Waihou river and Tikapa Moana (Firth of Thames).

Conditions

[172] We have made no material amendments to OGNZL's 1 September 2025 consent conditions relating to the WTP discharge to the Ohinemuri River.

E5: Blasting and Vibration Effects

[173] OGNZL addressed blasting and vibration effects in section 6.11 of the AEE and the part B.53 Heilig and Partners (Heilig) report.[17] The effects and proposed mitigation measures differ by area and whether the blasting is undertaken at the surface or in the underground mine and associated access tunnels.

[174] Heilig (2025) set out a range of vibration thresholds that are considered suitable to protect amenity of adjacent properties. Broadly speaking these are 5 mm/s during defined Monday to Saturday working hours (0700-1800 for surface blasting and 0700 -2000 for access tunnel blasting) and 1mm/s outside of these defined working hours.

[175] Within the CFP, higher vibration thresholds are considered reasonable by OGNZL due to the distance to adjacent land holdings. In these areas the vibration threshold has been set at 15 mm/s, based on potential effects on leiopelmatid frogs.

[176] An agreed overpressure limit of 120 dBL was adopted by OGNZL at any non-OGNZL owned residence, which is consistent with the overpressure limits set out in the HDP.

[177] Given that the vibration thresholds adopted are to manage human health and amenity, the risk of vibration causing damage to structures above the tunnel alignments or near to surface excavation is considered to be low.

Surface Mines and Borrow Areas

[178] Blasting is required to excavate the proposed GOP as well as the proposed borrow areas that will be used to source material for the construction of TSF3.

[179] Heilig (2025) indicated that the blasting for surface excavations was expected to have a limited area where effects may be noticeable, affecting approximately 50 properties at the eastern end of Moore and Clarke Streets and Boyd Road and localised properties around the three borrow pits.

[17] Waihi North Project, Blasting and Vibration Assessment, Heilig and Partners Pty. Ltd, February 2025.

[180] Modelling undertaken by Heilig (2025) indicated that only ten properties were expected to be exposed to vibrations of 2 mm/s, with the property at 669 Golden Valley Road expected to come closest to the threshold 5 mm/s level.

[181] OGNZL indicated that while vibrations from surface excavation may at times be perceptible to residents, they will always comply with the proposed vibration thresholds.

[182] Overpressure effects are expected to be manageable within the 120 dBL limit adopted and flyrock is expected to be managed to less than 50 metres.

Willows and Wharekirauponga Access Tunnels and Portals

[183] ONZGL indicated that the Willows Access Tunnel is remote from nearby properties and that vibration is expected to be imperceptible at those properties due to the distance between the two.

[184] Blasting required to construct the WUG Access Tunnel and WUG portal is expected to result in vibrations that are perceptible to residents. OGNZL note that vibration will be perceptible for a short period as the tunnel excavation approaches, reducing and eventually becoming imperceptible as tunnel excavation moves away from any particular residence. OGNZL indicated that no detectable vibration would occur from the ongoing operation of the tunnels once construction was complete.

[185] Two blasts per day are expected, with an advance rate of 50 metres per week. Heilig (2025) indicated that the maximum duration of perceptible vibration may exist for around 7 weeks before and 7 weeks after the closest point of the tunnel to any property. This would be most noticeable for the few properties directly above the tunnel alignment.

[186] Modelling undertaken by Heilig (2025) indicated that the vibration for the properties closest to the tunnel alignment will be close to the 5 mm/s compliance threshold and that further mitigation measures may be required to reduce vibrations.

[187] A range of mitigation measures were proposed by Heilig (2025) and these are set out in section 20 of that report. They note that "Similar types of adjustments have been previously implemented as part of the mining process at Waihi" and that these could be "…implemented

should they be necessary to reduce vibration impacts to ensure compliance with the proposed vibration criteria."

Wharekirauponga Underground Mine and Dual Tunnel

[188] The WUG and WUG Dual Tunnel will be constructed within the CFP and as such blasting induced vibration is expected to be sufficiently remote from persons or properties so as to be indiscernible.

[189] Key issues relating to blasting and vibration in the CFP are considered to be effects on Archey's and Hochstetter's frogs, effects on CFP users and effects on old mine workings and structures associated with the Wharekirauponga Walking Track.

[190] Heilig (2025) considered that the proposed 15 mm/s threshold for vibration in the CFP would be sufficient to protect surface structures and historic mine workings.

[191] OGNZL indicated that there may be strongly perceptible vibration effects over a 40 m section of the Te Wharekirauponga Track directly above the blasting but that "…vibration will only be slightly perceptible to trampers at all other locations along the track."

[192] Bioresearches (2025b) indicated that vibration limits up to 2 mm/s were not expected to have a significant effect on leiopelmatid frog species, based on historical blasting data from Golden Cross Mine and from roadside vibration monitoring. They accepted that there was uncertainty for vibration effects on leiopelmatid frogs at vibration levels between 2-15 mm/s, which is expected to occur over an area of approximately 315 ha. The effects on leiopelmatid frogs and proposed mitigations are addressed further in Section E7 of this Decision.

Comments received

[193] Blasting and vibration effects were addressed in the comments from HDC, DOC, Coromandel Watchdog, Waikato Conservation Board, Ngāti Hako and several lay commentators.

[194] The comments can broadly be divided into two main areas of concern.

(a) Effects of vibration on human health, amenity and surface structures in proximity to the WNP. These were the issues primarily raised by lay commentators (noting this is also mentioned by Coromandel Watchdog). And

(b) Effects of vibration on leiopelmatid frogs within the CFP.

[195] Comment was made on behalf of HDC by Dr Cameron McKenzie of Blastechnology, who has been involved in technical review of a number of previous vibration assessments for other aspects of OGNZL's underground and surface operations.

[196] Dr McKenzie was largely in agreement with the assessment carried out by Heilig (2025) and, in conjunction with ecologists undertaking technical review for HDC (Baber & Kessels 2025), considered the vibration thresholds proposed were appropriate. There were some areas where he did not agree with Heilig's assessment. These can generally be described as follows:

(a) Proposed blasting times at the GOP.

(b) Overpressure monitoring.

(c) Monitoring and reporting of flyrock.

(d) Monitoring and reporting of fume.

(e) Type of structure requiring compliance assessment. And

(f) Safety aspects of the tunnel on the Wharekirauponga Track with respect to blasting vibrations and rock fall. The Panel notes that there was no closure provided by Dr McKenzie on this topic and it is unclear what HDC are seeking in this respect.

[197] Dr McKenzie considered that these areas could largely be addressed by modifications to the resource consent conditions which we discuss below.

[198] No specific blasting and vibration effects technical assessment has been carried out by other commentators. The comments and evidence provided by Mr Hamish Kendal, Dr Luke

Easton, and Professor Waldman on behalf of Coromandel Watchdog relate primarily to the uncertainty of effects on leiopelmatid frog species from vibration as opposed to uncertainty in the level of vibration that is likely to be experienced at the ground surface. The Waikato Conservation Board and DOC voiced similar concerns.

[199] Concerns around human health, amenity and effects on surface structures (risk of damage) were expressed by lay commentators. No technical evidence was provided, but there is a clear desire for effects to be managed and mitigated appropriately.

OGNZL response to comments

[200] In general, OGNZL's response to comments related to vibration effects on leiopelmatid frogs and reiterated the outcomes of the initial assessments prepared by Bioresearches (refer the evidence of Dylan Van Winkel dated 1 September 2025). This aspect of vibration effects is addressed in Section E7 of this Decision.

[201] OGNZL's collated response to lay commentators was that:

(a) The vibration thresholds proposed are in accordance with the provisions of the HDP.

(b) The vibration thresholds are based on amenity and human health and therefore there is little risk of property damage.

(c) Vibration monitoring will continue to be undertaken (and consent conditions allow for this).

(d) OGNZL has a 'We Break, We Pay' procedure in place to assist property owners.

(e) OGNZL propose the continuation and extension of an existing Amenity Effects Programme which:

(i) compensates owners based on the level of vibration effect (even if vibration is within compliance limits); and

(ii) offers an ex-gratia payment to properties that the WUG Access Tunnel passes directly beneath (equal to 5% of that property's market value).

[202] In response to the areas of technical disagreement identified by Dr McKenzie, OGNZL provided further comment from Dr Heilig as Appendix 1 to their response to the HDC comments. That response included:

(a) An agreement to the proposed blasting times for the GOP proposed by HDC.

(b) No agreement to modify monitoring to include permanent overpressure monitoring because:

(i) The existing vibration network was not configured to measure overpressure, requiring modification to include an external overpressure transducer mounting, which may be subject to vandalism; and

(ii) A roving monitoring station employed to measure overpressure quarterly is sufficient based on the low levels of overpressure recorded as part of the historic and current mining operations.

(c) No agreement for more robust monitoring of fume and flyrock. Dr Heilig considered that current procedures were appropriate with specific follow up reviews to be undertaken where outcomes differed from expected results.

(d) Dr Heilig suggested that for commercial premises to be included in vibration monitoring, higher vibration standards would then apply in accordance with AS2187.2 (copy of Table J4.5(A) was provided).

Statutory instruments

[203] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[204] In making our findings the Panel has considered the assessments completed by Dr Heilig and Dr McKenzie and we acknowledge that in large part they are in agreement, with the detail of the ongoing monitoring and associated consent conditions being the remaining areas of disagreement.

[205] In particular the Panel considered that the vibration thresholds for the CFP have been set at a level that both vibration experts and ecology experts for OGNZL and HDC agree are appropriate. This forms the basis for the effects on leiopelmatid frogs and associated mitigations and offsets which are described in section E7 of this decision.

[206] Overall, the Panel finds that subject to the imposition of appropriate conditions of consent, blasting and vibration effects will be appropriately avoided, remedied or mitigated.

Conditions

[207] The wording of HDC condition 26 remains in dispute. HDC would prefer wording that more closely resembles that in the HDP (at 8.3.2.3 (3) (a)) and that it should be measured at the boundary of any allotment. OGNZL suggests that this should only relate to houses and low rise residential allotments, and that to include commercial or other allotment types would necessitate increased vibration thresholds in accordance with AS2187.2.

[208] The reason for the change to HDC condition 26 requested by HDC is primarily related to consideration of commercial premises, such as cafes and other similar privately-owned premises used for social congregation. When reviewing Table J4(A) of AS2187.2 provided by Mr Heilig, the Panel observed that "sensitive sites" are described as including "…houses, low rise residential, theatres, schools and other similar buildings occupied by people". We consider that this description could equally apply to commercial premises used for social congregation, and therefore a change in threshold would not be necessary for these sites.

[209] This matter was discussed in a Panel convened conference involving Dr John Heilig (expert for OGNZL), Dr Cameron McKenzie (expert for HDC) and Cassie McArthur (OGNZL). While it was generally agreed that residential buildings would serve as 'canaries in the mine' in terms of vibration monitoring, we nevertheless considered that for the sake of

completeness the conditions should refer to the types of buildings referred to in Table J4(A) of AS2187.2. We have therefore made an amendment to HDC condition 26 to include commercial premises used for social congregation.

[210] We preferred the wording presented by OGNZL for HDC condition 28 concerning restrictions on blasting hours, as those proposed by HDC are likely to be unnecessarily restrictive and can be expected to reduce tunnel advance rates and therefore increase the time over which blasting vibrations may be experienced at any given site before construction moves beyond that site.

[211] The Panel accepts the proposed modification to blasting hours provided by OGNZL in HDC condition 29 in response to HDC's comments.

[212] The proposed addition of video footage to assess fly rock and fume suggested by Dr Mckenzie does not appear to be overly onerous. We have therefore amended the HDC conditions along the lines he recommended.

[213] As to overpressure, there was general agreement between Dr McKenzie and Dr Heilig that there is a need for additional monitoring. The concern raised around vandalism of monitoring equipment has been considered by the Panel and the experts. There was general agreement that overpressure monitoring gauges could be added to the current (and proposed) vibration monitoring stations located on private property, in addition to the roving monitors already proposed. We have amended HDC conditions 28(d) and 29(d) accordingly.

E6 Ground Subsidence and Settlement Effects

[214] OGNZL addressed subsidence and settlement effects in section 6.5 of the AEE and the Part B.13 EGL report[18] (EGL 2025f).[19] EGL identified settlement effects within Areas 1, 2, 3 and 5 as set out in the Application documents. OGNZL said (at section 6.5.5) that settlement effects are not expected in Areas 6 and 7 as there are no underground structures in those locations.

[215] There is a difference between total settlement and differential settlement.

(a) Total settlement is the predicated settlement at any given point. Reasonably large total settlements may not be damaging or discernible if the effects dissipate over a wide area.

(b) Differential settlement (also known as tilt) is typically defined as a ratio of the maximum total settlement to the horizontal distance to zero total settlement (for example 1:200 or 1v:200h). The lower the ratio, the higher the potential for damage to structures at ground surface.

[216] Assessments of settlement effects provided by EGL (2025f) rely on the dewatering information provided in GHD (2025d) and an earlier version of the reporting prepared by WWLA (2025c).

Area 1 – Wharekirauponga Underground Mine

[217] EGL indicated that large total settlements are anticipated as a result of dewatering of the WUG. These settlement effects are expected to be in the range 300 to 1,000 mm.

[218] Maximum differential settlement is expected to be 1:200. While this level of differential settlement could cause damage to ground bearing structures, there are no ground bearing structures in this area.

[18] Oceana Gold (New Zealand) Limited, Waihi North Project, Ground Settlement Report, Engineering Geology Limited, 14 February 2025.

[19] Oceana Gold (New Zealand) Limited, Waihi North Project, Ground Settlement Report, Engineering Geology Limited, 14 February 2025.

[219] EGL indicated that the differential settlements of 1:200 are not expected to be significant or even discernible for stream gradients that are close to 1:30 and that no material effects are therefore expected on stream flows or the CFP forest environment.

[220] Because of the limited potential for effects, EGL did not recommend settlement monitoring above the WUG beyond "base" reference points at vent shafts and drill platforms.

Areas 1 and 2 –Dual Tunnel and Willows Access Tunnel

[221] EGL indicated that both the Dual Tunnel and the Willows Access Tunnel were expected to see total settlements of 10-100 mm, but this was dependent on the geological structures encountered. Where a larger number of faults and vein structures are encountered this may push settlements towards the upper end of this assessed range.

[222] Differential settlements are estimated at 1:15,000 but this is based on an assumption that the shallow groundwater system in the regolith at the Willows Access Tunnel portal will not be significantly dewatered.

[223] WWLA (2025c) observed "The Willows Farm access tunnel decline intercepts the shallow groundwater system and, because of this, there is some potential for effects on surface waters by temporarily reducing baseflow." On this basis, there was also an elevated risk of settlement effects over and above those calculated by EGL related to dewatering of the deeper underlying andesite rock mass.

[224] EGL noted that overlying these two tunnel elements are either pastureland or CFP and the effects on those areas with such small calculated total settlements and tilts were expected to be negligeable.

Areas 1 and 2 – Ventilation shafts

[225] EGL stated that local dewatering was expected around ventilation shafts for the Willows Access Tunnel (vent shaft 1) and for other vent shafts associated with the WUG. The key dewatering risk was during construction when temporary dewatering of the shallow, perched groundwater system is expected according to WWLA (2025a).

[226] WWLA stated that lining or grouting will be required to reduce inflows into these structures and if that occurs, groundwater around the vent shafts was expected to return to its previous state once construction was complete.

[227] EGL (2025f) indicated surface settlement of 50 to 300 mm (with tilts of 1:8,500 to 1:1,400) around the vent shafts based on their calculations and observations of settlement from dewatering around the Martha Pit. EGL considered that maximum settlement could be expected immediately adjacent to the vent shaft, with any depressions able to be reprofiled by minor earthworks as part of site rehabilitation.

[228] Settlement effects were expected to be negligeable within the context of construction of the vent shafts themselves.

Area 3 – Wharekirauponga Access Tunnel East of Waihi East

[229] EGL (2025f) predicted between 10-100 mm of settlement (at low differentials) above the WUG Access Tunnel to the east of Waihi. However, this assessment was based on a tunnel at depth, within the lower andesite and considered only the intersection of faults or veins in that unit. It did not consider intersection of the tunnel with the younger, overlying volcanic units.

[230] WWLA (2025c) identified that the contact between the upper, younger volcanics and the underlying andesite was not well defined within a downthrown graben expected to be present between chainage (CH) 1,000 m and CH 2,400 m. More significant dewatering and associated settlement could be expected if this upper, younger volcanic unit were to be encountered during tunnelling through this zone.

[231] There was also potential that the proposed decline of the WUG Access Tunnel would intercept younger volcanics (ignimbrite) that have connectivity with other ignimbrites near Boyd and Barry Roads. Calculation of settlements have not been undertaken for this area by EGL as OGNZL proposed to mitigate this risk by designing to avoid the younger ignimbrites or to undertake grouting to seal the tunnel through this area.

[232] EGL noted that the lower andesites that are expected to form the geology within which the decline will be tunnelled have already been dewatered by the Favona underground mine to a depth approaching 70 m.

Area 5 – Gladstone Open Pit

[233] In considering settlement effects associated with the GOP, EGL adopted the dewatering assessment of GHD (2025d) which is summarised in Section E3 of this Decision. Dewatering is expected for the vein system which is expected to extend to the south of the GOP, to just south of the Ohinemuri River.

[234] EGL calculated average settlements of 36 mm, with a differential of 1:4,800 for vein dewatering. On this basis total settlements of between 10-50 mm were estimated for land to the south of the Ohinemuri River.

[235] The younger volcanics are extensively dewatered to the north of the proposed GOP, and at least partially dewatered to the west due to the Favona and Trio underground mine dewatering. Existing settlements of 120-200 mm have been measured in this area and similar levels of settlement are expected due to dewatering of the younger volcanics to the south and east of the proposed pit.

[236] Larger settlements associated with dewatering of the younger volcanics are expected to only occur in close proximity to the GOP, within OGNZL's property.

Area 5 – Gladstone Portal

[237] The assessment completed by EGL addressed a new portal alignment to replace the Favona portal which will be mined out by the GOP. The new portal location is to the north of the conveyor, adjacent to the proposed WUG Access Tunnel portal.

[238] EGL said that "The proposed decline will come close to younger volcanics and historic workings which are interpreted to extend back to Moore Street, Boyd Road and Barry Road area."

[239] This presented a risk of dewatering of the younger volcanics and causing larger, more extensive settlement effects than those observed for the Favona decline (which remained in the underlying andesite and experienced 10-50 mm of settlement immediately above the tunnel).

[240] Mitigation measures are proposed which include positioning the portal to avoid the younger volcanics, grouting of the younger volcanics exposed in the tunnel decline and, (if necessary) reinjection of groundwater into the younger volcanics to maintain groundwater levels.

Comments received

[241] Comments were received from HDC, TCDC, DOC, Coromandel Watchdog, NZTA and Barry and Beverley Ross who own a home above the proposed alignment of the WUG Access Tunnel.

[242] Comments can broadly be categorised into two areas:

(a) the effect on frog habitat from settlement above the WUG and the need for monitoring; and

(b) potential settlement effects on surface structures and infrastructure from the WUG Access Tunnel.

OGNZL response to comments

[243] With respect to the WUG itself, OGNZL referred back to the original Ground Settlement Effects assessment report prepared by EGL (2025f), when considering the need for monitoring of settlement within the CFP That report indicated "base" survey of ventilation shafts and drill collars could be undertaken but suggested ongoing monitoring in the CFP was unnecessary.

[244] OGNZL provided a response to DOC and Coromandel Watchdog relating to settlement effects on frog habitat by way of further evidence from Dr Trevor Matuschka and Dr Graham Ussher dated 1 September 2025.

[245] Dr Matuschka reiterated the widespread nature of the anticipated settlement and the fact that differential settlements (tilt of up to 1:200) are not expected to be noticeable within the steep stream channels.

[246] Dr Ussher considered that the "…magnitude of potential subsidence in the WUG forest area would be, in my opinion, inconsequential to the integrity of frog habitats or frog populations in the WUG forest area."

[247] With respect to the WUG Access Tunnel, OGNZL indicated that settlement effects on NZTA infrastructure will be mitigated by the depth of the tunnel (in the lower andesite), which has been shown to limit damage to surface infrastructure. They proposed to continue the settlement monitoring of State Highway 25 (SH25) which is already in place and which is (and will be) managed by the dewatering and settlement monitoring plan.

[248] The OGNZL response to Mr and Mrs Ross referred to the expected level of settlement (10-100 mm) set out by EGL (2025f) at low tilts, resulting in no expected damage.

[249] The response to comment from Ms Gloria Sharp around blasting and vibration remains relevant to Mr and Mrs Ross as well in that: "…the company has a 'We Break, We Pay' procedure in place to assist owners if they believe their property may have been damaged. As part of this process, if it is determined that property damage is attributable to the applicant's activities, the company will remedy the damage at our cost. The process includes provision for a third party to investigate the complaint for both the homeowner and the company, at OGZNL's cost."

Statutory instruments

[250] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[251] Overall, we are satisfied that the ground settlement and subsidence effects have been appropriately addressed within the Application and its supporting documents. Subject to the imposition of appropriate conditions of consent (including those amendments set out below)

we find that ground settlement and subsidence effects will be appropriately avoided, remedied or mitigated

Conditions

[252] There remain some areas where amendments to conditions to address the concerns of NZ Transport Agency Waka Kotahi (NZTA) and HDC do not appear to have been made. In particular, OGNZL disputed the suggestion that the dewatering and settlement monitoring plan should be applied to Area 1 (comprising the WUG and the WUG Dual Tunnel).

[253] The Panel has considered the view of OGNZL as well as the comments of HDC who considered that some form of surface settlement monitoring needed to be included for the WUG to address the matter of surface stability above stoping.

[254] Given that a significant part of the dewatering assessments and the subsequent ground settlement assessment were based on a conceptual ground model for the site, there are some uncertainties that remain which could alter the level of effects predicted. Accordingly, the Panel finds that there must be some form of validation of the actual dewatering and settlement performance against what has been modelled. The monitoring proposed by HDC (of vent shafts and drill collars) will assist in this regard and may also be used to assess the long-term effectiveness of stoping at mine closure.

[255] The Panel finds that the modifications to the conditions proposed by HDC present a reasonable means to validate performance and therefore these recommended changes have been adopted to Combined HDC and WRC conditions C43 and C45.

[256] We also agree with NZTA's view that the owners of assets that may be impacted by settlement effects beyond what is anticipated should be informed, and we have amended Combined HDC and WRC condition C46 accordingly.

E7: Effects on Frogs

[257] OGNZL addressed terrestrial ecology effects in section 6.6.1 of the AEE. Further details are in technical report B.37 by Boffa Miskell, for WNP areas within the CFP and Willows Road Farm, report B.36 by Bioresearches, for all other WNP areas, and report B.47 by RMA Ecology for a summary of ecology effects for all areas within the WNP. Additional technical reports on native frogs include B.38 by RMA Ecology (modelled effects and compensation focus), B.39 by Bioresearches (vibration and flow depletion effects focus), reports B.41 and B.42 by Lloyds Ecological Consulting (population estimates and effects on Archey's and Hochstetter's frogs, respectively), and B.58 by Lloyds Consulting (frog monitoring plan).

[258] Relevant management plans include: ELMP-WUG and ELMP-WA by OGLNZ, which cover ecology and landscape; CFP Kauri Dieback Plan and Thames CFP Kauri Dieback Plan by Boffa Miskell regarding kauri dieback; and Wharekirauponga Pest Animal Management Plan (WPAMP) by Boffa Miskell regarding a pest animal control programme.

[259] We address effects on frogs separately from broader terrestrial ecology effects (including vegetation clearance, invertebrates, lizards, birds, and bats). That is because it was clear from the Application and comments received that impacts on frogs – particularly Archey's frog – presented potentially the greatest uncertainty and geographical scale of risk of ecological effects.

General discussion

[260] Archey's frog and Hochstetter's frog both have a Department of Conservation threat status of "At Risk – Declining". Within the WNP area, both frog species have only been recorded in the CFP. A single, juvenile Hochstetter's frog was detected within the Willows Road Farm area by Boffa Miskell (report B.37), but it was in a waterway unaffected by the WNP.

[261] Vibration and dewatering were the two key potential adverse effects on frogs identified in OGNZL's AEE and technical reports. Bioresearches (report B.39) assessed potential effects of vegetation clearance were low to very low, because drill sites and vent shaft sites would avoid locations where surveys had identified high frog numbers (defined as five or more frogs

per search area), and because any remaining frogs would be captured and relocated (i.e., "salvaged"). Potential impacts of noise and air discharges were considered negligible to low, due to a combination of the small and localised area affected, relatively low noise levels, and acceptable air quality in the discharges. We agree with the Applicant's assessment.

[262] Site selection criteria for drill and vent shafts were provided in Appendix 4 of report B.37 by Boffa Miskell, while frog salvage details were provided in Appendix 3 of the same report. Site selection criteria were revised following ecology conferencing (we discuss that further below).

[263] Bioresearches (report B.39) noted that vibrations from underground blasting could disturb frogs over an area of approximately 315 ha within the CFP, assuming a vibration disturbance threshold of 2 mm/s.[20] They concluded that the vibrations were unlikely to result in measurable effects on frog populations because: the area affected is small relative to their full distribution range; vibrations will be intermittent and at levels unlikely to result in impacts on frogs and their reproduction; and because frog populations persisted in the vicinity of nearby Golden Cross mine, where similar blast vibrations would have been experienced.

[264] Bioresearches (report B.39) stated that flow reductions in streams could potentially impact frogs that live on the edges of forested streams.[21] They concluded that flow reductions were unlikely to have measurable effects on frog populations because predicted reductions in flow and wetted width were small and therefore unlikely to negatively impact semi-aquatic Hochstetter's frog habitat quantity or quality (i.e., food resources, refuges, breeding habitat) in lower stream catchments, and would not affect higher order catchments where most of the Hochstetter's frog population occurred. They further concluded that potential dewatering would have no impact on Archey's frogs as their more terrestrial habitat was not expected to be affected by potential flow reductions.

[265] To address uncertainty regarding predicted effects on frogs, OGNZL proposed a combination of pest animal control and research funding. The 632 ha Wharekirauponga Animal Pest Management Area (WAPMA) comprises the potential vibration impacted area (314 ha)

---

20 For context, Section 8.3.2.1 of the Operative Hauraki District Plan notes that transient vibration levels of 0.5 to 2 mm/s would be slightly perceptible (barely noticeable) to humans, while greater vibrations would be distinctly perceptible (noticeable).

21 Report page 4.

and an adjacent area of higher quality frog habitat (318 ha), which is not subject to potential vibration impacts.[22] The rationale for undertaking pest control as a form of mitigation or offsetting is that there are high numbers of pest animals in the area, including rodents, possums, mustelids, feral cats and pigs. Hence, OGNZL has "a high degree of confidence that undertaking intensive pest control will result in substantial and widespread benefits to flora and fauna" (report B.40 by Boffa Miskell).

Comments received

[266] Frogs were addressed in the comments from DOC, HDC, TCDC, Waikato Conservation Board, Forest and Bird, Coromandel Watchdog and iwi.

[267] In its s 51 report DOC responded to issues related to concessions, wildlife approvals, complex freshwater fisheries activity approvals, and access arrangements. Key points in their report included: they had commented on earlier (outdated) sets of proposed conditions (dated 25-29 July 2025) and issues remained unresolved; the proposed site selection criteria within the CFP did not adequately address effects on frogs and lizards; and they requested expert conferencing to discuss mitigation methods. They also raised more general concerns about the use of management plans, which we address in section E1 of the Decision.

[268] In its s 53 comments, DOC expressed concerns about the scale, feasibility and effectiveness of proposed mitigation, offsetting and compensation measures (including pest control), habitat enhancement and research funding. In particular, DOC "disputes the assumption that frog populations will triple as a result of pest control, on the grounds of limited evidence and overly optimistic modelling assumptions". DOC's key unresolved issues were "in relation to the robustness of management plans, enforceability of consent conditions, and adequacy of monitoring and adaptive management frameworks."

[269] In its covering letter, HDC stated that they supported the proposed WNBP and the inclusion of consent conditions that linked the WNBP to the Fast-track consents. They also stated it would be important that DOC and iwi were involved to co-design WNBP outcomes, and that pest control activities have available funds, targets, monitoring, and reporting to demonstrate effectiveness.

[22] Report B.40 / H.05 – Boffa Miskell 2025.

[270] Attached to the HDC report was a technical memo by Alliance Ecology that reviewed terrestrial ecology aspects.[23] They found that, "Overall, the description and assessment presented by OGNZL of terrestrial ecology values, project effects, and proposed measures to manage adverse effects are generally consistent with good practice and are likely to generate net positive outcomes for indigenous terrestrial biodiversity." They also suggested numerous changes to proposed consent conditions and their relationship to management plans, to improve certainty regarding biodiversity outcomes.

[271] In its report, TCDC noted that they do not have inhouse experts in ecology and that they would prefer not to have the burden of certifying ecology-related management plans, if the costs of external experts could not be passed on. Numerous amendments to the consent conditions were also suggested.

[272] The Waikato Conservation Board concluded that "…the proposal, as currently presented, does not sufficiently uphold the statutory purpose of conservation land under the Conservation Act, nor does it align with the objectives of the Waikato CMS (Conservation Management Strategy) 2014-2024". Furthermore, they stated that, "The ecological uncertainties, particularly regarding endemic frog populations and groundwater impacts, warrant a precautionary approach. The Board recommends that any consent granted be subject to stringent conditions, including robust ecological monitoring, adaptive management, and full alignment with DOC's conservation priorities". Regarding vibration impacts on frogs, they concluded that, "It needs to be established whether this level of impact from a commercial activity is appropriate in land specifically designated as a conservation park."

[273] Forest and Bird stated that frog population estimates provided by OGLNZ were not robust and over-estimated frog numbers, leading to a false conclusion that the magnitude of effects was small relative to the population size. They also raised concerns about the size and uncertainty of effects relating to vibration, ventilation shaft discharges, noise, dewatering, survival post-translocation, vegetation clearance and drilling, effectiveness of the pest management strategy, and cumulative effects. They considered that potential effects were "very high". Forest and Bird commented that the potential risks to frogs could not be remedied by consent conditions. Forest and Bird provided some preliminary feedback on consent

[23] OGNZL – Terrestrial ecology review, Waihi North Project FTA application, Alliance Ecology, 21 August 2025.

conditions and further requested the opportunity to comment on conditions in more detail if the Panel chose to approve the Fast-track Application.

[274] Coromandel Watchdog included in their comments frog evidence from the following: Hamish Kendel (Natural Solutions NZ); Nic Conland (Taiao – Natural Resource Management Ltd); Dr Luke Easton (DOC); Professor Bruce Waldman (Oklahoma State University and ex University of Canterbury); and Sara Smerdon (Mahakirau Forest Trust). Principal concerns mirrored those of other commenters, including: frog population estimates in the Application being unreliable and overstated; uncertain vibration impacts; dewatering impacts; and inadequacy of proposed pest control.

[275] Ngāti Porou ki Hauraki commented that frogs were taonga species and they raised concerns regarding effects of noise, vibration, and vegetation clearance on frogs.

[276] Ngāti Pū commented that frogs may be affected by construction activities in the Willows SFA and construction of the GOP. Ngāti Pū also raised concerns about effects of disturbing and relocating frogs and other taonga species, and impacts of waterway reclamation and diversion on frogs and other taonga species.

OGNZL response to comments

[277] In their response to comments, OGNZL included a report by RMA Ecology on frog population modelling, and statements of evidence from Mr Dylan van Winkel (Bioresearches), Mr Brian Lloyd (Lloyds Ecological Consulting), Dr Graham Ussher (RMA Ecology), Ms Katherine Muchna (Boffa Miskell), Dr Helen Blackie (Alliance Ecology), Ms Kate Feickert (Bioresearches), and Ms Cassandra McArthur (OGNZL). Their response also included numerous amendments to their original proposed set of conditions.

[278] The thrust of evidence from both Mr van Winkel and Dr Ussher in response to comments was that there was sufficient evidence to conclude that effects from vibration or dewatering will be small. Neither expert introduced new technical evidence, but referred to technical reports attached to the Application, and the new modelling report by RMA Ecology. Regarding comments on conditions, Mr van Winkel agreed with HDC proposed condition C176(b)(i), to include monitoring of vibration effects on Hochstetter's frogs and condition C176(c), requiring two years of baseline monitoring for frogs.

[279] Dr Ussher agreed with numerous suggested changes to conditions by Alliance Ecology for HDC. However, he disagreed with their proposed new additions to HDC condition C171(k), which would set population increase targets of 2.3 and 4 times existing population estimates for Archey's and Hochstetter's frogs, respectively, within five years of implementing the pest animal control programme. Rather, he suggested an alternative target of 3 times current population size for both frog species, after 15 years of pest control, which he considered more realistic.

[280] Ms Muchna responded to numerous comments from DOC and others, some of which resulted in changes to OGNZL's proposed conditions. Ms Muchna acknowledged iwi concerns that protocols for frog translocation had not been adequately informed by tikanga and Mātauranga Māori, and stated that she "would welcome an opportunity to discuss these matters in detail."

[281] Dr Blackie addressed DOC concerns regarding pest animal control. She disagreed with DOC that the proposed area of pest animal control was too small, citing 10% annual increases in Archey's frog abundances in a study of Whareorino Conservation Area, which had a similarly sized pest-control area, albeit with less intensive pest control than is proposed for the CFP. Regarding the spatial scale of proposed control of ungulates (hoofed animals, such as pigs, goats, and deer), Dr Blackie stated that DOC's concerns could be addressed by an increase in the buffer zone of the WAPMA from 1 to 2 km from the core area, to further reduce reinvasion risk, particularly from pigs. Regarding DOC concerns about the frequency of application of ground-based toxins to control pests, Dr Blackie suggested toxin baiting could increase from once to twice a year, to increase efficacy. As to mice control, Dr Blackie disagreed with DOC's suggestion that bait stations should be placed at a maximum 25 m apart, as it would result in an impractically large density of traps, and introduce a substantial toxic load to the environment. Dr Blackie also disagreed with DOC's suggestion for a pig-proof fence around the entire WAPMA. This was on the basis that such a fence would be very expensive, difficult to maintain, and the associated soil disturbance might spread the risk of kauri dieback. She did, however, note that a pig-proof fence was proposed for the Native Fauna Release Area.

[282] Ms McArthur addressed DOC's concern that OGNZL proposed a 3 m buffer distance from native frogs, which is less than the 6 m buffer in the current access arrangement. Ms

McArthur stated that the reason for reducing the buffer distance was essentially because the existing conditions were impractical. She gave the example that, of 102 sites surveyed under the existing access arrangement, only 10 sites met the requirements of that arrangement (ie, four or less frogs within a 20 x 20 m survey area, a 6 m buffer from any frog and infrastructure, and at least 25% connectivity to surrounding habitat). Ms McArthur opined that if the buffer distance were reduced, it would result in less frog disturbance and handling, due to fewer sites being rejected.

[283] Ms McArthur also addressed DOC's concern about removing the requirement for three nights of frog survey ahead of vegetation clearance, which is in the current access arrangement. The alternative proposed by OGNZL is to instead rate site suitability based on a multi-criteria assessment, which includes information on frog habitat. Ms McArthur noted that frog salvage and relocation will still occur for frogs at drill sites where there are low densities (four or less frogs), and that sites will be avoided if there are higher frog densities (five or more frogs).

Ecology conference outcomes

[284] An expert ecology conference convened by the Panel was held in Auckland on 13 October 2025, and it was attended by representatives from OGNZL, DOC, HDC, and the Panel. The focus of the conference was on terrestrial ecology matters within the CFP. Following the conference, OGNZL provided additional information showing the impact of reducing frog buffer distances from 6 to 3 m for drill site selection. In summary, they found that an additional 10 of the 102 sites surveyed would have been deemed suitable, if a 3 m buffer were applied rather than a 6 m buffer, resulting in a total of 20 out of 102 sites surveyed being suitable.

[285] Following discussion from all parties present, the following clarifications and amendments to conditions were provided by OGNZL: conditions to require the cessation of vegetation clearance at drill sites if evidence of frog brooding is found; no felling of trees at drill sites with a 50 cm or greater diameter at breast height; improved clarity as to how the site selection criteria is applied; improved clarity regarding protection of connectivity of frog buffer habitat to areas adjacent to work areas; ecology survey area sizes for site selection; vegetation clearance areas; an increase in the buffer zone of the WAPMA from 1 to 2 km from the core area, with aerial application of 1080 within the 1-2 km buffer zone to reduce reinvasion risk

from pigs; and greater setbacks from any active bird nests detected during pre-vegetation clearance tree surveys.

Statutory instruments

[286] We discuss the relevant statutory instruments in Parts G, H and I including specific sections of the statutory documents prepared under the Conservation Act that are referenced in DOC's ss 51 and 53 comments.

Panel findings

[287] In comments on the draft conditions, the Waikato Conservation Board (WCB) criticised the reasoning in the draft Decision. Although there is distracting rhetoric and hyperbole in the WCB comments, the points they made provide a framework within which we can address the primary concerns that they and others have advanced in relation to effects on frogs. We elaborate below on the reasons for the approach we adopt.

Archey's frog concerns

[288] The specific concerns advanced by the WCB are as follows:

(a) That OGNZL assumes a consistent frog density in the CFP (paras 20, 21, and 22) whereas the 315 ha that will be affected by vibrations is a "hotspot" for Archey's frog (paras 24 and 29 a).

(b) There is no evidence of effects on frogs of vibrations over 2mm/s.

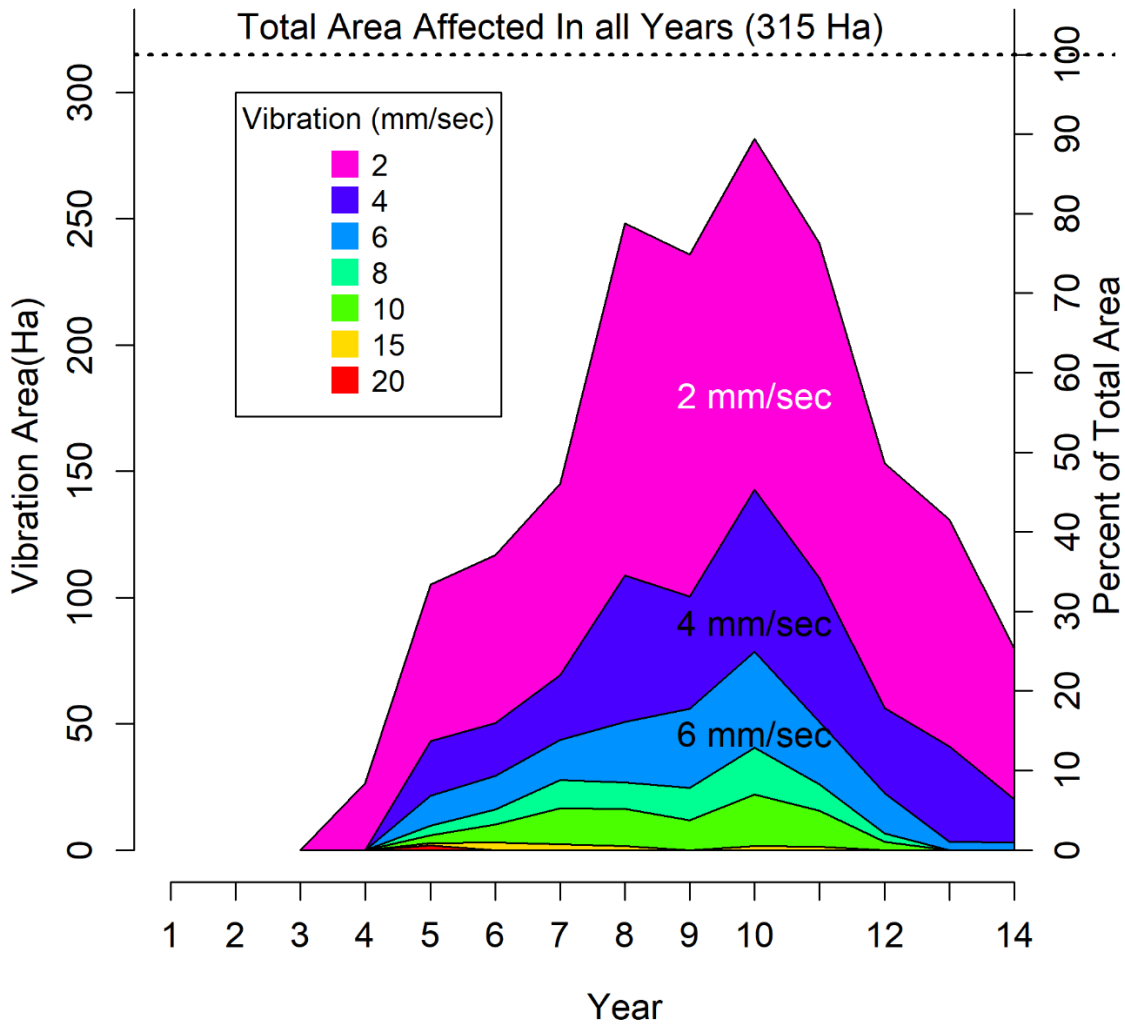
(c) OGNZL's assessment of risks are inadequate and not conservative, and the potential benefits of pest management are overstated.

(d) By at least implication that the conditions do not build in appropriate responses if significant negative impacts are detected.

[289] The evidence produced by OGNZL is to the effect that the 315 ha that will be affected by vibrations (along with some vegetation clearance) is not ideal Archey's frog habitat and the general drift of their evidence implies that, given the likely Archey's frog population and their

wide dispersal across the CFP, adverse effects on Archey's frogs within the vibration area would not have a material effect on the population as a whole.[24] However, that is not the primary basis on which OGNZL seeks to deal with the issue which is rather heavily focused on Archey's frogs within the vibration-affected area.

[290] The vibration area will be affected during years 4 – 14 of the WNP. The graph below indicates the sizes of the areas affected and vibration levels:[25]



[24] Archey's Frog distribution is discussed in Bioresearches B.39 at 15. The proportion of Archey's frogs living there is estimated at less than 1% of the total Coromandel population.

[25] See Bioresearches, B.39 at 25.

[291] Vibration effects will be experienced intermittently between 7 and 15 times a week.[26]

[292] Whether Archey's frog can perceive and are sensitive to vibrations is unknown. It is, however, possible. It is likewise possible that their responses may involve some risks of harm.[27]

[293] OGNZL's experts have expressed the view that it is unlikely that Archey's frogs within the vibration-affected area will be adversely affected. Material to their conclusions in this regard is the evidence as to the Golden Cross Mine surveys which revealed no evidence that Archey frogs that experienced vibrations up to 10mm/s left or perished in the affected areas.[28] Also material is the willingness of Archey's frogs to live within 4 m of roadways, experiencing vibrations of less than 2 mm/s.[29] Observations of Archey's frogs in captivity suggest that brooding males are tolerant to low level disturbance.[30]

[294] None of this evidence is conclusive. For example, the Golden Cross Mine generated vibrations that in general were less than those that will be experienced in the vibration-affected area in the CFP. The result is that although the contextual evidence indicates that harm to Archey's frogs from vibrations is unlikely, it is of insufficient cogency to exclude the possibility of such harm.

[295] OGNZL's primary response to the resulting uncertainty is pest management within both the vibration-affected area and a similarly sized area of what is said to be better Archey's frog habitat. OGNZL's experts are confident that this pest management will provide positive effects in terms of numbers of Archey's frogs. Their confidence stems from the presence of very high pest densities in the area, the positive response of Archey's frog population to pest control in the Whareorino Conservation Area, and the greater intensity of pest control proposed for the WNP. Monitoring is also proposed, given the significance of the frog population. If monitoring reveals significant adverse effects on the Archey's frog, there are mechanisms in both the HDC Conditions and the Wharekirauponga Access Arrangement for those effects to be remedied by varied conditions.

---

26 Bioresearches B.39 at 24.
27 Bioresearches , B.39, at 32.
28 Bioresearches, B.39 at 34.
29 Bioresearches, B.39, at 17.
30 Bioresearches, B.39, at 38-39.

[296] There is one other aspect of this which is also worth mentioning. OGNZL has not sought a Wildlife Authority that would authorise causing adverse effects to frogs by vibrations. This is addressed in Part J. We can only deal with the Application before us and we have not had any comments or argument as to the implications of this. Our preliminary thoughts are that if monitoring results supported a conclusion that underground blasting was "disturbing" frogs in the sense discussed in Part J, a further Authority would be required under the Wildlife Act. If so, this would be another response that could be triggered by monitoring results.

[297] In summary, we:

(a) accept that it is unlikely that there will be adverse effects on Archey's frogs associated with vibrations;

(b) are of the view that the pest management proposed is an appropriate precautionary response to the possibility that there may be adverse effects, in effect off-setting in advance the positive effects of pest management against the risks of harm; and

(c) the conditions provide for appropriate monitoring and response mechanisms that can be adopted if necessary.

Hochstetter's frog concerns

[298] The comments from the WCB include discussion around dewatering effects from the WUG on frog habitat within the CFP and the level of uncertainty in the assessments (at paragraphs 28 and 29 c). In particular, WCB postulate a lack of recognition on the part of the Panel of the "cascade of uncertainty" with respect to the conceptual nature of the groundwater model, the uncertainty in dewatering effects and uncertainty in effects on frog habitat.

[299] OGNZL have identified in the Application that there are expected to be effects on surface water flows within the Wharekirauponga Stream. These have been modelled as a 2-13% reduction in 7 day mean annual low flow (MALF). Additionally, modelled reductions in 7 Day MALF approach the lower end of the current estimated Annual Low Flow (ALF) for the Edmonds and Thompson catchments.

[300] Modelling by GHD (report B.32) predicted that a reduction in MALF of 2-13% would result in a reduction in wetted width by 0-5% (i.e., a negligible to small effect). The report noted that, "As per the modelled reductions in flows, the calculated percentage reduction in wetted width are considered conservative." Potential flow-related effects on Hochstetter's frogs were assessed by Bioresearches (report B.39), who noted that the predicted flow reductions remain well within the natural range of low flow variability experienced by frogs in the area, and they therefore did not anticipate any effects on Hochstetter's frogs. Bioresearches acknowledged that there is uncertainty inherent in their predictions, and they considered that the proposed pest control programme would more than adequately compensate for this uncertainty.

[301] While there is uncertainty in the modelling, there is also conservatism in the modelling as set out below:

(a) WWLA note (report B.27) that "…model results are conservative in that baseflow loss is assumed to be constant, the modelled predictions during mining utilise peak baseflow loss estimates, and the 5th percentile predictions assume that peak mining is associated with low annual rainfall and the upper end of the baseflow estimates."

(b) WWLA also note that the modelled effects on surface water baseflows have been determined for the entire catchment, when the effect is only expected to occur over a "…cumulative 1,200 m of second and third order streams.".

The recognised uncertainty in the models is addressed in the conditions and associated management plans.

[302] The draft Wharekirauponga Underground Mine Water Management Plan sets out an extensive monitoring network that allows for verification of modelling outcomes, while also providing real time alert and response triggers to low flow surface water events through an alarmed telemetry system.

[303] Contingency measures set out in the draft Wharekirauponga Underground Mine Water Management Plan include:

(a) Additional grouting of parts of the WUG to reduce groundwater inflows.

(b) Supplementing stream flows with additional water sourced from local borehole water or mine intercepted groundwater.

(c) Reinjection of mine groundwater inflows into the shallow groundwater system.

[304] Condition UG10 (among others) specifically provides for the management of uncertainty that the WCB appear to be seeking. This condition requires the consent holder to implement the documented mitigation measures defined in the Wharekirauponga Underground Mine Water Management Plan in the event that a "respond" level is triggered for stream flows.

[305] The Panel is satisfied that while there is necessarily a degree of uncertainty in groundwater models and associated dewatering outcomes, these models will be verified and refined as more data is gathered during initial underground construction of the WUG. Further, the uncertainty in the models is balanced to a degree by the conservatism in the models and is otherwise managed appropriately by the proposed conditions and management plans.

[306] The Panel is also mindful of the expert review undertaken by Alan Pattle on behalf of WRC, who was satisfied that the conditions are *"*... well structured and comprehensive ..." and that "…the conditions are sufficiently rigorous to ensure that any unexpected effects will be addressed and mitigated in a timely manner*"*.

[307] In short, we acknowledge that there is uncertainty in the modelled effects on frogs. However, we disagree with the suggestion that the Applicant's assessment represents a 'cascade of uncertainty'. Rather, we consider that the assessment is based on conservative assumptions throughout, and that residual uncertainty is suitably addressed via monitoring and the pest control programme.

Appropriate activity in a Conservation Park?

[308] The WCB also asked the question, "... whether this level of impact from a commercial activity is appropriate in land specifically designated as a conservation park."

[309] This question is best addressed in the context of the statutory decision-making criteria discussed in later Parts of this Decision.

Where we get to

[310] Core issues are the rarity and uniqueness of the frog species affected, and uncertainty, both in terms of the degree to which frogs will be affected by the WNP and the ability to mitigate, offset, or compensate for effects, should they occur.

[311] We agree with some commenters that the benefit of the proposed animal pest control programme to frogs may be smaller than stated, due to limited supporting data from elsewhere. Hence, we placed little weight on OGNZL's frog modelling results, given the model's sensitivity to input assumptions, particularly the likely compensation benefit of pest control. However, there is little doubt that the proposed pest control will benefit frogs and other native plants and animals, even if the magnitude of the positive effects is uncertain. As well, OGNZL have committed to achieving at least a threefold increase in frog numbers over a 15-year period (HDC Consent conditions 168 and 171C). If that objective is not achieved the conditions may be reviewed.

[312] Our overall assessment is that the vibration risk to frogs is small and can be addressed by the combination of consent conditions and associated management plans.

[313] We also agree with OGNZL that the risk of dewatering effects on Hochstetter's frogs is small and can be addressed through consent conditions. That is principally because OGNZL has presented compelling groundwater and surface water evidence indicating that the scale of the potential dewatering effect on stream hydrology is small, if uncertain.

Conditions

[314] In response to comments received and ecology conferencing OGNZL made extensive amendments to ecology-related conditions . We find that the amendments improve clarity and provide greater certainty regarding effects, reporting requirements, management plan certification, and management actions.

E8: Effects on Other Terrestrial Ecology

[315] Vegetation clearance and associated impacts on native fauna and their habitats in the CFP were identified as key potential effects in the AEE. It stated that noise from helicopters and drilling, plus air discharges from vent shafts and lighting, may all have localised impacts on native animals in the CFP. However, the AEE concluded that potential effects of noise, air discharges, and lighting on fauna will be small and localised. We agree with that assessment. Spread of kauri dieback into the CFP was also raised as a potential issue in the AEE, but it was concluded that the spread can be adequately managed by following biosecurity protocols, similar to those already used as part of OGNZL's access arrangement with DOC. We also agree with that assessment.

[316] Clearance of vegetation and associated habitat within the CFP and the Willows Road Farm was assessed in report B.37 by Boffa Miskell and elsewhere in the WNP area in report B.36 by Bioresearches. A total area of 26.61 ha of vegetation clearance is proposed, including:

(a) 0.66 ha within CFP (Area 1);

(b) 0.25 ha within Willow Road Farm (Area 2);

(c) 6.5 ha within the footprint of GOP (Area 5);

(d) 9.1 ha within the footprint of the NRS (Area 6); and

(e) 10.1 ha within the footprint of TSF3 (Area 7) – including 8.3 ha within SNA 166

[317] Report B.37 by Boffa Miskell considered the effects of vegetation clearance of 0.66 ha within the CFP will be minimised by use of site selection criteria to avoid valued flora and fauna together with the salvage and relocation of lizards, frogs, and Threatened or At Risk native invertebrates to a 5 ha Native Fauna Release Area. They concluded that the effects of vegetation loss would be offset by replanting and enhancing natural regeneration of an approximately 27 ha area on the northeast ridge and the entire forest boundary at Willows Road Farm. For Willows Road Farm, report B.37 by Boffa Miskell stated that the design and layout of surface structure was developed to avoid native vegetation as much as possible. They

assessed the 0.25 ha of mixed native and exotic vegetation to be cleared to be of low ecological value, and they considered that the effect of the vegetation loss would be adequately offset by revegetation of approximately 0.55 ha of riparian areas in the vicinity.

[318] Report B.36 by Bioresearches considered that the main terrestrial ecology effects for Areas 5, 6, and 7 were associated with removal of "low to moderate value" vegetation and habitats, which were predominately comprised of pine plantation and native plantings. They also considered that vegetation removal would result in the loss of "common native flora and fauna, increased edge effects, and reduced connectivity between these planted or regenerating habitats", and also that, "Threatened and 'At Risk' species expected to be affected by the proposal include kauri trees (*Agathis australis*). 'At Risk' copper skinks are expected to be affected where they occur, including within largely planted habitats at the proposed Gladstone Open Pit (GOP)". Bioresearches concluded that effects could be managed and mitigated by: precautionary pre-clearance bat surveys; vegetation removal outside the bird breeding season; lizard capture, relocation, and habitat enhancement; and offset mitigation in the form of planting and restoration for the loss of vegetation and lizard habitat. They concluded that the WNP would have an overall positive effect on terrestrial ecology, following mitigation and biodiversity offsetting.

[319] The combined package of biodiversity offsetting for the terrestrial ecology effects described above is summarised in the AEE as follows:

(a) CFP: 0.66 ha of vegetation loss offset by vegetating 21 ha on the north-east ridge of Area 2 and replanting approximately 5.5 ha along the boundary with Willows Road Farm;

(b) Willows Road Farm: 0.25 ha of vegetation loss offset by 0.55 ha of riparian planting nearby; and

(c) GOP, NRS and TSF3: 25.7 ha of vegetation loss offset by 20 ha of restoration plantings site-wide and 17.5 ha of restoration plantings to offset 8.3 ha of SNA 166 (i.e., a total of 37.5 ha of offset plantings).

[320] In addition to the biodiversity offsetting summarised above, OGNZL proposes to fund the WNBP within an area of up to 18,870 ha of the CFP for a minimum 10 year term. The objectives of the WNBP are to provide long term ecological benefits, over and above the management of mining effects, and to assist tangata whenua in their exercise of kaitiakitanga. This includes an initial payment of $2.4m and annual payments of $0.6m thereafter, the formation of a WNBP oversight group, development of a project plan, and effectiveness reporting.

Comments received

[321] Effects on terrestrial ecology were addressed in the comments from DOC, HDC, TCDC, Waikato Conservation Board, Forest and Bird, Coromandel Watchdog of Hauraki, Ngāti Porou ki Hauraki, Ngāti Tara Tokanui, and Ngāti Pū. We do not repeat the comments from HDC, TCDC, or the Waikato Conservation Board here, as they are already summarised above in section E7 of this Decision.

[322] In its s 51 report, DOC noted that it was "generally happy" with the Willows Area Concession proposal. For the Northern Area Concession (in CFP), aside from concerns regarding frogs and management plans in general, they expressed concern that the proposed conditions did not include a provision for DOC to request an amendment to the KDMPs, if the plan's objectives were not being met. DOC's s 53 report was largely focussed on effects on frogs, but also raised concerns about a lack of clarity on how ecological gains will be secured.

[323] Forest and Bird expressed concern about effects associated with vegetation clearance, habitat loss and impacts on lizards. They noted that the Coromandel Forest Park "included rare coastal forests and is valued for its diverse native flora and fauna and ecosystem services." They stated that OGNZL sought to downplay ecological effects in the CFP, and that "where ecological features are very rare, an impact on those features over even a very small area will be a very significant impact". They considered that offset mitigation was inappropriate, and that greater emphasis should be given to avoiding effects.

[324] Terrestrial ecology-related comments from Coromandel Watchdog focused on frog impacts, although some of their experts did discuss broader terrestrial ecology effects. This included evidence from Sara Smerdon (Mahakirau Forest Trust), who considered that the

Application had information gaps regarding site selection criteria, ecological monitoring and metrics, and protection of "receiving sites" (presumably referring to the Native Fauna Release Area).

[325] Ngāti Porou ki Hauraki raised concerns regarding: effects of vegetation clearance, noise and general mining activity on birds; ecological values within areas of vegetation clearance described as being lower value; effects on taonga species, including regenerating native vegetation, lizards, frogs (addressed in section E7 of this Decision), birds, and impact on wetlands (addressed in section E10 that follows).

[326] Ngāti Tara Tokanui requested that any approvals have conditions that include restoration of traditional food sources and ecosystems affected by mining activities, and protection and management of rare and endangered species, such as Te Pua o Marama (*Dactylanthus taylorii*), from habitat loss and introduced predators.

[327] Ngāti Pū commented that: vegetation clearance in the Willows Road Farm area would interfere with Ngāti Pū's ecological restoration efforts in that area; management plans lacked clarity on how Ngāti Pū values, tikanga, and mātauranga Māori will be incorporated into site design and environmental safeguards; construction of the GOP it could impact on mahinga kai and taonga species (including birds, fish, frogs, and lizards); and more general concerns about impacts of disturbance and relocation on native fauna, including frogs, lizards, and birds.

OGNZL response to comments

[328] In their response to comments on terrestrial ecology, OGNZL included statements of evidence from Mr Christopher Wedding (Bioresearches); Ms Katherine Muchna (Boffa Miskell); Ms Cassandra McArthur (OGNZL); and Dr Helen Blackie (Alliance Ecology). Their response also included numerous amendments to their original proposed set of consent conditions. Dr Blackie's evidence focussed on pest animal management, which is summarised in section E7 above and is not repeated here.

[329] Mr Wedding responded to Forest and Bird's concerns regarding loss of lizard habitat. He noted that the lizard comments largely related to effects of the GOP on copper skink, where residual effects were anticipated from the loss of "6.5 ha of predominantly planted habitat, after mitigation measures such as capture and relocation to protected, pest-controlled habitats. In

response, a compensation package is proposed, comprising 11.2 ha of restoration planting contiguous with known, retained copper skink habitat, together with 4.45 ha of their existing habitat." Mr Wedding considered that the combination of salvage and offsetting and compensation will adequately compensate for the permanent loss of lizard habitat, and result in an overall net gain in suitable habitat for the species. He further stated that he had a high degree of confidence in the compensation model, because copper skink readily colonise rough grass habitats and restoration plantings.

[330] Mr Wedding also responded to Forest and Bird's concerns relating to avoidance vs offsetting of ecological effects. He considered that OGNZL had applied a suitably precautionary approach to effects management, including the following examples: lizard salvage; bat tree-felling protocols; kauri dieback protocols; providing a 10-year time limit for reaching copper skink compensation goals; and offset planting. Mr Wedding also noted that the proposal avoided key elements of SNA 166, including a kauri stand and identified moko skink habitat.

[331] Mr Wedding refuted Forest and Bird's assertion that the principles of biodiversity offsetting had not been adhered to. That is because he considered that "…the biodiversity values in question comprise relatively young, planted, exotic, or regenerating vegetation and ecosystems. These are entirely suitable for offsetting because, as early successional vegetation, they are structurally simple and consist of regenerating habitats that can be readily recreated and enhanced." He further noted that, "The results show low species richness, and in some cases, planted compositions that are inappropriate for their environment (such as kauri and rimu within the Favona Wetland area). The findings of the extensive investigations further confirm that these sites do not represent irreplaceable ecological values." Mr Wedding concluded by stating, "The biodiversity values are well understood and have been robustly assessed to inform both the effects assessment and the design of management and offsetting measures. They have been described, measured and quantified, and the proposed offset actions are well-established restoration techniques that provide a high degree of certainty regarding predicted outcomes. In this context, it is clear that the principles of biodiversity offsetting are adhered to and that the proposal will achieve appropriate, reliable, and positive ecological outcomes."

[332] Ms Muchna disagreed with Forest and Bird's comment that the AEE downplayed the impacts of vegetation clearance and habitat loss within CFP. This is because she considered those effects were highly localised and temporary. She stated that vegetation and habitats would regenerate to be "virtually indistinguishable from the surrounding forest in time." She further noted that, "In my experience undertaking fauna salvage at several drill sites in Wharekirauponga, vegetation communities are common assemblages of regenerating forest."

[333] Regarding Forest and Bird's comments on lizards, Ms Muchna stated that within the CFP only two lizard species have been recorded, in very low numbers. She further stated that it was incorrect to say that a range of lizard species were affected by the WNP, as other species such as Northern Striped Gecko have not been detected in the area. Ms Muchna also addressed iwi concerns about impacts on lizards, noting that lizards are not abundant in the CFP, that any lizards found will be translocated to the Native Fauna Release Area, and that the release area will have intensive pest control to maximise the likelihood of frogs surviving and breeding.

[334] Ms Muchna responded to Ngāti Tara Tokanui concerns about effects of air discharges on Te Pua o te Rēinga / Te Pua o Marama (wood rose, *Dactylanthus taylorii*). She stated that there were no records of *D. taylorii* in CFP, and even if they were present, the magnitude of air quality impacts on *D. taylorii* would be low.

[335] Responding to Ngāti Porou ki Hauraki concerns regarding effects of vegetation clearance and mining on birds, Ms Muchna stated that vegetation clearance within the CFP was small scale and unlikely to impact food, shelter, or nesting resources in the wider forest. Regarding noise impacts on birds from drilling and helicopter activities, she stated that any effects would be localised and temporary.

[336] Ms McArthur addressed DOC concerns that the multi-criteria analysis for site selection did not include exclusion criteria. She stated that exclusion criteria were included in proposed conditions for the Wharekirauponga Access Arrangement and the Northern Area Concession. Those criteria included minimum setbacks from streams, wetlands, and public walking tracks. The criteria also included excluding a proposed drill site if a certain number of At Risk or Threatened species were found. Ms McArthur noted that what was proposed followed a similar approach to that used in the current Access Arrangement.

Statutory instruments

[337] We discuss the relevant statutory instruments in Parts G, H and I of this Decision, including specific sections of the statutory documents prepared under the Conservation Act that are referenced in the s 51 and s 53 comments of the Department of Conservation.

Panel findings

[338] Key issues with respect to vegetation clearance effects include the total area and significance of the vegetation, habitats, and fauna affected, and the ability to avoid, remedy, mitigate, and offset effects. As outlined above, a total area of 26.61 ha of vegetation clearance is proposed, which is not insignificant. Of that total area, 0.66 ha is within the CFP, and it is of high ecological value, while 8.3 ha is within SNA 166, which is highly modified, despite its SNA status. The proposed mitigation measures are extensive and build on practices undertaken by OGNZL under their existing mining authorisations for the area. A total area of 64.55 ha of native planting across the WNP is proposed, including 26.5 ha to offset losses in the CFP and 17.5 ha to offset losses in SNA 166. Proposed pest animal control activities cover a core area of 632 ha within the CFP, with ungulate control extending to a 2 km buffer beyond that (except where the buffer intercepts land outside the CFP).

[339] In summary, OGNZL and some commenters considered that the scale of effect had been adequately avoided, remedied, mitigated, or offset, while others disagreed.

[340] Having considered all the information before us, we find that terrestrial ecology effects can be adequately avoided, remedied, mitigated, or offset. We have reached that conclusion because of the relatively small area of high ecological value affected within the CFP, the extensive mitigation measures proposed to avoid and minimise effects, and the large offsetting package proposed. We consider that the offsetting package of planting, habitat enhancement, and pest animal control will have positive ecological effects that outweigh negative effects associated with the WNP.

Conditions

[341] In response to comments and ecology conferencing OGNZL made extensive amendments to ecology-related conditions. We find that the amendments improve clarity and

provide greater certainty regarding effects, reporting requirements, management plan certification, and management actions.

E9: Effects on Aquatic Ecology

[342] OGNZL addressed aquatic ecology effects in section 6.6.2 of the AEE. Further details are in technical report B.43 by Boffa Miskell, which covers aquatic ecology effects, and report B.47 by RMA Ecology, which summarises ecology effects for all areas within the WNP. Additional detailed technical reports include B.48 by NIWA for modelled effects of stream depletion on aquatic habitat in Wharekirauponga Stream catchment, and report B.44 by Boffa Miskell, which assessed stream depletion effects on ecology. We addressed impacts of the proposed discharge from the WTP on water quality separately in section E4 of this Decision.

[343] Within the CFP, the AEE concluded that construction effects on aquatic ecology could be avoided, and we agree. Report B.44 by Boffa Miskell assessed mine dewatering effects on aquatic ecology values of the Wharekirauponga Stream and its tributaries using a combination of modelled stream flows and instream habitat modelling from NIWA (report B.48). Boffa Miskell concluded that based on the modelled small changes to low flows, mine dewatering was unlikely to result in "the loss of populations or communities of instream indigenous biota, or cause pathways for invasive species." They further stated that "effects on ecosystem function are likely to be minimal and largely undetectable compared to existing low flow circumstances." Boffa Miskell recommended a stream ecology monitoring programme to confirm that there would be no effects on the natural state of the waterways and their ecological values.

[344] Boffa Miskell (report B43) stated that groundwater models predict that mine dewatering in the CFP will result in the permanent loss of a warm water spring. They assessed the warm spring as having low ecological value due to its weak geothermal signature and lack of any unique ecological community typically associated with geothermal springs that are hotter or have more extreme chemistry. Boffa Miskell concluded that the loss of the warm spring represented a very low magnitude of effect. To offset the loss of the spring, they recommended offsetting in the form of fencing and native planting along Trib3 of the Mataura Stream.

[345] Outside of the CFP, the key aquatic ecology impact of the WNP results from waterway reclamations and diversions. A total 4.1 km of permanent and intermittent waterways will be reclaimed (i.e., filled-in), with 3.5 km of new waterway length being created. The total length of waterways affected and the associated proposed offset are summarised as:

(a) WRS: temporary loss of 558 m of Trib2 of the Mataura Stream. This will eventually be reinstated and enhanced when the WNP site is rehabilitated.

(b) GOP: permanent loss of 47 m of an intermittent gully.

(c) TSF3: diversion of approximately 2.1 km of waterway, along with the creation of a new stream diversion of 2.5 km length.

(d) NRS: diversion of approximately 1.4 km of waterway, along with the creation of a new 0.7 km long diversion.

[346] The effects of these activities were considered overall positive. The reason for that was the permanent loss of 0.6 km of waterway would be offset by restoration of 7.6 km of stream margins along the Mataura Stream and Ohinemuri River catchment, principally in the form of riparian planting and fencing.

Comments received

[347] In its s 51 Access Arrangement report, in relation to the CFP, DOC stated that the loss of the warm spring was a "…significant impact given the spring would cease to exist. However, the impact on freshwater biodiversity is likely to be low due to the composition of the spring and the lack of representative freshwater invertebrate species present." They concluded that although there were uncertain effects from pump water takes, "All other conditions relating to the management of freshwater effects are appropriate." In its s 53 report, DOC expressed concern regarding: the impacts of waterway reclamation on habitat quality and aquatic biodiversity; the relative quality of diverted waterways; and uncertainty about the scale of proposed offsetting.

[348] Attached to the WRC comments was an advice letter by Dr Ngaire Phillips of Streamlined Environmental[31] that reviewed freshwater ecology aspects. In reviewing OGNZL's assessment of dewatering effects in the CFP, Dr Phillips noted the uncertainty in modelled effects on surface flows and expressed concern about the speed with which mitigation measures would be implemented if stream depletion effects were detected. She posed

[31] Letter from Dr Ngaire Phillips of Streamlined Environmental to Sheryl Roa at Waikato Regional Council, dated 19 August 2025.

numerous questions about OGNZL's proposed consent conditions. However, Dr Phillips concluded that, "… any unexpected effects are likely to be appropriately addressed through the proposed baseline and ongoing monitoring, and the proposed adaptive management approach."

[349] Key concerns raised by Fish and Game were the impacts of stream habitat loss through reclamation and the adequacy of the associated compensation, and impacts of the Willows Collection Pond discharge on trout spawning habitat in Mataura Stream.

[350] Ngāti Pū raised concerns about the impacts of mine construction and operation on water quality, impacts of waterway reclamation on taonga species and mahinga kai such as tuna (eel). They requested that site rehabilitation plans include planting of indigenous species including harakeke/flax (*Phormium tenax*), raupō (*Typha orientalis*), pukio (*Carex secta*), purei (*Carex virgata*). Ngāti Pū requested involvement in all "site selection, design, and monitoring of all damming and diversion activities".

[351] Ngāti Porou ki Hauraki expressed concern that "dewatering or contamination, especially in tributaries of Ohinemuri River which commences from puna on NPkH whenua and is joined by other tributaries into the Karangahake catchment, have not been adequately assessed." They also raised concerns about the impacts of the salvage and relocation of taonga species during construction, and the impacts of waterway reclamation.

[352] Ngāti Tara Tokanui requested that any approvals have conditions that include adaptive management measures to address potential dewatering impacts, and mapping and protection of warm springs.

[353] Forest and Bird expressed concern about the impacts of dewatering on springs and streams in the CFP. They also pointed out that, although monitoring was proposed in relation to potential dewatering effects in the Wharekirauponga Stream catchment, no monitoring was proposed in relation to dewatering effects of the Dual Tunnel on the Waiharakeke Stream. Forest and Bird stated that the lack of monitoring was "… unacceptable and does not account for effects that may have low probability but high potential impact, including dewatering of wetlands and other waterbodies." They also considered there were significant effects from the proposed waterway reclamation outside of the CFP, and that the proposed offsetting was inadequate.

[354] Coromandel Watchdog submitted statements of evidence in relation to aquatic ecology effects from Dr Mike Joy and Dr Russel Death, both from Victoria University of Wellington. Dr Joy raised concerns regarding the loss of a warm spring in the CFP, waterway relocations, the ability to offset the effects of waterway reclamations, and potential impacts of selenium in discharge water. Dr Death questioned the scientific robustness of OGNZL's ecological assessment, and stated that effects on unique or threatened species and habitats were inadequately assessed. Dr Death was also sceptical about the ability to offset impacts of waterway reclamation by creating new watercourses and enhancing existing waterways, stating, "I think there is an extremely high probability that moving and/or recreating a stream ecosystem will not work."

OGNZL response to comments

[355] In their response to comments on aquatic ecology, OGNZL included two statements of evidence from Dr Ian Boothroyd (Boffa Miskell), one dated 1 September 2025 and the other dated 10 September 2025. Dr Boothroyd responded to comments on concerning the effects of waterway reclamation and diversion. He confirmed that realigned waterways would be designed to be ecologically functional. Regarding comments about offsetting, Dr Boothroyd stated, "In my experience, the ability to restore and/or re-create waterways to a similar or better condition and function can be fully achieved." He also listed examples where waterway diversions had been successfully achieved with ecological design principles applied.

[356] Turning to effects in the CFP, Dr Boothroyd reiterated the conclusion of Boffa Miskell (report B.43), that the warm spring had low ecological value and its loss did not represent a high impact on freshwater values. Regarding potential impacts of reduced flows in Wharekirauponga Stream, Dr Boothroyd referred to the Boffa Miskell report, stating that impacts on stream habitat would be no more than a 5% change; an effect that would be largely undetectable during low flow conditions.

Statutory instruments

[357] The primary statutory instruments are the NSP:FM and the WRP. We discuss those instruments in Part G of this decision.

Panel findings

[358] Regarding potential dewatering impacts within the CFP, we appreciate the considerable concerns raised by commentors, particularly regarding OGNZL's ability to monitor and quickly respond to and remedy and adverse effects that arise. However, having considered the proposed resource consent conditions, we consider that these effects can be adequately avoided, mitigated, or offset. For effects of waterway reclamation and diversion, we find that the combination of proposed waterway diversions and enhancements adequately offset the likely adverse effects of those activities.

Conditions

[359] The suite of monitoring conditions proposed by OGNZL include numerous requirements for monitoring, ecological enhancements, and ecological design for realigned waterways, which we consider appropriate for addressing the range of potential adverse effects on aquatic ecology.

E10: Effects on Wetlands

[360] The Favona wetland is a feature in the vicinity of the proposed Services Trench, which has already been consented and does not form part of this FTAA Application, and so is not considered further here.

[361] Key potential effects on wetlands related to the impacts of mine and tunnel dewatering activities on groundwater levels and subsequent impacts on wetland hydrology and ecology. Groundwater effects in the CFP were addressed in report B.27 by Williamson Water & Land Advisory (WWLA), in relation to the proposed WUG, and in report B.30 by WWLA, for the tunnel components. Outside of the CFP, groundwater effects on wetland hydrology were assessed in report B.26 by GHD. Wetland hydrology impacts were assessed in report B.45 by WWLA within the CFP. Impacts on wetland ecology within the CFP were assessed in report B.46 by Bioresearches and elsewhere within the WNP in report B.43 by Boffa Miskell.

[362] Within the CFP, OGNZL considered that potential effects of the mine footprint would be avoided by locating infrastructure away from wetlands. Mine dewatering and associated impacts on wetland hydrology were identified as the key issue potentially affecting wetlands within the CFP. Report B.46 by Bioresearches identified a total of 0.5 ha of wetlands that were susceptible to effects of dewatering within the Wharekirauponga Stream catchment, above the proposed underground mine. However, they concluded that no adverse effects were expected, as the wetlands are fed by rainfall and surface water inflows and so they are not dependent on groundwater inflows to sustain them. OGNZL propose to monitor wetland hydrology and ecology to address uncertainty regarding potential effects.

[363] Within the Willows Road Farm area, the 0.28 ha Mataura Wetland was identified near proposed mine activities by Boffa Miskell (report B.43). The authors noted the presence of two mature swamp maire (*Syzygium maire*) within the wetland, which have the conservation status of Threatened – Nationally Critical. They further noted that, "…many [swamp maire] populations now qualify as "Living Dead" as they persist as remnants within partially drained farmland, such as at Waihi North". The authors concluded that the specimens may recover over time if the wetland is fenced.

[364] Any potential impacts of the mine's footprint on the Mataura Wetland will be avoided by locating WNP infrastructure away from the wetland. GHD (report B.26) estimated that up to 17% of the catchment area of the wetland could be removed by WNP infrastructure, principally the collection pond, the haul road leading to the WRS and the magazine storage area. They noted that the reduced area available for groundwater recharge to the wetland may result in drier conditions within the wetland during dry summers. However, they concluded that effects were, "unlikely to be discernible from natural variability between summer conditions."

[365] To address uncertainty about potential effects on the Mataura Wetland, GHD recommended monitoring water levels in the wetland and suggested that provision of an alternate water source could be undertaken to mitigate wetland drying if considered necessary. In addition, Boffa Miskell stated that the wetland "…will be enhanced through additional planting, managed natural regrowth from existing seed banks, and weed and pest management. This area will be fenced for stock exclusion and subject to pest and weed management", and that "Swamp maire will be planted and encouraged if the seed source does not deliver the natural rehabilitation."

[366] Boffa Miskell identified the 1.0 ha Gladstone Wetland downstream of the proposed GOP. They stated that while the wetland is not within the footprint of proposed mine infrastructure, the WNP will result in the loss of approximately 0.14 ha of the wetland's upper headwater gully. GHD (report B.26) stated that excavation of the GOP was predicted to reduce groundwater levels by approximately 0.5 m at the Gladstone Wetland, with an associated 30% reduction in groundwater recharge to the wetland. GHD concluded that hydrological effects on the wetland would be "small but measurable" and that "stream augmentation or stormwater diversion can be used to mitigate the adverse effects." Boffa Miskell did not anticipate impacts on wetland ecology, because any potential impacts on wetland hydrology would be small compared with natural variability within the wetland. In addition, they noted that, "…the level control at the outlet of the wetland provides for water saturation in the wetland and buffers the wetland against more frequent periods of drying."

[367] The WRC suite of conditions includes requirements to monitor vegetation and hydrological conditions within both Mataura Wetland and Gladstone Wetland. That includes a requirement to remediate any observed impacts of the WNP on those wetlands.

Comments received

[368] Effects on wetlands were addressed in comments from DOC, HDC, WRC, Ngāti Pū, Ngāti Porou ki Hauraki, Ngāti Tara Tokanui, Forest and Bird, and Coromandel Watchdog.

[369] In its s 53 report, DOC considered that effects on the Mataura and Gladstone wetlands might be greater than stated in OGNZL's assessments. DOC also considered there was insufficient information about the proposed planting and enhancement of the Mataura Wetland. Numerous changes to wetland-related conditions were recommended.

[370] WRC included a letter from Karen Denyer of Paparewa Geological Consulting[32] that reviewed wetland aspects. Ms Denyer noted that, "the Mataura, Gladstone and Favona wetlands meet the definition of Natural Inland Wetlands (NIW) in the NPS:FM and the criteria for significance in the Waikato RPS. None of these wetlands will be directly adversely affected by the proposal but may be affected by reduced water inflow and increased sediment input." Ms Denyer recommended the addition of various new conditions, including: wetland monitoring in relation to potential effects of altered hydrology or dewatering; clarification that Mataura Wetland would be protected by fencing and will be restored; and preparation of a restoration plan to offset the loss of approximately 0.6 ha of wetlands in TB1.

[371] Ngāti Pū expressed concern about the effects of mining on wetlands in general, while Ngāti Porou ki Hauraki raised concerns regarding dewatering effects on wetlands. Ngāti Tara Tokanui requested that any approvals contain conditions that include adaptive management measures to address potential dewatering impacts, and restoration of wetlands, traditional food sources, and ecosystems affected by mining activities.

[372] Forest and Bird raised concerns about effects of dewatering on the Mataura and Gladstone wetlands, as well as effects on streams and wetlands within the CFP. They also expressed concern about the adequacy of proposed monitoring conditions and the ability to respond to any detected adverse effects.

[373] In a statement of evidence for Coromandel Watchdog, Hamish Kendell from Natural Solutions raised numerous concerns about effects on wetlands. His concerns echoed those of

[32] Letter from Karen Denyer of Paparewa Geological Consulting to Sheryl Roa at Waikato Regional Council, dated 22 August 2025.

other commenters regarding the ecological significance of wetlands, uncertainty about the impacts of mine dewatering, and the ability to mitigate effects on wetlands.

OGNZL response to comments

[374] In their response to comments on wetlands, OGNZL included statements of evidence from Dr Ian Boothroyd (Boffa Miskell) and Ms Kate Feickert (Bioresearches).

[375] Concerning potential hydrological impacts on the Gladstone Wetland, Dr Boothroyd referred to the assessment in report B. 43 by Boffa Miskell, reiterating that a level control at the outlet of the wetland provided for water saturation in the wetland and buffered the wetland against more frequent periods of drying. In relation to Mataura Wetland, Dr Boothroyd confirmed the proposal for fencing and planting of the wetland, and for a buffer of at least 10 m around the wetland.

[376] In the long term, the Gladstone Wetland will receive some runoff from southern outlet of the backfilled and capped GOP. This will remedy any loss of flow into the wetland that occurred during mining as a result of the decrease in groundwater levels and the truncation of the wetland's headwater gully. Additionally, post-closure groundwater levels are predicted to increase in the vicinity of the wetland.

[377] Responding to various concerns about impacts on wetlands, Ms Feickert considered that OGNZL's Application documents adequately assessed the significance of wetlands and potential impacts of the WNP on wetlands. She concluded that uncertainty regarding the effectiveness of mitigation measures could be addressed by wetland monitoring, which would identify if further mitigation measures were required.

Statutory instruments

[378] We discuss the relevant statutory instruments in Parts G, H and I, including specific sections of the statutory documents prepared under the Conservation Act that are referenced in the DOC's s 51 and s 53 comments

Panel findings

[379] Having considered the full range information before us, we find that potential effects on wetlands will either be avoided or will be no more than minor. Any residual uncertainty regarding potential effects on wetlands will be adequately addressed by monitoring and the OGNZL's proposed mitigation and offsetting.

Conditions

[380] A range of monitoring, mitigation, and offsetting conditions were proposed by OGNZL. We consider those conditions adequately address both the likely scale of effects on wetlands and any residual uncertainty about those effects. Consequently, we have only made a small number of minor clarifying amendments to those conditions.

E11: Landscape, Visual Amenity and Natural Character Effects

[381] OGNZL addressed landscape, natural character and visual effects in section 6.7 of the AEE and the Part B.50 Boffa Miskell report.[33] That report concluded that based on the underground nature of the WUG, landscape, natural character and visual effects within the CFP would be largely avoided. The distinctive peaks, ridges and valleys would remain intact alongside the existing broader native forest cover. No physical modification to existing streams or rivers was anticipated other than the loss of a single warm spring.

[382] Beyond the CFP, Boffa Miskell concluded the majority of the WNP would remain visually well contained and be primarily located in proximity to established mining activity, resulting in no significant increase in adverse landscape or visual effects.

[383] However, we note that substantial surface infrastructure and earthworks are required within the Willows Road site on rural land adjoining the CFP, including a further shaft raise and a portal to the underground mine with associated surface infrastructure and rock storage pad from which material from the underground mine will be deposited and later removed. The GOP and subsequent GOP TSF will substantially modify an existing working rural area and part of the sequence of rounded elevated landforms which extend to the east of Waihi. This will gradually extend mining activity adjacent to the existing Processing Plant, while remaining relatively well contained beyond Union and Winner Hills. The proposed NRS will modify a rural area within the existing Martha Mineral Zone, however it will be screened from its closest public view by a grass-planted bund along the Golden Valley Road boundary.

[384] Boffa Miskell considered that beyond the CFP, these surface elements of the WNP had been contained within working rural environments largely adjoining areas with existing mining activity. To mitigate visual amenity effects intervening topography and landcover had been retained. During operation, views of any expanded mining activity would be limited.

Comments received

[385] For HDC, peer reviewer Dave Mansergh considered the Boffa Miskell assessment was consistent with the methodological frameworks and recommendations contained in Te Tangi a

[33] Waihi North Project, Landscape, Natural Character and Visual Effects Assessment, Prepared for OceanaGold New Zealand Limited, 10 February 2025.

te Manu- Aotearoa New Zealand Landscape Assessment Guidelines.[34] Mr Mansergh considered the WNP's surface infrastructure, landform modification, and vegetation clearance would result in noticeable and often prolonged changes to the existing landscape. He recommended that the WNP's mitigation framework be strengthened by rationalising the proposed conditions, consolidating all mitigation requirements into revised versions of the ELMP-WUG and ELMP-WA, and performance standards should be introduced to guide mitigation implementation and support effective monitoring.

[386] Mr Mansergh noted there was limited assessment of private views, particularly dwellings along Willows Road, Golden Valley Road and Trig Road. He was critical of the assessment of cumulative effects. He also considered the proposed post rehabilitation and closure concept was designed to restore the landscape to a mix of ecological, amenity (visual and recreational) and rural land uses. That was consistent with current best practice in mine facility closure and landscape restoration, focusing on long-term integration of modified landforms and land uses with the surrounding environment.

[387] Nevertheless, subject to OGNZL addressing his concerns regarding conditions, Mr Mansergh concluded that the effects of the WNP on landscape, natural character, and visual amenity could be avoided or appropriately mitigated. Remediation measures will ensure the WNP remains visually contained within the established mining context, with no significant increase in adverse landscape or visual effects.

[388] HDC's planning assessment concluded that while HDC was critical of the manner in which the assessment has been undertaken, impacts on landscape, natural character and visual matters are acceptable and appropriate.

[389] HDC's planning assessment recommended that the ELMP-WUG and the ELMP-WA should be amended and resubmitted to the Panel for certification.

[390] Comments from TCDC were related to certification of the ELMP-WUG. WRC did not specifically address landscape matters. DOC considered that the landscape values of the Wharekirauponga were not expected to be adversely impacted, although noticeable to users in close proximity. Coromandel Watchdog stressed the importance of the ONLs and high value

[34] Mansergh Graham Landscape Architects.

conservation landscape and expressed concerns about impacts on the area's natural beauty. Ngāti Pū expressed concerned about permanent alterations to topography and visual character of the landscape. Several layperson commentators expressed concern about the sensitivity of the landscape and visual impacts that would be evident from their property.[35]

OGNZL's response to comments

[391] In response to HDC's peer review, OGNZL's expert Rhys Garvin agreed that landscape objectives should be made more explicit in each ELMP and those plans should include a specific landscape and visual mitigation plan addressing objectives for landscape, natural character and visual amenity effects. He also agreed that each ELMP should include checklists summarising mitigation recommendations for each WNP Area along with performance measures for each discrete plan within the ELMPs, with the performance standards clarifying how specific mitigation recommendations were to be applied to achieve the wider integrated management of effects.[36]

[392] On visual effects, Mr Girvan advised he had considered views from several adjacent dwellings to ensure the effects of the WNP were clearly understood, including the preparation of accurate visual simulations from private property that were shared with landowners. He noted an assessment of cumulative landscape and cumulative visual effects was set out in section 12 of the B.50 Boffa Miskell assessment. He suggested that once mitigations to be implemented concurrently with mining operations became established, identified cumulative adverse effects would reduce.

[393] For the visual effect of a potential 175 m high water vapour plume which might occur in association with the WUG and associated vent raise within the CFP, Mr Girvan advised that based on the very limited views of that plume that would be observed in the context of the broader vivid and striking backdrop of the Coromandel Range, the overall visual effect was assessed as very low.

[35] Including Waihi Community Forum, John Perrins, Chris Batten, Brigid and Steve Cameron and Rodney Malone.

[36] For example, the ELMP-WUG contains 'sub plans' for Terrestrial Ecology, Vegetation Remediation, Aquatic Faina Salvage and Relocation, and Kauri Dieback.

[394] Importantly, Mr Girvan considered that in the absence of further ability to modify then certify ELMPs through the FTAA process (given OGNZL wished to have those documents approved by the Panel), any gaps identified by Mr Mansergh should be subject to consent conditions and Council certification.

Statutory instruments

[395] CFP is the only mapped ONL in the HDP within the WNP area. There are no mapped Amenity Landscapes within the WNP area. No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[396] We find that OGNZL has adequately identified and assessed potential adverse effects of the WUG aspect of the WNP on landscape, natural character and visual amenity. We accept HDC's peer review conclusion that, subject to the imposition of appropriate conditions of consent, adverse effects will be avoided or appropriately mitigated. We acknowledge that the views from some private properties will alter as the WNP progresses, but for the large part (apart from the Willows SFA) that alteration will sit within the context of established mining activity.

[397] We are satisfied that OGNZL has retained existing topography and landcover as far as practicable such that during the WNP's operation, views of any expanded mining activity will be limited. Mitigation and rehabilitation measures (as specified in HDC condition 55 and the ELMPs) will ameliorate adverse visual amenity effects to the extent practicable.

[398] As outlined above, HDC's planning assessment recommended that the ELMP-WUG and the ELMP-WA should be amended and resubmitted to the Panel for certification. As set out in section E1 of this Decision, we have decided that all of the management plans should be submitted to the respective councils for certification as opposed to being certified by the Panel. We have also required that the management plans submitted to the relevant council for certification must be in general accordance with the draft management plans that formed part of the Consent Holder's FTAA Substantive Application. However, that does not preclude the ELMPs that formed part of the Substantive Application being amended by OGNZL prior to them being submitted to the councils. We would anticipate that if the amendments identified

in the HDC in its s 53 comments are not made then that would be raised by HDC in accordance with condition C4B and thereafter addressed by OGNZL.

Conditions

[399] We have not made any amendments to OGNZL's 1 September 2025 Landscape Mitigation Condition 55 in the HDC land use consent.

[400] However, as outlined in section E1 of this Decision, we have amended Conditions C4 to C5 of the Combined HDC and WRC consent to require the ELMP-WUG and ELMP-WA to be provided to the councils for certification.

[401] We have amended Combined HDC and WRC consent conditions C47A and C47B to include requirements relating to mitigation works and monitoring, reporting and review procedures.[37] We have also amended conditions C47A(vii) and C47B(xii) to refer to visual amenity. We find those amendments to be appropriate to guide the councils' certification process. We note that in their response to comments OGNZL had accepted Mr Marsergh's suggested amendments to conditions C49, C60 and C61.

[402] We find the council certification process will enable any necessary refinements to the ELMP's to be addressed, including those identified in HDC's peer review.

[37] As was recommended by Mr Mansregh.

E12: Geotechnical Effects

[403] OGNZL addressed geotechnical effects in section 6.8 of the AEE. The potential geotechnical effects we address here relate primarily to stability and safety of surface slopes (GOP, NRS, WRS), tailings facilities (TSF3 and GOP TSF) and underground elements of the WNP (WUG, ventilation shafts, WUG Access Tunnel, Willows Access Tunnel, Willows Portal, and Wharekirauponga Access Tunnel).

[404] Geotechnical effects have been separated from ground settlement and subsidence effects, for consistency and ease of comparison with the Application documents, despite a significant relationship between the two. When considering tunnels and underground mining, geotechnical effects have been considered on the basis of the adverse or unanticipated performance of the tunnels or underground mine. Ground settlement and subsidence effects, by contrast are based on the expected performance of the tunnels or underground mine and these are addressed in section E6 of this Decision.

[405] The geotechnical effects each element of the proposed WNP are largely separated from the others. Consequently, we address each in turn in the following sections.

Tunnels and Underground Mining

[406] Geotechnical Effects for tunnelling and mining were set out in the AEE at section 6.8.1 which summarised the outcomes of an assessment completed by WSP (2025a). That assessment indicated that the tunnels and underground mine will be supported by rock bolts and shotcrete, with narrower bolt spacings and shotcrete and mesh applied in zones of poorer quality rock.

[407] Control of groundwater inflows was expected to require sump pumping to surface, or grouting and lining the tunnels where high groundwater inflows are encountered.

[408] Additional boreholes are proposed along the WUG Dual Tunnel alignment to support detailed design. This will include rock strength data, discontinuity orientation, spacing and condition data and characterisation of groundwater conditions. Additional design verification will be provided by drilling ahead of tunnel construction.

[409] Long term stabilisation is to be provided by "stoping" which fundamentally backfills the mining voids, supporting the roof of underground mines.

[410] Long term rehabilitation of tunnels and the underground mine was described in section 6.20 of the Application. This generally includes backfilling of the first 100 m of the access tunnels and backfilling of other areas of the tunnels and the mine itself "…*where geotechnical conditions require it to ensure long term stability.*"

Comments received

[411] Geotechnical effects related to tunnel and underground mining were addressed in the comments from HDC, DOC, Ngāti Pū and one lay commentator (Ross).

[412] Ngāti Pū were concerned about a higher level of risk due to increased consequence of failure or adverse performance where tunnels pass beneath waterways due to a lack of information available and recommended that... "Comprehensive risk assessments, site management standards, and emergency protocols must be prepared and adhered to for any works underneath a waterway. These must be peer reviewed by mana whenua and be regularly monitored by an independent technical expert."

[413] HDC's reviewer Dr Peter Fuller identified that "Given the preliminary level of the current assessment, it is my view that some mining related consent conditions are required to ensure that any surface disruption due to mining is measured and that mining stopes without backfill is to be avoided in future mine planning." Additional conditions were recommended to address this issue.

[414] DOC's comments in regard to subsidence and slumping and effects on Archey's frogs are addressed specifically in paragraph 39 of DOC's s 53 report. We note that the performance of the crown pillar formed between the uppermost stopes and the surface in the mining area will also be relevant to the overall level of final subsidence (i.e. total subsidence will be the sum of crown pillar deformation and settlement due to groundwater drawdown). Dr Fuller's expert comments on behalf of HDC are equally relevant to DOC's overall comments relating to subsidence.

[415] Comments from Mr and Mrs Ross related to the depth of the WUG Access Tunnel in relation to a dwelling owned by them at 123 Barry Road and associated settlement effects. The tunnel depth at their home would be in the order of 120 m.

OGNZL response to comments

[416] OGNZL addressed the comments provided by HDC (and by extension DOC) by accepting the additional condition proposed by HDC relating to backfilling of stopes at the WUG and monitoring of ground surface levels in the CFP above the WUG.

[417] OGNZL addressed the comments of Mr and Mrs Ross, with respect to dewatering related settlement effects. They did not however address mechanical settlement effects relating to performance of the crown of the WUG Access Tunnel in the long term post closure.

[418] OGNZL did not specifically addressed the comments provided in the CIA prepared by Ngāti Pū and instead pointed to the various evidence provided by experts.

Statutory instruments

[419] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[420] There are clearly some areas of cross over between geotechnical effects and subsidence effects relating to the tunnel and underground mine workings. When considering geotechnical effects that are discernible at the ground surface and that relate to the adverse or unanticipated performance of the tunnels or underground mine, it is the Panel's view that these risks are negligeable when considered in the context of the offered and agreed conditions described below.

Conditions

[421] In its response to comments received OGNZL accepted HDC's proposal to include additional condition 51A in the HDC Condition Set. This relates to backfilling requirements, grouting of exploration drillholes at the WUG and associated monitoring.

[422] Overall, we find that the revised conditions appropriately manage geotechnical effects relating to performance of the WUG, WUG Dual Tunnels, Willows Access Tunnel and WUG Access Tunnel.

[423] Consideration of the recommendations from Ngāti Pū for consent conditions are more closely aligned to dewatering and subsidence effects and are therefore addressed in section E3 of this Decision.

Willows Waste Rock Stack

[424] Geotechnical Effects for the WRS were set out in the AEE at section 6.8.2 which summarised the outcomes of an assessment completed by EGL (2025g).

[425] The assessment by EGL indicated that acceptable levels of stability can be maintained for the WRS over the duration of the WNP. The design allows for a degree of conservatism to accommodate a longer design life in the event that future mining extensions are sought and successfully consented.

[426] Detailed design of the WRS remains to be completed, and EGL noted that a building consent is not required, meaning construction could commence immediately upon receiving the required resource consents. EGL indicated that the detailed design should be subject to a technical peer review and that the result of that peer review should be submitted to WRC and HDC prior to construction.

[427] EGL also provided an indicative list of the type of post-construction monitoring that is proposed in order to "…provide for the detection and mitigation of potential deficiencies or undesirable trends". Monitoring results are proposed to be collated and submitted to the existing Waihi Independent Peer Review Panel, WRC and HDC on an annual basis.

[428] EGL proposed a WRS Stack Management Plan to collate and manage the design, construction, operation, maintenance, monitoring and review, required.

Comments received

[429] Geotechnical effects were addressed in the comments from WRC and Coromandel Watchdog (evidence of Mr Tegg).

[430] WRC comments were based on technical review carried out by Tonkin & Taylor (T+T). T+T indicated that the design was generally appropriate and consistent with expectations for a substantive FTAA resource consent application. T+T made a number of technical comments (including the recommended incorporation of the updated NSHM (2022) for seismic loads) but noted that these can all be addressed in future detailed design. They stated that the likely consenting requirements and summary of potential risks and mitigation measures all appeared appropriate.

[431] Mr Tegg of behalf of Coromandel Watchdog, commented that accurate monitoring of existing waste rock piles was needed.

OGNZL response to comments

[432] OGNZL acknowledged the comments from WRC's technical reviewer and noted that many of the items raised will be addressed in detailed design or as conditions of consent. The revised WRC condition set incorporated these suggested changes.

[433] OGNZL provided a response to Mr Tegg's evidence that the existing waste rock piles are routinely monitored, including extensive instrumentation, and referenced the evidence of Dr Matuschka dated 1 September 2025. That evidence did not include information on instrumentation of Waste Rock Stacks and that information was also not provided in the EGL response to RFI1 dated 16 October 2025.

Statutory instruments

[434] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[435] While OGNZL have not provided information relating to monitoring instrumentation of the existing waste rock stacks, the performance of those existing waste rock stacks (polishing pond stockpile and northern stockpile) has been acceptable, and there is sufficient free draining waste rock to manage internal pore pressures within the waste rock stacks.

[436] Subject to the imposition of appropriate conditions of consent we find that geotechnical effects associated with the WRS are appropriately avoided, remedied or mitigated.

Conditions

[437] We find that the revised conditions sought by WRC will appropriately manage geotechnical effects relating to performance of the WRS. These have been agreed to by OGNZL.

GOP, GOP TSF and Gladstone Portal

[438] Geotechnical Effects for the GOP are set out in the AEE at section 6.8.3.1 which summarised the outcomes of an assessment completed by PSM (2025a). Geotechnical Effects for the GOP TSF are set out in the AEE at section 6.8.3.3 which summarised the outcomes of an assessment completed by GHD (2025a). A peer review was also undertaken by Engineering Geology Limited (EGL 2025b).

[439] The Gladstone Portal is described in the AEE at section 6.8.3.4 and in PSM (2025a).

[440] PSM are of the opinion that the GOP and Gladstone Portal can be constructed within commonly accepted stability thresholds. They consider that a key design element to achieve stability of the pit walls is groundwater depressurisation during excavation.

[441] A Ground Control Management Plan (GCMP) was proposed by PSM (2025a) to address groundwater depressurisation along with other geological uncertainties. The AEE states that this would not form part of the suite of conditions, but rather, would be an internal OGNZL document (AEE section 6.8.3.1).

[442] GHD indicated that there were no credible breach mechanisms for the proposed GOP TSF, due to the tailings being placed within the excavated void of the GOP. They also stated that there was limited risk of landslide or rockslide failure of the pit wall into the detained reservoir due to the relatively gently sloped pit walls and that minimum freeboard requirements include an allowance for Probable Maximum Precipitation well as landslide-generated wave scenarios, reducing risk of uncontrolled overtopping events.

Comments received

[443] Geotechnical effects were addressed in the comments from HDC, WRC, Ngāti Tara Tokanui Ngāti Koi (NTTNK) and one lay commentator (Perrin).

[444] NTTNK expressed concern with the proximity of the GOP being 50 m from Motukehu, and the potential for instability (due to weak rock and faulting) to affect Motukehu. They also raised concerns about reactivation of two landslides identified in the area of the GOP.

[445] HDC identified no issues of concern relating to the GOP, provided that the consent conditions were revised to include additional conditions recommended by their independent expert Peter Fuller .

[446] WRC, supported by its technical reviewer Tim Coote, suggested that the PSM 2025a report was appropriately detailed for the FTAA consenting process and did not disagree with the outcomes. However, they noted the uncertainty around groundwater depressurisation and that the Application documentation provided for a piezometer network system around the GOP. While this network was recommended within PSM 2025a at Section 12.3.5, WRC were unable to ascertain where in the proposed conditions this programme of works was located, as it was not contained within the Groundwater Management Plan.

[447] WRC also raised the issue of seismic design and the need to consider the seismic loads incorporated in the National Seismic Hazard Model (NSHM 2022) in detailed design. Other commentators also raised this issue, specifically as it related to other elements of the WNP (Coromandel Watchdog), but those comments are equally relevant to all design elements of the WNP.

[448] WRC and their technical reviewers identified elements of the design that will need to be fleshed out in detailed design and that as the eventual GOP TSF "…does not meet the definition of a dam, a building consent is not expected to be required. It is therefore important that resource consent conditions lock in the measures proposed in this design report to ensure the GOP TSF is built and maintained in accordance with design assumptions."

[449] The WRC also advised that "…these matters are relevant to the final design of the Gladstone Pit which is provided for via the various certification processes and management plans associated with the Gladstone Pit."

[450] Mr Perrin has indicated concerns for the "stability of the area".

OGNZL response to comments

[451] OGNZL directed the Panel to the evidence of Dr Matuschka in response to the comments made by NTTNK regarding the stability of the GOP, but that evidence does not address stability of the GOP. Nevertheless, the Panel considers that the general nature of the comments by NTTNK are already adequately addressed by the technical information provided in PSM (2025a) and OGNZL's response to HDC and WRC reviewer's comments.

[452] OGNZL did not specifically respond to the comments made by HDC regarding the stability of the GOP. However, HDC recommendations largely relate to additional consent conditions which are addressed below.

[453] OGNZL's response to WRC comments relating to the GOP, GOP TSF and Gladstone Portal indicate that they acknowledge the comments and that they will be addressed either by a combination of revised conditions, detailed design and associated certification and management plans.

[454] OGNZL stated that the evidence of Dr Matuschka addressed the issues raised by lay commentators with respect to GOP wall stability. However, that evidence does not specifically address GOP wall stability. Nevertheless, we are satisfied that the design prepared by PSM 2025a and the subsequent reviews on behalf of HDC and WRC provide sufficient evidence that acceptable levels of pit wall stability can be achieved.

Statutory instruments

[455] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[456] Subject to the imposition of appropriate conditions of consent we find that geotechnical effects associated with the GOP, GOP TSF and Gladstone Portal are appropriately avoided, remedied or mitigated.

Conditions

[457] In its response to comments OGNZL accepted HDC's proposal to include the GCMP as a condition of consent (additional condition 51B in HDC Condition Set). We note that given the GCMP is where the proposed piezometer network is to be detailed, then this additional condition is expected to also satisfy WRC's concern around this aspect of pit wall stability.

[458] Issues raised by WRC relating to detailed design are largely addressed by conditions C50 to C58 in the Combined HDC and WDC conditions (provision of a peer review panel), and WRC conditions SC5.G.12 and SC5.G.30 (relating to submission of detailed design and technical review). A specific WRC condition (SC2.F.13.A) has also been included to address the need for seismic design to take account of the NSHM 2022.

[459] From the perspective of geotechnical effects, the Panel consider that the revised Combined HDC and WRC and separate HDC and WRC conditions adequately provide for the additional certainty that NTTNK sought[38].

[460] Overall, we find that the revised conditions appropriately manage geotechnical effects relating to performance of the GOP, GOP TSF and Gladstone Portal.

Northern Rock Stack

[461] Geotechnical Effects for the NRS were set out in the AEE at section 6.8.4 which summarises the outcomes of assessments completed by EGL (2025d). The NRS differs from

[38] Paragraph 68 of their comments.

the WRS in that it will eventually permanently store surplus overburden earth and rock from open pit and underground mining that is not used for TSF construction.

[462] The EGL geotechnical assessment indicated that the NRS can achieve acceptable levels of stability for the duration of the proposed WNP. However, the slope stability results were contingent on the management of materials of different strengths within the stockpile and the inclusion of a shear key cut into the underlying rock.

[463] Detailed design of the NRS remains to be completed, and EGL noted that a building consent will be required for the NRS collection pond which is expected to be classified as a large dam under the Building Act 2004, with the expectation that the Potential Impact Classification (PIC) is likely to be low.

[464] EGL indicated that the detailed design of the NRS and the NRS collection pond should be subject to a technical peer review. EGL also indicated that an Operation Management Plan (OMP) would be developed that will outline operational, maintenance and surveillance items for the NRS. An indicative list of instrumentation and monitoring was provided.

Comments received

[465] Geotechnical effects were addressed in the comments received from WRC and Coromandel Watchdog (evidence of Mr Tegg).

[466] WRC comments were based on technical review carried out by Mr Coote (T+T), who identified some similar technical matters to those set out for the WRS that will need to be addressed in future detailed design.

[467] Mr Tegg's comments relating to monitoring of existing waste rock stockpiles is equally relevant to the NRS.

OGNZL response to comments

[468] OGNZL acknowledged the comments from WRC's technical reviewer and advised that many the items raised will be addressed in detailed design or as conditions of consent. The revised WRC condition set incorporates these suggested changes.

[469] OGNZL provided a response to Mr Tegg's evidence that the existing waste rock piles are routinely monitored including extensive instrumentation. No further information has been provided that demonstrates the existing instrumentation of waste rock stacks, but the proposed monitoring appears appropriate.

Statutory instruments

[470] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[471] Subject to the imposition of appropriate conditions of consent we find that geotechnical effects associated with the NRS are appropriately avoided, remedied or mitigated.

Conditions

[472] In general, the revised conditions provided by WRC are considered to appropriately manage geotechnical effects relating to the performance of the NRS. They have been broadly agreed to by OGNZL.

TSF3

[473] Geotechnical effects for TSF3 were set out in the AEE at section 6.8.5 which summarised the outcomes of assessments completed by EGL (2025a, 2025c & 2025e).

[474] EGL provided preliminary design information for TSF3 which included geotechnical investigation, ground and groundwater models and stability analyses. They noted that TSF3 will be designed, constructed and operated within the requirements of the New Zealand Dam Safety Guidelines (NZDSG 2024), the Building Act 2024 and the Building (Dam Safety) Regulations 2022 (for operations).

[475] Overall EGL were of the view that TSF3 can be designed, constructed and operated to achieve the stability requirements of the guidelines, legislation and regulations.

[476] EGL (2025c) identified a range of potential design, construction and operational risks and incorporated a range of measures to mitigate these risks such that the residual risk of failure of TSF3 was considered to be very low.

[477] A key risk mitigation measure is the engagement of a Peer Reviewer due to the High Potential Impact Classification (PIC) for TSF3. An additional, second level of review is provided by the proposed independent Peer Review Panel.

[478] While the proposed membrane liner only extends to RL 135 m, the dam itself will extend to RL 155 m with the potential for a future lift to RL 177 m (recognising that the Application only covers filling to RL 155 m). In EGL's response (dated 16 October 2025) to RFI1, they outlined that the membrane liner was only required for the very early stages of tailings filling where low permeability tailings fines have not developed in sufficient thickness to inhibit seepage flows into the foundation. They confirmed acceptable design life of the membrane and that the membrane is no longer necessary after the first few years of filling are completed.

[479] The outer face of TSF1A is to be stripped and the internal zoned fill for the inside face of the TSF3 embankment is to be extended onto the outer face of TSF1A, resulting in a central embankment with tailings impounded on both sides[39].

[480] Additional information relating to internal groundwater pore pressures allowed for in preliminary design has been provided by EGL in response to RFI1. The basis for these groundwater pore pressures is accepted, recognising that final detailed design is yet to be completed.

[481] The EGL 2025a report states that there are large volumes of overburden materials available and that either complete dry capping or partial dry/wet capping are feasible as a final closure solution.

[39] EGL's response to RFI 1 dated 16 October 2025

Comments received

[482] The TSF3 design reports were reviewed by T+T on behalf of WRC, who have been involved with reviews of earlier drafts of the reports during the earlier resource consent process. T+T were generally satisfied with the level of design and considered it appropriate to support consenting. Compliance with the NZDSG on completion (operations), need for peer review and the adoption of the National Seismic Hazard Model (2022) were all recommended.

[483] Concerns were raised by Coromandel Watchdog regarding the risk of failure of TSF3 and whether the assessments presented by OGNZL's consultants identified and had regard for all relevant factors. In summary these include:

(a) Whether a permanent water cover on TSF3 presents a higher risk of long-term instability of TSF3 and an opinion that the collapse of TSF3 is inevitable (evidence of Dr Emerman).

(b) Stability of the TSF3 foundation, uncertainty in seismic design and loadings, design cases and allowance for concurrent low likelihood events and the need for independent peer review (evidence of Mr Tegg).

[484] Ngāti Hako supported Coromandel Watchdog's position on "... Environment and Socio - Economic Impacts of Tailings Dams". On this basis we concluded that Ngāti Hako have an interest in the design, construction, geotechnical performance and operation of TSF3.

OGNZL response to comments

[485] OGNZL acknowledged the comments from WRC's technical reviewer and noted that the items raised will be addressed in detailed design and as conditions of consent. The revised WRC condition set incorporates suggested changes.

[486] OGNZL's expert Dr Matuschka provided a response to the evidence of Dr Emerman and Mr Tegg as follows:

(a) detailed design of TSF3 will be in accordance with the NZDSG;

(b) the NZDSG "…require the design to consider the latest seismic hazard information, which will include the extensive national update to the New Zealand Seismic Hazard Model in 2022.";

(c) the foundation conditions for the TSF3 site are significantly different from the Golden Cross tailings dam, which was built on a historic landslide, something that was not recognised in initial site selection;

(d) as a high PIC dam, an independent technical peer review is a requirement of the NZDSG;

(e) after closure, monitoring and maintenance of TSF3 has been allowed for "in the form of a trust… for the existing TSFs at Waihi and will be extended to include TSF3"; and

(f) disagreement with the premise of Dr Emerman that the failure of the tailings facility is inevitable.

[487] Dr Matuschka concluded that "TSF3 will be designed, constructed and closed in accordance with the New Zealand Dam Safety Guidelines. TSF3 will be designed for extreme earthquake and flood conditions, including in closure. It will form a safe and stable landform in closure with minimal maintenance and surveillance requirements".

Statutory instruments

[488] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[489] Dr Matuschka considered that TSF3 can be built in accordance with the current NZDSG and that this provided an acceptable very low level of long term failure risk, whereas Dr Emerman appeared to suggest that a much longer "operation and post-closure" timeframe needs to be considered, over which time he contends that failure is statistically inevitable.

[490] We prefer the opinion of Dr Matushka, namely that the current NZDSG is an appropriate design document to follow for the design, construction and monitoring of TSF3. In that regard we note that the technical review prepared by T+T on behalf of WRC agreed with OGNZL's general design approach and preliminary design outcomes, pending detailed design.

[491] Dr Emerman's view that likelihood of failure is not relevant, making the consequence of failure the key driver of risk, may have some statistical relevance from a more holistic view, but it is out of step with the design requirements and design life for other significant pieces of infrastructure in the New Zealand context, such as multi-storey buildings, landfills, or road bridges. Further, it is predicted on the following outcomes:

(a) the initial state of the deposited tailings remains into the future, ignoring any strength gain in tailings over time due to dewatering and consolidation; and

(b) monitoring, inspection, maintenance and review of TSF3 will not be undertaken post-closure, when on closure it is proposed to transfer TSF3 to the Martha Trust for management and monitoring in perpetuity.

[492] On the available evidence we do not see those outcomes as realistic.

[493] The issue of the final capping of TSF3 remains relevant, and we have considered both the view of Dr Emerman that wet capped tailings are inherently higher risk, due to permanently holding a reservoir, as well as longer term considerations around the negative effects that a detained reservoir may have on tailings consolidation and associated long term strength gains. We also note the view of OGNZL's designers EGL that either a dry cap or a wet cap are feasible final rehabilitation options.

[494] Overall, the Panel is satisfied that the design, construction, maintenance and long-term monitoring of TSF3 can avoid, remedy or mitigate geotechnical effects, subject to the imposition of appropriate conditions of consent.

Conditions

[495] In general, the revised conditions provided by WRC are considered to appropriately manage geotechnical effects relating to the performance of TSF3. They have been broadly agreed to by OGNZL.

[496] However, the Panel consider that a dry cap may be a more appropriate long-term closure and rehabilitation measure and we have imposed an additional condition of consent that requires this closure rehabilitation method to be evaluated as part of the detailed design process. We have accordingly inserted an additional condition SC7.H.17.B into the WRC consent (RMA ss 14 to 15) that authorises TSF3.

E13: Geochemistry and Acid and Metalliferous Drainage Effects

[497] OGNZL addressed geochemistry and acid and metalliferous drainage effects in section 6.9 of the AEE, the Part B.14 AECOM report,[40] and Part B.15 GHD report.[41]

[498] Overall, these reports identified that AMD is expected to be a risk for the WNP and though this process is a natural one, it can be accelerated or exacerbated by the reduction in particle size and increase in rock surface area that occurs during mining. Adverse environmental effects from AMD occur due to low pH and/or elevated trace metal concentrations.

[499] The exact composition of trace elements varies across the WNP due to the expected changes in geology between the current Waihi mining areas and the WUG mine. OGNZL, AECOM and GHD maintain that the limited site specific testing undertaken along with the experience gained from managing AMD for the current mine means that potential AMD effects are sufficiently well characterised for the consenting stage of the WNP.

Underground infrastructure

[500] The underground aspects of the WNP include the WUG itself, the WUG Access Tunnel, the Dual Tunnel and the Willows Access Tunnel. While the trace metal types vary across the underground infrastructure the broad process to treat mine water is similar across the underground parts of the proposal.

(a) limit inflows into the underground parts of the mine by sealing off areas of high groundwater inflow with grout;

(b) all mine water not re-used for drilling to be conveyed to the upgraded WTP at the current surface facilities area for treatment prior to eventual disposal; and

(c) long term the underground parts of the mine are flooded, limiting oxidation and potential for discharge to ground surface.

---

40 Geochemical Assessment Wharekirauponga Underground Mine (WAI-985-000-REP-LC-0013), GHD, 05 February 2025.

41 Waihi North Project Geochemical Assessment Geochemistry of Tailings and Overburden, Treatment and Mitigation, AECOM, 19 February 2025.

Waste rock stacks

[501] Waste rock stacks included in the WNP include the WRS and the NRS. AECOM and GHD have identified the potential for AMD effects associated with both of these.

[502] OGNZL indicated that the expected AMD effects can be mitigated by construction of a low permeability foundation layer, provision of subsurface drainage to collect and divert seepage for treatment, addition of crushed limestones to PAF rock to increase its acid neutralising capacity, compaction of rock material to reduce rate of infiltration and encapsulation of PAF material with NAF material.

[503] The WRS is temporary, with the stored waste rock to be removed and used for final stoping as part of the mine rehabilitation on closure; so no long-term AMD effects are anticipated relating to the WRS.

[504] The NRS is expected to be a permanent landform. AECOM draw a comparison with the monitored performance of existing tailings embankments which are expected to have the same level of encapsulated PAF material. AECOM indicated that:

(a) Sub-soil drains, leachate drains and toe drains will continue to report to the WTP for treatment until such time as water quality improves sufficiently to allow for direct discharge.

(b) Once capped and residual oxygen is removed, water quality from these areas typically improves. This effect is already observed in collection ponds for TSF1A, where water quality has improved sufficiently to allow direct discharge.

(c) While passive treatment systems are not currently proposed they may be considered in the future where flows and quality are suitable for this type of treatment.

Tailings areas

[505] Proposed tailings areas include the GOP TSF and TSF3. While there are some subtle differences in the two tailings areas, fundamentally the mitigation measures proposed for both are the same, namely:

(a) limiting the exposure time of PAF rock;

(b) treating PAF rock with limestone to delay acid generation;

(c) covering PAF rock with NAF material to seal intermediate layers or as final cover to limit oxidation of sulphides in the PAF material;

(d) compaction of surface material to reduce permeability and ingress of oxygen and water; and

(e) collection of runoff and seepage from the tailings areas for treatment at the WTP until these flows are of sufficient quality for direct discharge to the environment.

Comments received

[506] Geochemical effects were raised in the comments of WRC, Coromandel Watchdog, Ngāti Hako, Ngāti Pū, Ngāti Porou Ki Hauraki, Ngāti Tara Tokanui Ngāti Koi and one lay commentator.

[507] WRC comments on the geochemical effects were supported by technical review undertaken by Dr Paul Weber of Mine Waste Management (dated 21 August 2025).

[508] WRC advised that Dr Weber had been involved in technical review of this subject matter through the previous resource consent application process and over the course of that previous process most matters of technical disagreement had been resolved.

[509] Dr Weber's remaining issues may be generally summarised as:

(a) definitions of AMD materials;

(b) validation, classification and sampling requirements for PAF materials;

(c) monitoring of oxygen in waste rock stacks; and

(d) a number of proposed modifications to conditions.

[510] Coromandel Watchdog made comments with respect to:

(a) potential underestimation of antimony, arsenic and mercury in porewater and the perception that OGNZL have considered mercury as immobile in groundwater (evidence of Dr Emermann); and

(b) levels of selenium in treated water discharged from the WTP into the Ohinemuri river (evidence of Dr Joy).

[511] Ngāti Hako do not make specific comment on AMD and geochemistry effects but comment in a more general sense that they wish to ensure that "…contaminants do not enter streams and enter the Ohinemuri river that meets the Waihou river and flows into Tikapa Moana".

[512] Ngāti Pū shared concerns related to contamination of surface water, specifically in relation to the GOP TSF, WTP upgrade and renewal of discharge consents.

[513] Ngāti Porou Ki Hauraki commented that contamination effects on tributaries to the Ohinemuri River had not been adequately assessed.

[514] Ngāti Tara Tokanui, Ngāti Koi commented on the potential for leachate and acid mine drainage to contaminate groundwater and surface water and the potential for harmful metals to enter waterways.

[515] Lay comments from Gloria Sharp related to general concerns around potential for AMD and arsenic, cyanide and mercury pollution.

OGNZL response to comments

[516] OGNZL provided a specific response to each of the areas of comment made by Dr Weber on behalf of WRC. These responses were generally addressed in edits to OGNZL's conditions of consent which are addressed further below.

[517] OGNZL responded to comments by Coromandel Watchdog through evidence (dated 1 September 2025) from Ian Jenkins and Ian Boothroyd.

[518] Mr Jenkins responded to the evidence presented by Dr Emermann and disagreed with his views, noting specifically that "The assessment of the decant and tailings porewater from the proposed WNP uses monitoring data from the existing tailings storage facilities (TSF1A and TSF2) as outlined in section 7.3 of Geochemical Assessment report. This data for the existing operation reflects the use of cyanide extraction."

[519] Dr Boothroyd referred to 30 years of monitoring of the Ohinemuri River from which "…there is no evidence that the treated water discharge (in meeting the requirements of the resource consent) from the operations is causing adverse effects (including from selenium) on the biological communities of the Ohinemuri River."

[520] With respect to Iwi comments, OGNZL referred to the additional statements of evidence appended to their response to comments.

[521] Ms Sharp's comments were addressed by reference back to Application document B.14 and the evidence provided by Ian Jenkins (1 September). OGNZL reiterated that "…spoil material in the areas of the proposed works will behave in a manner that is geochemically similar to spoil associated with existing operations" and that "…acid generation can be minimised and appropriately managed".

Statutory instruments

[522] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[523] The Panel is mindful that there is a long operational history (through OGNZL and its predecessor Newmont) of managing geochemical effects associated with tailings disposal and leaching of rock stacks that are very similar to those effects that are to be monitored and managed through the current consents under consideration.

[524] Considering this context, the information provided by the OGNZL, the comments received and OGNZL's responses to those comments, we find that there are no outstanding geochemistry effects that will not be appropriately avoided, remedied or mitigated, subject to the imposition of appropriate conditions of consent.

Conditions

[525] Conditions of consent related to geochemistry effects have been substantially developed by ONZL and WRC in the previous resource consenting process.

[526] There are some remaining matters that are outstanding:

(a) oxygen monitoring of rock stacks requested by WRC;

(b) additional certainty around the waste (rock) certification protocol and the detailed design of rock stacks and tailings areas; and

(c) the need or otherwise to monitor for nitrogen at the discharge from the WTP.

[527] OGNZL considers that the management of oxygen levels will be included in management plans. However, the Panel notes that the requirement for oxygen monitoring has not been specified as a required matter for those management plans. We have therefore included a requirement in the WRC conditions (SC2.F.25 and SC6.G.29) that requires the management plans to include this.

[528] With respect to the additional certainty requested around the waste rock certification protocol and detailed design we note that for waste rock stacks and tailings areas:

(a) WRC conditions (SC2.F.25, SC5.G.27, SC6.G.29, SC7.H.32) currently require the waste rock classification protocols to be included in the management plans for rock stacks and tailings storage areas. These management plans require certification by WRC (conditions SC2.F.26, SC6.G.30 and C5). And

(b) WRC conditions (SC2.F.30, SC5.G.30, SC6.G.34 and SC7.H.35) currently require independent technical review of the detailed design of rock stacks and tailings areas, with reporting to WRC and final overview by the Peer Review Panel.

[529] The Panel considers that the additional certainty sought by WRC with respect to waste rock classification and technical certification is appropriately addressed in the conditions as proposed.

[530] WRC have requested monitoring of nitrogen at the discharge for the WTP with an annual limit set at 13 tonnes per year (which they attribute as the current annual load from the WTP based on a 2016 WRC report). OGNZL considers that the annual load is out of date, that no compliance limits have been provided and that there is already a consented ammonia limit in place.

[531] The Panel considers that insufficient information has been provided by WRC with respect to proposed nitrogen monitoring from WTP discharges. We have therefore declined to make this addition to the consent conditions.

E14: Noise Effects

[532] We address noise effects on fauna in sections E7and E8 and noise associated with blasting in section E5 of this Decision.

[533] OGNZL addressed construction noise and operational noise in section 6.10 of the AEE and technical report B.56 authored by Marshall Day.[42]

General discussion

[534] Marshall Day considered that construction noise can be managed by complying with the construction noise limits set out in New Zealand Standard 6803:1999 Acoustics – Construction Noise ("NZS6803:1999"), which is consistent with the HDP noise limits. NZS6803:1999 allows higher noise levels during normal working hours for construction in residential areas. Noise modelling demonstrated construction noise levels will remain compliant with NZS6803:1999 in almost all circumstances. Any localised exceedances will be managed through mitigation measures and a Noise Management Plan (NMP), as provided for in the proposed conditions.

[535] Marshall Day proposed operational noise standards that are protective of the amenity of the surrounding environment and community:

0700 – 2200, Monday to Saturday	50 dB LAeq
2200 – 0700 (the following day)	70 dB LAFmax
All other times	40 dB LAeq

[536] Modelling demonstrated there were some receivers where the operational noise levels without mitigation might be slightly above 50 dB LAeq. However, operational noise from the GOP, NRS and TSF3 would not exceed the standards. Increased processing plant noise is unlikely to be discernible for much of the time, but it is possible that, without mitigation, noise levels at night may just exceed the night-time noise limit of 40 dB by a small margin

[42] Oceana Gold New Zealand – Waihi North Project Assessment Of Noise Effects, February 2025.

[537] Proposed conditions require that a NMP be prepared for each WNP Area outlining the mitigations used to ensure noise levels do not exceed 50 dB or 40 dB respectively at any residence not owned by OGNZL or subject to an agreement with OGNZL.[43] The NMPs will prescribe a noise mitigation development process that will occur prior to operations commencing, including the options considered, and provide certification that noise levels comply with the above standards at the residences with which OGNZL does not have an agreement.

[538] Marshall Day concluded that the proposed noise limits (as set out in the conditions) could be complied with using appropriate mitigation. Consequently, noise effects resulting from WNP were considered acceptable.

[539] Helicopter noise is a key source of noise in and around the CFP, the Willows SFA and the Waihi SFA during both the construction and operation of the WNP. Individual helicopter operations will be clearly audible for some receivers in proximity to the helicopter bases and the overflying tracks and will be noticeable above existing ambient noise.

Comments received

[540] Comments were received from HDC expressing concern about the cumulative noise effects of the WNP in combination with the noise effects of OGNZL's other existing consented activities. However, HDC considered the noise standards proposed by OGNZL were appropriate.

[541] HDC suggested amendments to the NMPs**.** They also considered that helicopter approach and departure tracks should be clearly labelled with conditions requiring the specified approach and departure tracks to be followed, along with new conditions to manage the use of helicopters for the construction and operation of the WNP activities in Area 1.

[542] The Waihi Community Forum was concerned about residential amenity, particularly in relation to helicopter noise and the noise from the GOP. A number of lay commentators were

[43] Prepared in accordance with NZS6802:2008. There will be construction Noise Management Plans and Operational Nosie Management Plans.

concerned about noise, including the effect of noise on horses and cattle.[44] Ngāti Porou ki Hauraki were concerned that adverse effects from both existing mining activities and the WNP are and would continue to be experienced at Mataora. A particular concern was the potential impact on a developing papakainga at Mataora, with Ngāti Porou ki Hauraki emphasising that noise pollution would undermine the wellbeing and harmony of that community. Ngāti Pū and Ngāti Tara Tokanui Trust expressed general concerns about noise.

OGNZL response to comments

[543] In response to HDC's comments OGNZL provided a memorandum from Marshall Day.[45]

[544] On cumulative effects, OGNZL's response advised that document B.56 had considered the effects of noise generated by existing consented activities holistically and provided additional calculations combining WNP noise levels with a notional level of activity occurring within Martha Pit and associated infrastructure. OGNZL considered that although any cumulative exceedance of the above noise standards was unlikely, should this occur then the potential cumulative noise level from both WNP and existing OGNZL activities would be no more than 1-2 dB above those standards. Therefore, the potential cumulative effects would be appropriately managed by the proposed consent conditions. Nevertheless, OGNZL accepted HDC's recommended amendment of HDC Condition 16 to require operational noise to be assessed cumulatively.

[545] The potential adverse effects of WNP noise on horses and cattle was addressed for OGNZL by Andrew McLean. He focussed in particular on the property of John Perrins who runs an Arabian horse stud and equine training facility at 35 Heath Road Waihi. Mr Mclean considered that property was subject to various existing environmental features that produced noise and vibration effects that were likely to be far more significant than those expected to be produced by the WNP. In his opinion Mr Perrins' horses would have learnt to habituate to these existing features, as horses are typically adept to do. Mr Mclean noted that the predicted levels of noise and vibrations were at or below background levels currently experienced at the Perrins' property.

---

44 Including Chris Batten, Brigid and Steve Cameron, Bryce Ede, John Perrins, Andrew and Rachel Wharry and Rodney Malone.

45 Authored by Gary Welton and Laurel Smith.

[546] In terms of concerns expressed by other property owners, OGNZL advised that with proposed mitigation measures in place, noise levels at sensitive receivers would comply with the standards set out above, including receivers affected by the GOP.

[547] Addressing Ngāti Porou ki Hauraki's concerns, Kyle Welten advised that all previously completed technical assessments into the effects of noise from OGNZL's operations had consistently demonstrated that it was extremely unlikely that any noise generated by OGNZL's activities was, or would be, experienced at adverse levels at the Mataora block. Marshall Day's modelled noise contours illustrated the predicted noise effects of the WNP and did not indicate any significant noise levels at Mataora; if any at all.

[548] Concerning helicopter flights, OGNZL conceded individual helicopter operations would be clearly audible for some receivers situated in proximity to the helicopter bases and the overflying tracks. OGNZL agreed with HDC's recommendation to apply the noise limits from "NZS 6807:1994 Noise management and land use planning for helicopter landing areas" to the WNP to helicopter movements. The NZS 6807 noise limits will control the frequency of helicopter movements allowed over a 7-day period and on any single day. OGNZL also agreed to produce a Helicopter NMP which would include details of flight paths and movement numbers. Additional advice notes were recommended to clarify the noise limits applying to helicopters.

[549] With those additional measures in place, and in light of the large periods of respite between flights and the existing ambient noise environment in the vicinity of nearby receivers, as well as the other noise sources present, helicopter noise effects on people as a result of the WNP were considered to be reasonable.

Statutory instruments

[550] The Marshall Day report set out the relevant HDP noise limits (Rule 8.3.1.3) for the relevant zones[46]. HDP rule 8.3.1.3(3) sets limits for construction noise and requires

[46] Residential Zone, Martha Mineral Zone (MMZ), Rural Zone, Reserve Zones (both Active and Passive), and Conservation (Indigenous Forest) Zone. No noise limits are provided for the MMZ. Instead, Rule 5.17.4.1 P1 and P2 allow that any activity is permitted if conducted in accordance with the relevant terms and conditions of, and within the area covered by, the Mining Licence and LUC 97/98-105 respectively. While these documents have both now expired, their provisions are adopted by the District Plan.

management, measurement and assessment in accordance with NZS 6803:1999. We note that to be an approach routinely adopted for infrastructure projects.

Panel findings

[551] We are satisfied that OGNZL has adequately assessed the construction and operational noise likely to emanate from the WNP. Commentators concerned about noise levels did not provide expert acoustic evidence the contested the conclusions of the noise experts engaged by OGNZL (Marshall Day) and HDC (Styles Group).

[552] We find that adherence to NZS 6803:1999 for construction noise and the HDP noise standards for operational noise is appropriate and doing so will ensure the effects of that noise will be no more than minor, including on horses and cattle.

[553] We observe that any minor exceedances of the noise standards by 1 to 3 dBA, should they occur, will be barely discernible and comprise a less than minor adverse effect.

[554] We are satisfied that noise from the WNP activities will not result in adverse effects at Mataora.

[555] We also observe that helicopter noise is an unavoidable aspect of the WNP and we acknowledge it was understandably a matter of concern to commentators. However, we find that OGNZL's response to apply NZS 6807:1994 to the helicopter movements, together with the preparation of a Helicopter NMP to be certified by HDC, is the best practicable means of managing helicopter noise.

Conditions

[556] We have largely accepted OGNZL's proposed 1 September 2025 consent conditions for the HDC consent, including the amendments agreed to by OGNZL in response to the HDC comments.

[557] However, we have inserted amendments into Conditions 16B an 23A relating to 111 and 112 Willows Road that apply until those properties are purchased by OGNZL. We have

also amended Condition 25 to require the specification of methods and procedures to ensure that the road traffic noise limit set out in condition 16B is complied with.

[558] Given the level of commentator concern about helicopter noise, we have also imposed Condition 20 as suggested by HDC in order to provide additional certainty on the allowable number of helicopter movements from the Willows Road, Baxter Road and Golden Cross helipads.

E15: Effects on Recreation and Tourism

[559] OGNZL addressed effects on recreation and tourism in section 6.12 of the AEE and technical report B.55[47] (the Greenway report) which concluded that increased exploration in the CFP had the potential to affect users of the Wharekirauponga Track as a result of the noise generated by drilling and helicopter movements.

General discussion

[560] The drill sites will be out of sight of all sections of formal walking tracks and visitors will need to walk off-track to access them. Time restrictions on these activities would significantly limit the potential scale of effect, which would also benefit other users of the CFP.

[561] Since 2018 access to the Wharekirauponga to Golden Cross Track in the CFP has been temporarily closed for kauri-die back management, and the majority of the Wharekirauponga Track has been closed since September 2024 beyond its first 700 m.

[562] Within the CFP the proposed four vent raises will avoid tramping tracks and historic tramlines. Consequently, adverse effects (including noise) would be limited to those few trampers traversing the Coromandel Range on the Wharekirauponga to Golden Cross Track who are aware of the evasé raises.[48] However, that effect would be minor given the focus of the recreational activities undertaken (pig hunting and crossing the Range). Vibration from underground detonations will be barely perceptible except for a 40 m section of the Te Wharekirauponga Track directly above the blasting.

[563] Development and operation of the GOP, TSF3 and NRS will displace some recreational use of private OGNZL land. The GOP will displace mountain biking from Winner Hill and affect access to the Black Hill Motor Cross Track. The NRS will affect a small section of the Full and Half Nugget annual multisport events. OGNZL is looking to support alternative development opportunities, including the potential for a new access route across OGNZL land to the Ngāti Koi Domain for the existing Black Hill motocross track.

---

47 OceanaGold NZ Ltd, Waihi North Project Recreation and Tourism Assessment, Rob Greenaway & Associates, February 2025. Greenaway advised 'recreation' and 'tourism' have similar meanings in terms of potential effects as the two activities differ only by tourists having spent at least one night away from home.

48 Noise emissions from the ventilation evasés will generally be only above ambient noise levels (of around 40 – 45 dB LAeq) within 100 – 200 m of the ventilation evasés and are unlikely to be heard at the Te Wharekirauponga Track.

[564] The WTP discharge to the Ohinemuri River is addressed in E4.

Comments received

[565] DOC was concerned that without proper site selection protocols for drilling activities, there could be adverse effects on recreation. The Waikato Conservation Board supported the recommended conditions outlined in Greenaway report. Lay person commentator Gloria Sharp was concerned that the closure of public roads would restrict public access to the CFP.

OGNZL response to comments

[566] OGNZL advised that the conditions recommended in the Greenaway report were already included in the draft Wharekirauponga Access Arrangement and were in line with the current approach to management effects on recreation and heritage features.

[567] In terms of DOC's concern, OGNZL advised that the proposed Wharekirauponga Access Arrangement and Northern Area Concession conditions required minimum set back distances from the public walking track, a cessation of drilling activity within 400 m of the public walking track during the busiest period of the year (1 December to 28 February inclusive), and signage and demarcation to make the public aware of the drilling activity. Those measures were consistent with conditions of OGNZL's current Access Arrangement with DOC and were adequately protective.

[568] OGNZL are not proposing to close any public roads.

Statutory instruments

[569] No statutory instruments were brought to our attention.

Panel findings

[570] Subject to the imposition of conditions on the Wharekirauponga Access Arrangement and Northern Area Concession, and compliance with conditions of consent relating to noise and helicopter movements, we are satisfied that adverse effects on recreation and tourism will be no more than minor.

Conditions

[571] We have not amended OGNZL's 1 September 2025 conditions.

E16: Air Quality Effects

[572] OGNZL addressed air quality effects in section 6.13 of the AEE, two BECA technical reports B21[49] and B22[50] and a peer review undertaken by Tonkin and Taylor.[51] OGNZL considered that the discharges to air associated with the WNP were permitted activities under the WRP, subject to conditions. However, for certainty and completeness, OGNZL sought an air discharge consent for the WNP activities.

[573] That being the case, we have not assessed air quality effects in great detail, but observe:

(a) Discharges to air from WUG and its associated infrastructure (Areas 1 – 4), the GOP, Processing Plant and WTP upgrades, NRS and TSF3 will be of a similar nature to those from the existing Martha Open Pit, underground mines, associated infrastructure and Processing Plant but on a smaller scale, in different locations and across shorter timeframes.

(b) All underground emissions will be discharged to air via either portals or the ventilation shafts.

(c) The concentrations of PM_{10}, respirable crystalline silica, nitrogen oxides (NO_2 and NO) and carbon monoxide were assessed as remaining within the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NES:Air) standards and current consent limits.

(d) Potential dust nuisance on private property will be low following the completion of construction works and the grassing of exposed areas. As dust emissions from the WNP are not expected to result in any significant increase in dust concentrations, adverse effects on vegetation are not expected to occur. OGNZL will continue to use dust mitigation measures that have been successfully employed at the Waihi mine sites through the implementation of an Air Quality Management Plan (AQMP) for each Area.

---

49 Waihi North Project – Waihi Facilities - Air Discharge, Assessment for Fast–Track Approval Application, February 2025

50 Waihi North Project – Wharekirauponga Underground Mine - Air Discharge Assessment – for Fast track Approval Application, February 2025, February 2025.

51 B23 Waihi North Project - Fast-track Approval Application, Technical Review of Air Quality Assessments

(e) A monitoring station is installed near 132 Willows Road (an OGNZL owned dwelling) to provide measurements of meteorological and dust data. For sensitive receptors located within 100 m of the proposed surface-based mining activities in Areas 5–7, continuous instrumental monitoring of airborne particulate concentrations, wind speed and wind direction will be undertaken at the boundary of the site when activities with potential to discharge dust occur. And

(f) Emissions of mercury from the Processing Plant are expected to increase when the GOP and the WUG ore is being processed. However, OGNZL will install a retort oven at the Processing Plant to reduce the mercury emissions. The results of dispersion modelling show mercury emissions from the Processing Plant are not predicted to exceed the MfE, USEPA, or Californian Office of Environmental Health Hazard Assessment (OEHHA) annual average guideline limits.

Comments received

[574] WRC provided comments on air quality matters, including a peer review undertaken by Dr Jonathan Caldwell.[52] He concluded that Beca had identified all potential sources of contaminants to air from the WNP and associated potential effects on the Waihi airshed and surrounding area outside the airshed. He considered there were sufficient methods and measures being proposed to reduce the risk for these potential effects and the proposed monitoring was sufficient for providing early identification of any potential effects. Taking into account the Tonkin and Taylor technical peer review, Dr Caldwell was confident that OGNZL's proposed management and mitigation measures were sufficient for ensuring a low level of effects on the environment and people. He suggested some refinements of consent conditions.[53].

[575] Lay commentators[54] were concerned about dust, whereas the Waihi Community Forum supported the measures proposed in the consent conditions for reducing the effects of dust. The

52 Senior Scientist (Environmental Chemist), SPI.
53 ALL.A.3, ALL.A.4, ALL.A.22, ALL.A.24
54 Including John Perrins, Chris Battens, Brigid and Steve Cameron, Gloria Sharp and Rodney Malone.

four iwi authorities expressed general concerns about dust, vegetation clearance and vehicle emissions.

OGNZL's response to comments

[576] OGNZL accepted Dr Caldwell's recommended amendments to the conditions. In response to the concerns of the iwi authorities Kyle Welton advised that the Waihi mining operation had been effectively monitoring and managing inhalable gasses and particulates to meet strict air quality consent limits in the vicinity of the Waihi operations since 1982. Should the WNP proceed, then OGNZL would monitor and manage air quality in accordance with the AQMP, as currently occurs for the existing mining operations.

Statutory instruments

[577] In Part G we concur with OGNZL's assessment of the relevant statutory instruments, including the NES:Air.[55]

[578] Apart from HDP and WRP permitted activity standards and the NES:Air guideline values which we addressed above, no other statutory instrument provisions were brought to our attention.

Panel findings

[579] Based on the high level of agreement between the OGNZL and WRC air quality experts we are satisfied that air quality effects have been adequately addressed, and subject to the imposition of appropriate conditions of consent, those effects will be no more than minor. We observe none of the commentors who expressed concerns about air quality provided expert air quality evidence.

Conditions

[580] We have not made any amendments to OGNZL's 1 September 2025 air quality conditions.

[55] Application document A.11, sections 8.7.3.3.

E17: Lighting Effects

[581] OGNZL addressed lighting effects in section 6.14 of the AEE and the Part B.52 Pedersen Read report.[56] Lighting effects (light spill, glare and sky glow) were assessed against the HDP for "Glare and Lighting", and Australian and New Zealand Standard AS/NZS 4282: 2023 "Control of the obtrusive effects of outdoor lighting".[57] Pedersen Read concluded that direct spill light should comply with the HDP permitted activity standard of 8.0 lux "at any point on or directly above the boundary of any adjacent site or road", other than for mobile lighting, lighting at the Willows SFA entry gate and in the CFP. [58]

[582] Lighting in the CFP will be designed and installed using the best practice principles in the National Light Pollution Guidelines for Wildlife. Glare and sky glow at the Willows SFA will be mitigated through a careful selection of both the location and direction of lighting with any works in potentially sensitive locations timed to occur during daylight hours. Permanent lighting is likely to be of a similar form to that presently installed throughout the existing operation. Overall, adverse effects were expected to be minor to acceptable given the proximity to existing mining operations.

Comments received

[583] Lighting effects were addressed in the comments from HDC and DOC.[59] Several lay commentators also mentioned them.

[584] HDC technical expert Russ Kern concluded that if installed as described by Pederson Read, the lighting would mitigate obtrusive effects at residential boundaries to acceptable limits. He suggested that the placement and direction of lights at the Willows SFA should avoid high points which were visible outside of the Willows Road site.

[585] Mr Kern considered OGNZL's proposed HDC conditions 52, 53 and 54 were appropriate, but he recommended a substantial new condition requiring a Lighting Management Plan to be submitted to the HDC for certification.

---

56 Waihi North Project, Assessment of Environmental Effects: Lighting, Pedersen Read, 25 February 2025.
57 The latest revision of this Standard now includes reference to the "National Light Pollution Guidelines for Wildlife" published by the Australian Government's Department of Climate Change, Energy, the Environment and Water.
58 Section 8.2.5.3 (2)
59 Section 51 Access Arrangement and Section 51 Concession report

[586] HDC's planning assessment concluded that the proposed conditions of consent were suitable and sufficient to control and manage the lighting impacts of the WNP, subject to the Lighting Management Plan being certified.

[587] DOC was concerned about lighting effects on frogs and bats, but they did not propose any additional conditions for the HDC land use consents. We discuss DOC's suggested amendments to the Access Arrangements and Concession conditions elsewhere in this Decision.

OGNZL response to comments

[588] OGNZL agreed to a new condition requiring a Lighting Management Plan. They advised that the placement and direction of lights at high points that are visible outside the Willows Road site would be adhered to as far as was operationally practicable, but avoiding all such high points within the Willows SFA was not practicable from a health and safety perspective.

Statutory instruments

[589] Apart from the HDP lighting standards, no specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[590] Subject to the imposition of appropriate conditions of consent we find lighting effects will be appropriately avoided, remedied or mitigated.

Conditions

[591] We are satisfied OGNZL's proposed lighting conditions are appropriate, including condition 54A addressing the Lighting Management Plan.

E18: Archaeological and Historic Heritage Effects

[592] OGNZL addressed archaeological and historic heritage effects in section 6.15 of the AEE and the Part B.49 Clough and Associates Ltd report.[60] The Clough report addressed the Wharekirauponga Valley and the WUG resource, Willows SFA, GOP, WUG Portal and Processing Plant areas, TSF3, NRS and Māori cultural values. It concluded that the WNP would not affect any scheduled item in the HDP. However, it recommended that any consents granted should include accidental discovery protocols.

[593] The AEE advised that OGNZL would implement accidental discovery protocols across all of the WNP work sites. Should accidental discovery of archaeological remains occur, work would cease in the immediate vicinity, HDC and HNZPT would be informed, and if the site appeared to be of Māori origin OGNZL would notify appropriate iwi representatives of the discovery and ensure site access for them to enable appropriate cultural procedures and tikanga to be undertaken.

[594] Regarding the HNZPT Act, the Clough report concluded that the WNP would potentially affect a number of recorded archaeological sites and consequently OGNZL had applied for a general Archaeological Authority for work to be carried out that might affect those sites.[61] Additionally, other, so far unidentified, subsurface or near surface features relating to mining activities and the early history of Waihi township could also be exposed, and so OGNZL had included all WNP works in the Archaeological Authority application.

[595] We observe that a substantial part of the Gladstone Hill gold mining complex (T13/821), part of the Winner Hill gold mining complex (T13/820), and part of the Lower-Level Water Race (T13/817) will be affected by the proposed GOP. OGNZL suggested that any areas impacted could be effectively mitigated through archaeological recording and investigation, and the dissemination of new information on early mining activities, interpretation, education and outreach.

---

60 Waihi North Project - Fast Track Approval: Assessment of Historic Heritage and Archaeological Effects, Prepared For Oceana Gold (New Zealand) Ltd, Document Number: April 2025.

61 Including part of sites T13/961 Mataura Water Race, T13/962 Willows Timber Tramway and T13/963 High-Level Walmsley Timber Tramway. The Gladstone Open Pit will impact on a substantial part of the Gladstone gold mining complex (T13/821), part of the Winner Hill gold mining complex (T13/820); and two sections of the Lower-Level Water Race (T13/817). Other sections of T13/817 may be impacted upon by the harvesting of pine trees around the southern extent of Winner Hill. The NRS will impact on the Queen of Waihi Shaft (T13/971).

[596] Importantly, there are no known pre-European Māori sites within the footprint of any of the proposed WNP works. Nevertheless, OGNZL consulted with iwi and four chose to provide CIAs, of whom three decided to keep those documents confidential between themselves and OGNZL.[62]

[597] The AEE stated that while no specific archaeological features or features of particular significance to iwi were identified within the WNP area, iwi were intimately connected to land and waters within the WNP area via whakapapa, with strong linkages maintained through waka traditions, mythology, and place names which demonstrated the value of the area as a source of food and resources.

[598] OGNZL has prepared an Archaeological Management Plan (AMP) to accompany the Archaeological Authority application.[63] The AMP provides general protocols for the exposure of archaeological remains, including remains of Māori origin, koiwi tangata (human remains) or taonga (Māori artefacts).

Comments received

[599] Comments on archaeological and historic heritage were received from HDC, the Ministry for Culture and Heritage, HNZPT, Ngāti Pū (in their publicly available CIA), Waikato Conservation Board and DOC.

[600] For HDC, Dr Neville Ritchie advised that Clough Associates had undertaken comprehensive historical research and archaeological survey work and had assessed other pertinent information. Dr Ritchie concluded that Clough Associates had produced an accurate, fair and reasonable assessment of the overall impact of the WNP on archaeological resources and had clearly identified the more significant impacts. He also found the Archaeological Authority application to be comprehensive, and when implemented, he considered it would ensure the maximum amount of learning from the historic places which would be modified by the WNP.

---

62 Ngaati Whanaunga, Ngāti Tamaterā, and Ngāti Tara Tokanui / Ngāti Koi.

63 Archaeological Management Plan Waihi North Project prepared for Oceana Gold(NZ) Ltd by K Tatton and R Clough (Clough Associates) in February 2023. This was contained in Part H of the Application documents.

[601] The Ministry for Culture and Heritage deferred to HNZPT's statutory role and its expertise and did not expect to be consulted separately on the Archaeological Authority. HNZPT stated they had assessed the OGNZL Application, with input from specialist regional heritage staff, including those with Māori heritage, planning and archaeological expertise. Overall, based on the information provided, HNZPT had no objection to the approval of the WNP resource consent applications. They supported HDC condition 89, TCDC condition 44 (mistakenly referred to in the comments as Condition 47) and the Combined HDC and WRC condition C29.

[602] Regarding the Archaeological Authority, HNZPT provided a report under s 51(2) of the FTAA. HNZPT reviewed the proposed mitigation measures included in the AMP and agreed they would mitigate adverse effects on the archaeological values of potential unrecorded sites within the WNP. HNZPT recommended that the Archaeological Authority be granted, subject to conditions that they set out in their s 51 report. They also recommended that the Panel approve the application for Kim Tatton as the approved person to carry out archaeological work under the Archaeological Authority.

[603] Ngāti Pu noted that heritage sites within the area may be physically damaged or destroyed, threatening iwi identity and cultural continuity. Ngāti Pū wished to be involved in monitoring, with the authority to halt works if wāhi tapu or other significant sites were at risk.

[604] The Waikato Conservation Board sought conditions that would preclude locating the ventilation shaft raises on any tramway formations in the CFP.

[605] In their s 54 report DOC expressed concern that no conditions required any additional effects assessment on heritage features beyond the Multi-Criteria Analysis (MCA) site selection protocol for investigative drill sites and ventilation shaft sites. They considered that created an unacceptable and unmitigated risk that heritage features would be impacted by exploration or mining activities and associated operations.

OGNZL response to comments

[606] OGNZL provided a response from Cassandra McArthur.[64] Regarding the DOC concerns, she advised that the Site Selection Protocol required OGNZL to engage a suitably qualified and experienced archaeologist to assess if there were any known archaeological or other historic heritage features, or a likelihood of unidentified archaeological or other historic heritage features, within 500 m of shortlisted investigative drill sites and ventilation shaft sites. If heritage features were found, or were likely to be found, in the vicinity of a proposed work site, the site would be given a 'red' score according to the MCA. If, for operational reasons, OGNZL still needed to use the site an Archaeological Authority would be required, and effects on heritage features would be assessed at that stage. DOC, as a requirement of the Archaeological Authority application process, would be consulted as part of that process.

[607] Regarding the Waikato Conservation Board, OGNZL noted that the draft Wharekirauponga Access Arrangement included conditions requiring the avoidance of tramway formations in the CFP, in line with the current approach to management effects on heritage features.

Statutory instruments

[608] HNZPT's s 51 report addressed s 59(1)(a) of the HNZPT Act and the Statement of General Policy titled "The Administration of the Archaeological Provisions under the Heritage New Zealand Pouhere Taonga Act 2014", dated 29 October 2015. HNZPT advised that granting the Archaeological Authority sought by OGNZL, with appropriate conditions, would be consistent with the matters set out in s 59(1)(a) of the HNZPT Act and the objectives and policies set out in that Statement of General Policy.

Panel findings

[609] We find that OGNZL has adequately assessed potential adverse effects on archaeological and historic heritage resources. Subject to the imposition of the conditions of consent that were supported by HNZPT and the granting of the Archaeological Authority inclusive of the conditions sought by HNZPT, we are satisfied that any such potential adverse effects will be suitably avoided or mitigated.

[64] OGNZL Superintendent – Environment for the WNP.

Conditions

[610] We found the 1 September 2025 version of the heritage conditions offered by OGNZL to be generally appropriate. That included TCDC condition 44 and Combined HDC and WRC condition C29 setting out Accidental Discovery Protocols. We added Ngāti Porou ki Hauraki to the tangata whenua entities referred to in those conditions. We also inserted new HDC condition 89A requiring the certified AMP to be implemented, with any amendments to it having to follow the process set out in Conditions C8 – C8D of the combined HDC and WRC conditions

[611] As to Ngāti Pū's comment, we note the Accidental Discovery Protocols in the resource consent conditions effectively achieve the outcomes they sought.

[612] We did not amend the Archaeological Authority conditions offered by OGNZL, noting them to be entirely consistent with those sought by HNZPT.

E19: Effects of the Storage and Handling of Hazardous Substances

[613] OGNZL addressed effects relating to the storage and handling of hazardous substances in section 6.16 of the AEE and in three Part B reports authored by Tonkin and Taylor:

(a) B.18;[65]

(b) B.19;[66] and

(c) B20.[67]

[614] The WNP involves the storage and use explosives, oxidising and toxic substances, workshop gases, fuels, maintenance oils and greases.

[615] The CFP is sensitive to the effects of a spill of diesel or packaged goods. Associated risks will be managed through site and equipment design. Best practice management controls will be set out in a Hazardous Substances Management Plan (HSMP) to be certified by HDC which OGNZL will prepare for Area 1.

[616] At the WUG and the Willows SFA risks relate to fuel spillages and the potential for a fire or detonation at the explosives magazines, oxidiser storage area and gas or diesel tanks. These risks will be managed through site and equipment design (including as double skinned tanks, sealed refuelling areas, bunded fuel storage areas, separation distances to offsite locations and other explosives stores, the provision of fire protection systems, and certification of the explosives storage magazines) and management controls in the HSMP.

[617] At the Processing Plant and WTP risks relate to fires in the diesel, oxygen or hydrogen peroxide storage tank areas, and ecotoxic or human health effects from a spill of corrosives, oxidizers, diesel, mercury or cyanide. These risks will be managed through site design (including secondary containment, automation including interlock systems, segregation of

---

65 Hazardous Substances Technical Assessment, Waihi Processing Plant, Water Treatment Plant and Waste Disposal Area - Waihi North Project, February 2025

66 Technical Assessment of Hazardous Substances, Willows Road site and the Wharekirauponga Underground Mine - Waihi North Project, February 2025

67 Waihi North Project - Waihi North Project – Exploratory works within the Coromandel Forest Park, February 2025

incompatible substances, certification of storage systems tanks), and operational procedures in the HSMP.

[618] OGNZL intends to relocate the Waste Disposal Area (including two 20,000 L diesel tanks), and two 40,000 L LPG tanks in Area 6. OGNZL will also construct the Waste Disposal Area Magazine, a new Class 1 explosives storage to service ongoing mining operations in Waihi, which includes the storage of mass explosion detonators and mass explosion blasting explosives, up to 6,400 kg, within approved magazines. The risks at this site relate to ecotoxic or human health effects from a spill of corrosives, oxidizers, or diesel, or an unplanned detonation at the proposed Waste Disposal Area Magazine. The risks of fuel spills will be managed the same way as at the other sites.

[619] The neighbouring rural properties surrounding the Waste Disposal Area are sensitive to the effects of an unintended detonation at the Waste Disposal Area Magazine. That risk will be managed by securing the facility from unauthorised access, segregation of incompatible materials, provision of fire-fighting facilities and emergency management procedures, and separation from sensitive locations. OGNZL must notify WorkSafe and obtain certification for the explosives magazine from an accredited independent compliance certifier for both the facility itself and its Class 1 substance handler.

[620] Tonkin + Taylor concluded that with the above risks management measures in place, the storage and use of hazardous substances associated with the WNP would be appropriately managed such that any risk of adverse effects on people, property and the surrounding environment would be less than minor.

Comments received

[621] For HDC OGNZL's approach was peer-reviewed by technical expert Norbert Schaffoener. He identified errors and inconsistencies in the Tonkin and Taylor reports and considered then to be more descriptions than risk assessments. Nevertheless, Mr Schaffoener concluded that the proposed management of the effects of hazardous substances was appropriate provided some of OGNZL's proposed conditions were amended. In reaching that conclusion he noted the relative remoteness of the WNP hazardous facilities was advantageous in relation to public health and safety risks.

[622] Mr Schaffoener observed that the effective management of hazardous substances was reliant on good HSMP(s). Given that details of exact locations and storage/management methods, including site plans, had not been finalised the HDC's certification of the HSMP(s) was crucial and would provide the opportunity for relevant requirements to be addressed.

[623] HDC's planning assessment concluded that the management of the effects of hazardous substances was appropriate with regard to OGNZL's proposed conditions subject to the amendments recommended by Mr Schaffoener.

[624] Coromandel Watchdog (Dr Emerman) and lay commentator Gloria Sharp were both concerned about cyanide management at the Processing Plant and the unplanned release of mine tailings. Brigid and Steve Cameron were concerned about proximity to the explosives magazine and the transportation of explosives. The four iwi authorities expressed general concerns about contamination and pollutants.

OGNZL response to comments

[625] OGNZL's response was provided by Robert Van de Munckhof from Tonkin and Taylor. He supported Mr Schaffoener's amendments to the conditions. Regarding the concerns of Dr Emerman, Mr Van de Munckhof noted that solid sodium cyanide and liquid cyanide was currently stored and used at the processing plant in Waihi and OGNZL had an existing Waihi Cyanide Management Plan.[68] That Plan identified potential overflow locations to provide secondary containment, and the processing site has tertiary containment ponds to contain any unplanned releases. There are substances stored on site that can be used to dose and detoxify the containment areas following a spill as part of the emergency response. Mr Van de Munckhof also advised that the Waihi Emergency Management Plan set out the site-specific cyanide emergency procedures for a range of emergency release, fire and staff exposure scenarios.[69]

[626] With respect to the concerns of the lay commentators, OGNZL advised that the explosive magazine buffer zones did not enter the Camerons' property. Any transport of hazardous substances by road would be undertaken in accordance with the Land Transport Rule: Dangerous Goods 2005 and, when on site, all transport of explosives would be carried

[68] WAI-451-PLN-002, which was referred to and described in Section 4.11.1 of B18.
[69] WAI-250-PCP-001 (October 2023).

out under the supervision of a Certified Handler. Any transport of hazardous substances in helicopters will adhere to the Civil Aviation Rule Part 92 – Carriage of Dangerous Goods.

Statutory instruments

[627] No provisions of statutory instruments were brought to our attention other than those just mentioned.

Panel findings

[628] We find that the effects relating to the storage and handling of hazardous substances have been adequately addressed by the Tonkin and Taylor reports, the HDC peer review and the responses of Mr Van de Munckhof to the matters raised by commentators. Subject to the adherence to conditions of consent and the implementation of certified HSMP(s) (together with the ongoing adherence to the Waihi Cyanide Management Plan which adequately addresses Dr Emerman's concerns), we find those potential effects to be no more than minor.

Conditions

[629] We have not made any amendments to OGNZL's 1 September 2025 conditions for the HDC land use consents dealing with 'Hazardous Substances' (HDC Conditions 58 to 64), noting the HSMP will be provided to HDC for certification (Combined HDC and WRC Conditions C4B and C5(m)).

E20: Contaminated Land Management

[630] OGNZL addressed Contaminated Land Management in section 6.17 of the AEE and the Part B.17 WWLA report (2024).[70] Potential ground contamination associated with future construction and operation of TSF3 was addressed in section E13 of this Decision.

[631] The Preliminary Site Investigation (PSI) completed by WWLA found that there was potential for contamination to be encountered within the existing operational facilities and other currently undeveloped WNP areas.

[632] Contamination sources in the current mining areas included bulk storage and use of cyanide, acids and solvents, and potential for localised contamination around mechanical workshops, fuel storage, transformers, and explosives storage.

[633] Within undeveloped WNP areas, potential contamination sources included use of drenches, market garden chemicals and minor fuel storage associated with farming activities as well as potential for asbestos use within dwellings and sheds.

[634] Potential contamination sources were predominantly 'point sources' and expected to be confined to surface soils in the immediate vicinity of the activity.

[635] WWLA indicated that the "…scale of the earthworks proposed will dwarf the volumes of contaminated soil that may be present". They recommended:

(a) soil sampling in targeted areas as informed by the Hazardous Activities and Industries List (HAIL) assessment prior to the commencement of earthworks associated with the WNP; and

(b) preparation of a Site Management Plan (SMP) for each area, setting out the measures to be implemented to manage the risks of contaminated soil disturbance on workers and the environment.

[70] Waihi North Project, Preliminary Site Investigation (Ground Contamination) Williamson Water and Land Advisory 17 December 2024.

Comments received

[636] Ground contamination management was addressed in the comments from HDC who indicated that "…the conditions proposed by the Applicant relative to the preliminary site investigation that has been undertaken, are appropriate, relative to the requirement for the consent holder to instigate a SMP - Contaminated Land for certification."

[637] They also stated, "There are no significant residual contamination impacts that require a proportionality assessment".

OGNZL response to comments

[638] OGNZL noted the comments but made no specific response.

Statutory instruments

[639] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[640] Subject to the imposition of appropriate conditions of consent we find that ground contamination management effects will be appropriately avoided, remedied or mitigated.

Conditions

[641] The revised conditions provided by HDC and TCDC and the Combined HDC and WRC conditions appropriately manage ground contamination effects. These have been agreed to by OGNZL.

E21: Transportation Effects

[642] OGNZL addressed transportation effects in section 6.18 of the AEE and the Part B.50 Stantec report.[71] Traffic movements generated by the WNP and effects on the local roads and their points of access to the state highway network were assessed based on a proposed work and labour schedule for an 18-year work programme through to approximately 2042. Stantec recommended:

(a) upgrading sections of Willows Road (including at curves, culverts, and its intersection with SH25) and secondary accesses on Golden Valley Road;

(b) ensuring the construction workers day shift time was well dispersed at the Baxter Road access, and monitoring workforce travel patterns and adapting management of that traffic if required;

(c) providing adequate parking within the site(s); and

(d) preparing and implementing a Construction Traffic Management Plan.

Comments received

[643] Transportation matters were addressed in the comments from HDC, NZTA and several lay commentators.

[644] For HDC technical expert John Kazon considered that the recommendations outlined in the Stantec report were sufficient and no further information was required.[72] His overall opinion was that any potential transportation effects, both during construction and in the long term, would be effectively avoided, remedied or mitigated to the point they were acceptable. Mr Kazon concluded that proposed conditions for the HDC Land Use Consents (Transport, Conditions 70 – 86) were satisfactory.

[645] NZTA's comments focused on the SH25 and Willows Road intersection (Area 1) and the Wharekirauponga Access Tunnel (Area 3) where it passed beneath State Highway 2 and

[71] Waihi North Project, Transportation Assessment Report, Stantec New Zealand, 19 February 2025.
[72] Technical Director, Pinnacles Civil.

SH25. Amendments were sought to OGNZL's proposed conditions and advice notes to ensure that NZTA was informed of transport and geotechnical matters and NZTA assets were protected.[73]

OGNZL response to comments

[646] OGNZL recommended amendments to conditions and advice notes in response to the NZTA comments. Regarding the Wharekirauponga Access Tunnel, OGNZL advised that it passes at depth beneath SH25 in andesite rock and mining in andesite rock had been undertaken successfully at similar depths beneath Waihi East since the mid 2000's without damage to buildings or roading infrastructure. Nevertheless, surface settlement monitoring would be in place along SH25 and would be reviewed as part of the Dewatering and Settlement Monitoring Plan.

Statutory instruments

[647] No specific statutory instrument provisions were brought to our attention by commentators. We are satisfied that the transportation aspects of the WNP have suitably taken into account Objectives 1 and 2 of Section 7.9 of the HDP to provide and maintain a safe and efficient transport network.

Panel findings

[648] Subject to the imposition of appropriate conditions of consent we find transportation effects will be appropriately avoided, remedied or mitigated.

Conditions

[649] In its response to comments OGNZL accepted NZTA's requested amendments to HDC conditions 72 and 73 and inserted new condition 73B requiring a Temporary Traffic Management Plan (TTMP) to be submitted to HDC for certification. We find the TTMP should also be certified by NZTA. OGNZL generalised NZTA's suggestions for condition 73 by referring to detailed design plans which we find to be appropriate. Regarding the

[73] Conditions 46, 72 and 73 along with a new condition regarding a Temporary Traffic Management Plan (TTMP) for the State Highway 25 and Willows Road intersection.

Wharekirauponga Access Tunnel, OGNZL did not recommend the amendment sought by NZTA to condition 46, but we find that amendment to be appropriate and so we have made it.

E22: Social Impacts

[651] OGNZL addressed social impacts in section 6.19 of the AEE and the Part B.57 WSP report.

[652] The WSP report analysed the likely social impacts of implementing the WNP. It identified well-being effects of externalities of the WNP (for instance traffic movements, noise, blasting and vibration, air quality, lighting and visual amenity) along with anxiety about, or discomfort with, associated changes. Other potential impacts discussed by WSP involved community services. The report indicated that community health, educational and other facilities have the capacity to deal with the pressure likely to result from increased mining employment.

[653] The most significant impacts WSP identified were, on the positive side, social uplifts for Waihi and the surrounding district associated with increased employment and business activity and on the negative, a likely shortage of accommodation as employment associated with the WNP ramps up and the possibility of community disruption when mining stops.

Prior social impact analyses and the current Social Impact Management Plan

[654] Social impact analyses were prepared for consent applications in 2014 and 2019 and, pursuant to a condition imposed in 2019, a Social Impact Management Plan (current SIMP) was developed.

Waihi and the local area

[655] The social impact material focuses primarily on Waihi and the area within a 30 km radius of the town centre. This is referred to as "the local area" and includes Paeroa, Whangamata, Te Aroha, Waihi Beach and Katikati.

[656] Key industries in and around Waihi include farming, tourism and mining. Light engineering firms support farming and transport. Attractions that draw tourists to the area include, amongst other things, historical and current gold mining operations. Prominent within Waihi is the Martha Open Pit, and there are current mining operations under the town.

[657] As recorded in the 2023 Census data, the populations of Waihi and the local area are 5,610 and 37,528, respectively. Median ages are 50.8 years in Waihi and 52.1 years in the local area. These are substantially higher than the median age in the Waikato Region.

[658] The New Zealand Deprivation Index (NZDI) is an area-based measure of socio-economic deprivation. It uses a scale of 1 (least deprived) to 10 (most deprived) to denote levels of deprivation. To generate scores, it combines census data relating to communications, income, employment, qualifications home ownership, support, living space, and living conditions. On the 2023 NZDI, Waihi town scored 8.4, which is significantly higher than the local area (6.8), Waikato (6.4) and New Zealand (5.6).

[659] On data collected in 2018, Waihi town and the Hauraki District had a higher youth (15 to 24 years) Not in Employment, Education, or Training (NEET) rate, 16.9%, compared with the regional and national rates. The New Zealand NEET rate was 12.4%.

[660] Levels of education and qualifications in Waihi and the local area are low compared to the regional and national averages. As examples only, the 2023 Census indicated percentages of those with no qualifications at 25.4% in Waihi, 22.5% in the local area, 17.2% in Waikato and 15.1% in New Zealand; and those with postgraduate qualifications at 4.4% in Waihi, 5.5% in the local area, 8.7% in Waikato and 11.1% in New Zealand.

[661] Unemployment rates in Waihi tend to be higher, and those in the local district lower, than in Waikato and New Zealand as a whole.

OGNZL's current schemes for addressing effects on property and property values

[662] OGNZL runs a number of schemes which address the effects of mining on properties near its mining activities. They are:

(a) A Top Up scheme under which OCNZL pays the difference between what a purchaser is prepared to pay for a property and its assessed market value if not affected by the OGNZL's mining activities. Only one Top Up is available per property. To be eligible for Top Up, a property must:

(i) be within one of the defined areas where the property value assessment has identified a potential effect on property values as a result of proximity to mining activities;

(ii) be marketed by a licensed registered real estate agent; and

(iii) have been on the market for a period of at least four months following the announcement of the WNP.

(b) An ex-gratia payment of 5% of the value of properties under which the OGNZL is mining.

(c) An Amenity Effect Programme under which those who experience amenity detriment as a result of vibration receive payments.

(d) A "We break, We Pay" scheme under which there is a special procedure for compensation for any damage caused by mining activities. And

(e) A complaints registration and feedback system in relation to vibration.

[663] As well, OGNZL supports a "Streets Ahead" scheme operated by the Waihi Community Forum.

Employment impacts in and around Waihi of current mining

[664] OGNZL's workforce records indicate that 23.84% of the total workforce (contractors and employees) in its current mining operations in Waihi attended Waihi High School, and that a majority of the workforce live in the local area. OGNZL's total expenditure in relation to its Waihi operation in 2022 was $121 million. Local supplier sales totalled $15.3 million. 37 local suppliers provided goods and services worth $60,000 or more to OGNZL.

[665] These figures are evidence of substantial economic activity associated with mining in and around Waihi. However high scores on the 2023 NZDI index for Waihi and the local area, along with the other unfavourable social indicators, show that despite the significant activity

they generate, current mining activities have not had a markedly favourable effect on unemployment and poverty in Waihi and the local district.

[666] This is not surprising. Economic growth, on its own, will not resolve poverty. The WSP report noted:

> … unemployment in Waihi is associated with the long-term unemployed. The group aged 18-30 years old are mostly affected and this would be a useful pool of labour. This group can be difficult to motivate; they have challenges passing alcohol and drug tests and have no drivers' licences. Life coaching and support are needed to secure and maintain employment.

[667] Mr Eaqub, in his response to the s 53 comments, observed:

> ... Decades of research on economic inequality has shown that economic growth alone is not enough to reduce poverty. There may be many reasons why there are pockets of deprivation alongside strong economic activity such as mining. Poverty is often accompanied by other factors, such as health issues, addiction, and low education attainment. The underlying causes of poverty and income disparity cannot be solved by local employment opportunities alone and are often difficult to solve. Social policies through central government are the main poverty alleviation channel in New Zealand.
>
> ... A relevant reason for deprivation persisting alongside the strong economic activity of mining could be a mismatch between local labour force skills and the needs of the mine, perhaps due to a lack of education, skills or other barriers. In this scenario, growth in mining activity would draw in suitable labour from outside the region. This increases the population and economic activity of the region but does not necessarily improve the outcome for the locally unemployed or underemployed. However, there may be some spillover benefits if the increase in economic activity leads to secondary jobs in other sectors, for example retail, which may draw from the local labour force.

[668] The purpose of the Waihi Skills Development and Training Action Plan (which is provided for in the conditions proposed by OGNZL) is to boost local employment. We will come to this shortly.

Pressure on housing

[669] The likelihood that increased employment will create pressure on housing in Waihi and the local area was discussed extensively in the material before us.

[670] The housing market can be expected to respond to this pressure (in the form of the provision of additional accommodation) and there do not appear to be any restrictions (in

relation to land capable of development) which would preclude this response. However, the absence of careful planning, there are likely to be some disruptions associated with all of this in the short to medium term following increases in employment. It should also be kept in mind that implementation of the WNP will ensure a continuation of mining activity and in this way defer what would otherwise be the dispersal of the existing workforce from around 2032.

[671] The purpose of the Workforce Accommodation Assessment (also provided for in the conditions proposed by OGNZL) is to ensure that relevant information is collected to enable steps to be taken to reduce the extent to which implementation of the WNP contributes to local accommodation shortages.

Management of the consequences of eventual closure of the mine

[672] Assuming implementation of the WNP, the number of people employed in the mine in Year 17 is expected to be 564. This will drop in Year 18 to 285 and to nothing in the following year. Many of those who work in the mine will leave Waihi and the local area. This is likely to change the demographic profile in Waihi and the local area with likely impacts on community facilities and services and business activity.

[673] The social consequences for Waihi and the local area are likely to be broadly the same irrespective of whether mining ceases in 2032 or (assuming the WNP is implemented) in or after 2040.

Conditions proposed by OGNZL

[674] OGNZL has proposed conditions to enhance the employment impacts in and around Waihi and mitigate the effects of increased demand for accommodation and disruption associated with the closure of the mine and address other social impacts. These involve:

(a) a Waihi Skills Development and Training Action Plan;

(b) a Workforce Accommodation Assessment;

(c) a general SIMP that sits over the first two documents and also addresses some other well-being impacts;

(d) a Socio-Economic Impact Assessment of Closure;

(e) C27 and C28 of the Combined HDC and WRC Conditions and condition 48 of the HDC Conditions which provide for a complaints registration and response procedure;

(f) the Amenity Effect Programme which is provided for in conditions 34- 41, the We Break It, We Pay scheme in conditions 50 and 51 and the ex-gratia payment scheme in conditions 65 and 66 of the HDC Conditions; and

(g) the Top Up scheme which is referred to in the SIMP conditions but only in relation to reporting (see condition 107(xii) of the HDC Conditions).

Comments received

[675] Comments on social impacts were received from HDC, Coromandel Watchdog, the Waihi Community Forum, the four iwi authorities and several lay commentors. There were a variety of perspectives. For example, Ngāti Porou ki Hauraki highlighted Waihi's socio-economic disparities and poverty and potential impacts of the WNP on local employment and housing. Conversely, Ngāti Pū (which is staunchly opposed to the WNP) acknowledged that the construction and operation of mining activities in the Wharekirauponga area may bring direct and indirect economic benefits to the wider region, noting, however, it could create tension within their own community, especially where whānau strongly opposed mining in their rohe.

[676] Mr Quigley's comments (on behalf of the HDC) proposed amendments which if accepted would provide for more detailed versions of the Waihi Skills Development and Training Action Plan, the Workforce Accommodation Assessment and the SIMP.

[677] Other comments addressed the impacts on people of blasting, vibration, noise, dust and vehicle movements which we address elsewhere.

[678] A lack of focus in the Social Impact Analysis on the community at Whangamata was raised by Coromandel Watchdog.

[679] The Waihi Community Forum addressed OGNZL's Property Purchase, Top Up, Amenity Effect and Streets Ahead programmes.

[680] Lay commenters expressed concerns about impacts on property values.

OGNZL's responses to comments

[681] OGNZL's response was provided by Hilary Konigkramer from WSP. She considered that Mr Quigley's proposed amendments to HDC conditions on the Waihi Skills Development and Training Action Plan detracted from the intended outcomes that the Plan sought to achieve. In particular, Ms Konigkramer considered that Mr Quigley's proposed "Waihi Skills Development and Training Action Group" was not appropriate as OGNZL needed to retain responsibility for the consent conditions and lead the development of the Plan. This is because it understood the specific skills and competencies required to create an employable workforce.

[682] In terms of road safety and traffic accidents, which Mr Quigley sought to have addressed in the Workforce Accommodation Assessment, Ms Konigkramer considered that those considerations were covered by other legislation and company and contractor health and safety policies and procedures. She also considered that consolidated monitoring and reporting on OGNZL's initiatives by way of the SIMP was preferable to the multiple references to reporting, review, evaluation and certification sought by Mr Quigley.

[683] As to Coromandel Watchdog's reference to an absence of focus on the Whangamata community, Ms Konigkramer noted that Whangamata is within the local area and was thus addressed in her Social Impact Analysis.

Statutory instruments

[684] We have considered the provisions of the HDP when determining what if any changes should be made to the conditions of consent proposed by OGNZL.

Panel findings

[685] In overall terms we find that OGNZL has adequately addressed the potential social impacts of the WNP. We consider the initiatives that it proposes to undertake (as outlined

above) are comprehensive and, because many of them are in existence already in relation to existing mining activity, have a proven track record.

[686] We do not consider it is appropriate to require assessments and reporting on matters relating to general social support for members of the community, or temporary and emergency housing (as proposed by Mr Quigley). In part, this is because those matters fall within the role of other agencies. Nor do we find it appropriate to require the Workforce Accommodation Assessment to address commuter road safety matters (as was also recommended by Mr Quigley). This is the role of the road controlling authorities (NZTA and HDC). We are also conscious of s 108AA of the RMA which imposes restrictions on the subject matter of resource consent conditions. In the respects just mentioned, the conditions proposed by Mr Quigley appear to lie outside of what is contemplated by s 108AA(2) and go beyond what OGNZL agrees to (see s 108AA(1)).

[687] We agree with Ms Konigkramer that it would not be appropriate to require OGNZL to establish and administer a "Waihi Skills Development and Training Action Group", as suggested by Mr Quigley. Instead, in terms of compliance and enforcement certainty, we prefer the status quo whereby OGNZL is clearly responsible for implementing the 'social impact' suite of consent conditions and for monitoring and reporting on the outcomes of any associated actions by way of the SIMP. However, we consider that the HDC should be a party that it collaborates with in terms of the Waihi Skills Development and Training Action Plan. Once again, s 108AA of the RMA is relevant.

[688] We agree with OGNZL that there is no need to consider housing options in an expanded 60-minute commute area (which was also suggested by Mr Quigley), but are of the view that that the "local area" focus should be clarified.

[689] We acknowledge the concerns of lay person commenters about potential effects on property values. However, it is well established that an impact on property values is not an effect that should be considered under the RMA. Rather, the focus should be directly on the adverse effects on amenity values which are said to influence property values. We have considered effects on amenity values (including those that might arise from vibration, noise, dust and visual changes to the landscape) elsewhere in this Decision. In any event, OGNZL's Top Up scheme is in place and there is no reason to think that it will be discontinued.

[690] In their comments on the proposed conditions that formed part of the Draft Decision Anne and Chris Hatton noted their property was 400 metres from the GOP and 700 metres from the NRS. They are outside the area covered by the Top Up scheme and are understandably concerned about loss of property value. They are also concerned about effects on amenity values (such as noise and air-quality effects) and have asked that vegetation buffers be planted as soon as possible.

[691] For the reasons given we are not able to address property value concerns directly. But conditions have been imposed to protect amenity values. Attachment 9 to the HDC consent deals with planting. Screen planting (fast growing natives) for the NRS is to be completed within the first planting season following the commencement of the consent. And, for the GOP, existing pine trees will be retained whilst it is in operation.

Conditions

[692] We have carefully considered the amendments to conditions sought by commenters, in particular those sought by Mr Quigley on behalf of the HDC. Subject to our findings as set out above, we have amended the conditions to improve their clarity and certainty. The improvements include a focus on NEET individuals, reference to "Fly In – Fly Out" workers, clarifying the extent of other townships included within the "local area", and requiring reporting on the numbers of individuals (and their demographic profile) who have received skills enhancement assistance under the Waihi Skills Development and Training Action Plan.

[693] We have not attempted to expand the consent conditions beyond those proffered by OGNZL to address various other impacts. The We Break We Pay, the Amenity Effect and ex gratia payment schemes are directly provided for in the conditions proposed by OGNZL and the Top Up Policy is referred to in the SIMP in terms that presuppose its continuation. These are conditions to which OGNZL has agreed to for the purposes of s 108AA(1)(a) of the RMA. A condition that imposed financial obligations that go beyond what OGNZL has agreed to (for instance in relation to the Streets Ahead scheme) would be a "condition requiring a financial contribution" within the meaning of s 108(9) of the RMA in circumstances that lie outside of what is permitted under s 108(10). This is because such a condition would lie outside the scope of the financial contributions provisions of the HDP.

E23: Monitoring and Review

[694] The monitoring and review obligations imposed by the proposed conditions attached to the various approvals required for the WNP are comprehensive and robust. Monitoring will be undertaken for noise, air quality, water quality and quantity in surface and groundwater (including shallow groundwater, springs and wetlands, the Ruahorehore Stream and the Ohinemuri River). vibration, earthworks, ground subsidence or settlement, effects on native frogs, These obligations include the development of a Mātauranga Māori Monitoring Programme to be led by the IAG.

[695] Monitoring will occur prior to mining activities in order to determine baseline conditions against which the effects of mining activities will be assessed on an ongoing basis once mining activities commence. In some cases, trigger levels will be set to implement mitigation or contingency measures should they be required. The monitoring obligations are captured in both consent conditions and associated management plans.[74]

[696] Some of the monitoring proposed is a continuation or expansion of that already undertaken for the Martha mining activities. New monitoring programmes are proposed for mining activities in the CFP along with the monitoring of mitigation measures such as pest control and fauna salvage and relocation.

Comments received

[697] Comments on OGNZL's proposed monitoring activities were provided by HDC, TCDC, WRC, DOC, Fish and Game, NZTA, Parliamentary Commissioner for the Environment (PCE), Coromandel Watchdog, John Perrins, Brigid and Steve Cameron, Bryce Ede and Gloria Sharp. Many of the comments focussed on the adequacy of the proposed monitoring, both in terms of its nature and scale.

[74] Including the WUG Water Management Plan, Dewatering and Settlement Monitoring and Management Plan, GOPTSF Monitoring and Management Plan, Area 5 Rock Storage Monitoring and Management Plan; NRS Monitoring and Management Plan; Area 6 Stockpile Monitoring and Management Plan; TSF3 Monitoring and Management Plan; Native Frog Monitoring Plan;

OGNZL response to comments

[698] OGNZL responded to the comments on monitoring in the various briefs of evidence provided by a range of technical subject experts. In some cases, the response was to highlight existing or proposed monitoring that responded to the expressed concerns, while in other cases amendments were proposed to the monitoring programmes and their associated resource consent monitoring conditions.

Statutory instruments

[699] No specific statutory instrument provisions were brought to our attention by commentators.

Panel findings

[700] The Panel carefully reviewed the extensive range of monitoring proposed to be undertaken in light of the comments received and the OGNZL response to those comments. Our assessment of those matters is primarily set out in the preceding Part E sections of this Decision and we do not repeat that detail here. Suffice to say that we find that the proposed monitoring and reporting programmes and associated consent conditions, as amended by us in some cases, are comprehensive and robust.

[701] DOC sought a number of amendments to the consent conditions relating to monitoring, particularly relating to the WRC conditions. We did not find it necessary to amend the majority of conditions as we found those conditions to be sufficiently clear and certain. In many cases DOC sought the imposition of limits or standards that we consider would be difficult to define, or consent holder obligations that were unduly onerous relative to the likely scale of adverse effects.

[702] However, we did amend some WRC conditions in response to DOC's concerns, where those amendments provided additional clarity and certainty. We also added a s 128 review condition to the TCDC consent, as was sought by DOC.

Conditions

[703] By and large we were satisfied with the various monitoring conditions although we have made some amendments to improve their clarity and certainty.

E24: Closure and Aftercare

What is proposed in general terms

[704] OGNZL has existing rehabilitation and closure obligations which apply to it in relation to its current mining activities at Waihi and its proposal in respect of rehabilitation and closure of the WNP build on those obligations currently in place.

[705] OGNZL are required (under Combined HDC and WRC condition C60) to prepare a Rehabilitation and Closure Plan for certification by HDC and WRC. That plan will provide the detail of the rehabilitation of the WNP areas.

[706] The objectives of the Rehabilitation and Closure Plan are set out in condition C61 of the Combined HDC and WRC conditions. In summary, proposed work areas are to be left in a stable and self-sustaining state, soils are to be left such that it is highly unlikely that there will be a risk to human health, groundwater and surface water quality is to be good enough to not adversely affect aquatic life or other users, and the Rehabilitation and Closure Plan should integrate with the two ELMPs.

[707] There are a range of specific rehabilitation requirements for each area described in the AEE and these are specified in Combined HDC and WRC conditions C64 to C69 as well as HDC condition 51A. These specific requirements are not repeated here, but in a general sense these include:

(a) backfilling of all stope voids in the WUG mine;

(b) backfilling of all tunnel entrances from the portal for a distance of 100 metres and recontouring of portals to ensure long term stability;

(c) backfilling of any void where geotechnical conditions require it to ensure long term stability;

(d) removal of surface infrastructure (including ventilation evasés) and rehabilitation of those areas (the exception being the WTP which may remain

on site if needed for ongoing treatment of water or if it can be utilised for other purposes);

(e) all necessary works to ensure that on completion the mine will not have adverse effects on the water quality of Natural State Water Bodies or the water levels of natural inland wetlands;

(f) management of weeds and pests within disturbed surface areas above the mine for two years;

(g) rehabilitation of drill platforms and grouting of drill holes;

(h) removal of waste rock associated with the WRS and rehabilitation and reinstatement of the impacted tributary;

(i) restoration and recontouring of disturbed landforms to appear similar to the existing landforms;

(j) restoration and riparian and wetland edge planting.

(k) suitable capping of tailings storage facilities and the remnant NRS to limit water and oxygen ingress so that the finished surface will protect water quality and avoid soil erosion; and

(l) conversion of Collection Ponds to wetlands.

Conditions

[708] As will be apparent, the rehabilitation and closure obligations of OGNZL are spelt out in the Combined HDC and WRC conditions C60 – C69. The Panel is satisfied that the conditions provide an appropriate level of certainty that the WNP will be satisfactorily rehabilitated on closure.

For the future

[709] At closure, the Willows SFA will be dis-established and the area made suitable for alternative land use (such as reversion to farming).

[710] The Martha Trust was originally established in 2000 to give effect to the conditions attached to the 1999 consents. It will take ownership of the GOP, the NRS, and the TSF3 areas and manage them in perpetuity along with the existing TSFs and the WTP. We note that OGNZL has confirmed that the trust deed has been varied to allow for these additional responsibilities.

[711] Funding for the Martha Trust and provision for rehabilitation and closure if OGNZL defaults are discussed in section E25 of this Decision.

E25: Bonds

Overview

[712] This section of our Decision deals with a rehabilitation bond in favour of the HDC and WRC and DOC and a capitalisation bond in favour of the Martha Trust.

[713] The purpose of the rehabilitation bond in favour of HDC and WRC is to provide them with the funds to close and rehabilitate the mine site in accordance with the consent conditions should OGNZL not do so. The rehabilitation bond in favour of DOC has a similar purpose but in relation to OGNZL's obligations under the Access Arrangements.

[714] The purpose of the capitalisation bond is to ensure funding of post-closure site management costs for land and structures that will pass into the ownership or management of the Martha Trust in perpetuity and will be its responsibility to maintain.

[715] OGNZL proposed HDC and WRC conditions that apply to all areas affected by the WNP other than the CFP that largely replicate the existing 1999 consent conditions.

[716] The Wharekirauponga and Favona Access Arrangements contain bond conditions that have been specified by the Minister under s 78 and cls 4(2) and 10 of Schedule 11 of the FTAA. As we must impose them, they do not warrant further discussion save to record that DOC and OGNZL have agreed to some additional provisions that provide a context for their operation.

The background to the bonds and Martha Trust conditions

The 1999 conditions

[717] As noted, the conditions proposed by OGNZL are based substantially on conditions that form part of the 1999 consent for the Martha Open Pit. These conditions drew on a 1997 Report of the Parliamentary Commissioner for the Environment.[75] The 1999 conditions involved:

(a) a rehabilitation bond; and

[75] *Long term management of-the environmental effect of tailings dams*, 1997, Parliamentary Commissioner for the Environment.

(b) the establishment of the Martha Trust to maintain land and structures associated with the mine and its capitalisation to enable it to do so.

Rehabilitation bond conditions in the 1999 consent

[718] The rehabilitation bond condition in the 1999 consent requires OGNZL to provide and maintain in favour of the HDC and WRC a bond for rehabilitation purposes, including funding to enable the HDC and WRC to purchase Industrial and Special Risk Insurance in the sum of $12 million dollars and Public Liability in the sum of $5 million. The insured sum figures are followed by "(1998 dollars)" indicating that they are to be inflation-adjusted.

[719] The terms of the bond are to be:

> ... in a form approved by the Councils and shall, subject to these conditions, be on the terms and conditions required by the Councils.

[720] The amount of the bond was to be fixed at the start and since then has been reviewed by the HDC and WRC. Under the conditions, this has been on the basis that the amount should include:

> (i) the estimated costs (including any contingencies necessary) of rehabilitation and closure in accordance with the conditions of this consent, on completion of the mining operations proposed for the next year and described in the Rehabilitation Plan;
>
> (ii) any further sum which the Councils consider necessary to allow for remedying any adverse effect on the environment that may arise from the exercise of this consent;
>
> (iii) the estimated costs of monitoring, in accordance with the monitoring conditions of this consent, until this consent expires; and
>
> (iv) any further sum which the Councils consider necessary for monitoring any adverse effect on the environment that may arise from the exercise of this consent including monitoring anything which is done to avoid, remedy, or mitigate an adverse effect.

[721] If OGNZL does not agree with the amount of the bond fixed by the HDC and WRC, the amount is to be fixed by arbitration under the Arbitration Act 1996.

[722] These conditions have been replicated in consent conditions for each subsequent mining development.

[723] The bond is to be released by the HDC and WRC on completion of closure of the site which is defined as meaning:

> when the elements of the entire project have been demonstrated by the consent holder to the satisfaction of the Councils to have reached a stable, self-sustaining, rehabilitated state as defined by the approved Rehabilitation Plan.

The Martha Trust and the capitalisation bond required by the 1999 consent conditions

[724] The 1999 conditions required OGNZL to establish what became the Martha Trust to take over three areas of land associated with the then proposed mining activities and to maintain them in a "stable, self-sustaining and rehabilitated state" and to have a similar role in relation to the lake pit. It was to take out insurance against "unexpected risks" and reimburse the Council for their monitoring and maintenance expenses.

[725] To ensure the funding for the Martha Trust, the conditions required the consent holder to establish a capitalisation bond:

> to secure the settlement on the Trust of the required capital sum to fund the Trust to carry out its obligations.

[726] The details were fleshed out in the conditions in ways corresponding to the rehabilitation bond conditions. The capitalisation bond is to be in a form approved, and its amount is to be set annually, by the HDC and WRC.

[727] As to quantification, the relevant condition proposed by OGNZL provides:

> The amount of the capitalisation bond shall be fixed annually by the Councils and shall cover:
>
> - the estimated costs of dealing with any adverse effect on the environment which may become apparent after the surrender or expiry of this consent. This sum may include (without limitation) provision to deal with structural instability or failure, land and/or water contamination, and failure of rehabilitation. Such estimated costs shall include the costs of investigation, prevention, and remediation of any adverse effect. the estimated costs of monitoring for and of any adverse effect and of measures taken to avoid, remedy, or mitigate any adverse effect.
> - provision for contingencies.
> - the estimated costs of long-term monitoring and maintenance of the area to be owned or managed by the Trust, following completion of closure of the site,

> - provision for the reasonable remuneration of the trustees having regard to their duties and responsibilities as trustees
>
> and be based on the residual risk assessment dated 20 July 1998 prepared by the consent holder and provided to the Councils. Such residual risk assessment shall be updated annually.

[728] OGNZL may challenge the amount of the bond fixed by the HDC and WRC, in which case, the amount is to be determined by arbitration.

Operation of the 1999 consent bond conditions

[729] In its response to comments received under s 53, OGNZL explained how the current system works:

> In practice the bond quantum is reviewed and adjusted annually by an independent expert engaged by [OGNZL] and is independently peer reviewed and approved by [HDC and WRC] prior to bank bonds being issued. That review encompasses both changes in the mining work programme (which determine the level of disturbance that would require rehabilitation, and the manner of that rehabilitation, at any given time) and inflationary effects on costings.

And, as to calculation of the amount:

> The bond quantum calculation is done by an independent expert and uses a conservative estimating method. There are two components of each bond, a base cost and a risk cost. The base cost provides for physical rehabilitation or ongoing site maintenance work, its project management and for the Rehabilitation Bond a period of ongoing environmental monitoring and site maintenance and management throughout the closure period. It adopts reasonable to conservative estimates of quantities and unit rates. The risk cost provides a contingent liability fund against the occurrence of something unexpected and unwanted occurring during the closure period. It assumes the occurrence of the quantified risk events at the earliest possible time and uses the conservative Threshold Method for setting the risk cost, which is the commonly used approach for bonding in New Zealand. As discussed, reviewed in detail and approved by both the HDC and WRC the bond calculations are arrived at via the Monte Carlo method using a statistically derived value referred to as the P80 which provides a suitably conservative contingency on the best estimate (the P50) without being punitive.

[730] What this means is that the bond amounts are calculated using Monte Carlo simulation to model various rehabilitation cost scenarios. The P80 figure represents an amount which has an 80% probability of not being exceeded.

[731] There has never been resort to arbitration to settle the bond amounts.

[732] OGNZL obtains bank guarantees for the bond amounts. These are in standard "on-demand" terms. This means that the HDC and WRC can access the bond money from the banks direct.

[733] The rehabilitation and capitalisation bonds are currently $75.4 and $10.4 million. respectively.

Comments received

[734] The covering letter from the Chief Executive of HDC which accompanied HDC's s 53 comments suggested a "first principles review" of the rehabilitation bond and capitalisation bonds to be undertaken by OGNZL as "part of the process for setting the bond quantum (sic)" should the WNP be approved. The letter then noted:

> The assumptions upon which the setting of the bonds are based are an essential element of the reviews that HDC is suggesting be undertaken. In this regard, one such key assumption is that HDC is emphasising that the Rehabilitation Bond should be called at the same time as the Capitalisation Bond is called.

[735] In the report from Bentley & Co which formed part of the HDC's comments, the allowances in the rehabilitation bond calculations for the purchase of Industrial and Special Risk Insurance in the sum of $17 million (2025 dollars) and public liability insurance to the sum of $7 million (2025 dollars) were discussed:

> The basis for these sums has not been the subject of an assessment in the application to ascertain their quantum, relative to their purpose. HDC consider it incumbent on the applicant to address this, to provide rationalisation for the proposed condition.

[736] As to the Martha Trust provisions, it was noted:

> The proposed conditions require a Trust (the Martha Trust (the Trust)) that was established for a separate consent matter to take responsibility for post closure matters. The scope of these conditions requires the approval of a third party. In the absence of this, HDC as the consent authority cannot impose/enforce this condition. Further to this, with the proposed consent condition(s) being based on a previous consent matter, HDC is concerned (despite the wording of the condition) that it is unclear how such a condition can impose requirements on HDC to perform.

[737] And as to the capitalisation bond:

> The proposed conditions require a capitalisation bond to secure the settlement on the Trust of the required capital sum to fund the Trust to carry out its obligations. ...[T]his proposed bond is to be based on a residual risk assessment. The application material

> does not contain an explanation/assessment of the terms/parameters that such a residual risk assessment is to contain, or what acceptance, approval, or certification process this is to follow. HDC consider it incumbent on the applicant to address this, to provide rationalisation for this matter to inform the basis for the condition, as there is no mechanism proposed to debate the scope and suitability of the assessment to be provided. Related to this, HDC is concerned as to the costs incurred in this process, particularly if there is a dispute, and HDC consider this to be a matter that should be clarified by the applicant.

[738] This means that the following issues were raised:

(a) a possible "first principles review" including as to the time the bonds are called and residual risk assessment;

(b) the allowances in the rehabilitation bond for the costs of Industrial and Special Risk Insurance in the sum of $17 million (2025 dollars) and public liability insurance to the sum of $7 million (2025 dollars);

(c) the need for the Martha Trust to accept its extended role in relation to the WNP (including having its trust deed amended to permit it to do so).

(d) whether the conditions adequately protect HDC in relation to costs.

Conferencing

[739] There was a conference as to bond conditions on 24 October 2025 and they were alluded to at a further conference on 7 November 2025 where the DOC bond was mentioned.

A "first principles review" including as to the time the bonds are called and residual risk assessment

[740] In the course of the conference on 24 October, the HDC representatives advised that the HDC was not seeking variation of the proposed conditions as to the fixing the amount of the bonds, but rather an explanation in our decision of how current arrangements developed and their rationale.

[741] We have just provided the explanation sought.

[742] As to when the bonds might be called, default by OGNZL prior to completion of closure and rehabilitation would almost certainly result in both bonds being called at the same time.

The allowances in the rehabilitation bond for the costs of Industrial and Special Risk Insurance in the sum of $17 million (2025 dollars) and public liability insurance to the sum of $7 million (2025 dollars)

[743] The sum insured figures in the proposed condition are taken from the 1999 conditions with adjustments for inflation as provided for in those conditions.

[744] At the conference a consensus emerged between OGNZL, HDC and WRC that, as the risks may change with extended mining operations, the condition should not refer to the sums insured in dollar terms (ie as currently) but rather leave the sums insured to be arbitrated if agreement cannot be reached. There was also agreement that, because of conditions in relation to other consents and planning provisions, the conditions should provide that the sums insured be at least those provided for the proposed conditions, ie $17 million and $7 million (2025 dollars).

The need for the Martha Trust to accept its extended role in relation to the WNP (including having its trust deed amended to permit it to do so).

[745] As at the date of the conference, the trust deed for the Martha Trust had not been amended to apply to its role in relation to the WNP. As we noted in the preceding section, this has now been attended to.

Whether the conditions adequately protect HDC in relation to costs

[746] Proposed condition C81 in the Combined HDC and WRC conditions provides:

> All costs relating to the rehabilitation bond must be paid by the Consent Holder.

And condition C91 is to similar effect: However, the proposed condition C77 provided that in relation to any arbitration as to the amount of the rehabilitation bond, the "parties shall bear their own costs in connection with the arbitration."

[747] At the conference, it was agreed between representatives of OGNZL, HDC and WRC that condition C77 should be amended to provide that the costs of arbitration would be in the

discretion of the arbitrator. This change will also affect any arbitration as to the capitalisation bond.

Comments from Coromandel Watchdog following circulation of Draft Decision and proposed conditions

[748] In comments on the proposed conditions, Coromandel Watchdog suggested that

(a) The rehabilitation bond can be cancelled at any time by agreement between the Consent Holder and the Councils. This seems to be an incomplete reference to C79 of the Combined HDC and WRC Conditions which requires a cancelled bond to be replaced.

(b) Reliance on publicly funded arbitration may result in an imbalance in power between the Consent Holder and the Councils. The relevant provisions in the Combined HDC and WRC Conditions (including as to costs) were agreed with the HDC and WRC.

(c) Bonds are only required for "rehabilitation and for Area 1 activity under the Access Arrangement". As Coromandel Watchdog noted, this is addressed in C70 of the Combined HDC and WRC conditions. C70 makes it clear that the rehabilitation bond is not only to secure completion of rehabilitation and closure obligations but also "compliance with all conditions of this consent" (save as surface activities in Area 1). Area 1 activity is subject to different bonding arrangements with DOC (see for example conditions 23 - 29 of the Wharekirauponga Access Arrangement).

(d) The current basis on which the quantum of the bonds is assessed is not appropriate, a contention based on the evidence of Mr Emerman. That evidence is discussed in section E12.

Concluding comments

[749] The bond methodology and process proposed by OGNZL are substantially the same as those in place since 1999. HDC and WRC see them as appropriate. We were subsequently told that the same methodology and process have been used by other Councils, including, in

relation to OGNZL's other mines, the West Coast Regional Council, the Buller District Council, the Otago Regional Council, the Dunedin City Council and the Waitaki District Council.

[750] With the minor adjustments already referred to, we see the bond conditions proposed by OGNZL as appropriate.

PART F: REGIONAL AND NATIONAL BENEFITS

F1: Regional and National Economic Benefits

Relevance

[751] Economic benefits (as a subset of benefits generally) are primarily material in relation the purpose of the FTAA and particularly s 85. As well, in some of the decision-making criteria that are relevant to particular approvals which are sought there are references to economic benefits (or net economic benefits), as we will explain later in the Decision.

The material before the Panel

[752] OGNZL's existing mining operations in the MUG are scheduled to end in or around 2032. Implementation of the WNP will alter the timing of the termination of current mining activity and involve additional mining in the WUG and the GOP. OGNZL maintains that this will result in regional and national economic benefits consisting primarily of additional and substantial:

(a) direct, indirect and induced employment; and

(b) revenue for the government in the form of PAYE, company tax and royalties.

[753] The evidence of economic benefits relied on by OGNZL came from Mr Shamubeel Eaqub. The comments we received under s 53, along with responses by Mr Eaqub and Mr Phil Stevenson (a tax accountant), provided additional material to which we have had regard. As well, on 14 October 2025, there was a conference involving four members of the Panel, along with:

(a) Messrs Eaqub and Phil Stevenson (for OGNZL) and Greg Akehurst (who contributed to HDC's s 53 comments), all of whom participated in person; and

(b) Mr Ed Miller, Professor Glen Banks, Dr Richard Meade and Dr Geoff Bertram, all of whom had contributed to Coromandel Watchdog's s 53 comments and participated online.

[754] Subsequently a considerable body of additional information was provided to the Panel by those who attended the conference, not all of which was solicited.

Mr Eaqub's report

Mr Eaqub's general approach

[755] Mr Eaqub provided a comparison of implementation of the WNP and extension of existing mining operations against a counterfactual involving continuation of current mining operations associated with the MUG until their termination in or around 2032. He sought to identify:

> … the incremental difference between the baseline (Martha Underground) and the alternative under the WNP (which will include Martha Underground, but with various changes in timing and scope).

The current situation.

[756] Mr Eaqub assessed that in 2023, the OGNZL's activities in Waihi generated employment in Waihi involving:

Types of work	**Numbers**
Direct employees	357
Contractors in mine	129
Indirectly in suppliers	325
Induced jobs (supported by the spend of employees in the mine (110) and suppliers (122)	232
Total	1043

[757] Mr Eaqub explained the indirect jobs assessments in this way:

> The analysis presented here is based on actual company data on its spending directly and in suppliers, rather than aggregated data from Statistics New Zealand. The Waihi

> gold mine makes greater use of suppliers relative to direct employees. At the 'industry' level, $2.3 is spent on suppliers for every $1 of wages (compensation of employees). At the Waihi gold mine, the figure is $3.4 per every $1 of wages. This means the Waihi gold mine has a much larger indirect impact on New Zealand employment. As a result, the analysis needs to be looked at in greater detail than pro-forma multipliers from input-output tables.
>
> I have used Statistics New Zealand data to understand how many jobs are supported in each supplying industry using the 2020 Input Output tables, and the employment data are benchmarked to the 2023 Census, so this analysis is as up to date as possible.

[758] Later in this section we review Mr Eaqub's 2023 calculations in detail.

[759] Using the same general approach, Mr Eaqub's assessment in relation to 2024 is that OGNZL's activities resulted in jobs for 1,394 people.

Types of work	**Numbers**
Direct employees	399
Contractors in mine	138
Indirectly in suppliers	521
Induced jobs (supported by the spend of employees in the mine and suppliers)	336
Total	1,394

The increase over the 2023 figures is a function of increasing activity with exploration and preparation associated with the WNP Application.

[760] The average income for the Applicant's employees in Waihi is $100,000 per annum compared to a national average of $67,000 and a Hauraki District average of $55,000.

[761] Total 2023 spending by OGNZL on goldmining in and around Waihi was as follows:

Hauraki District	$60,614,123	
Rest of Waikato	$42,176,221	
Rest of New Zealand	$90,583,129	
Total New Zealand		$193,373,129
Overseas		$24,965,586
TOTAL		$218,338,695

This means that of the $193,373,129 spent in New Zealand, 31% was spent in the Hauraki District, 22% in the rest of the Waikato Region and 47% in the rest of New Zealand.

[762] Absent implementation of the WNP, mining in the MUG will wind-down and terminate in or around 2032 resulting in the loss of the jobs that it currently supports and associated benefits to the national and local economies.

Mr Eaqub's analysis of the incremental economic benefits of implementation of the WNP

[763] The benefits Mr Eaqub identified were:

(a) Direct foreign investment of $895 million. As to the significance of this figure:

(i) total foreign direct investment into New Zealand in the year to September 2023 was $4.1 billion;

(ii) under the Overseas Investment Office guidelines, the threshold for recognising an investment as significant is $100 million; and

(iii) in the current infrastructure pipeline published by the Infrastructure Commission there are only 11 funded projects with anticipated expenditure in excess of $1 billion and a further five that are unfunded.

(b) Additional operating and capital expenditure in New Zealand totalling $1,979 million, at an average of $106 million per annum. Of this, $1,086 million (or $60 million per annum) will be spent in the Hauraki District.

(c) Additional employment in Hauraki District. This will include, on average over the WNP project, 197 employed directly by OGNZL in the mine along with

another 223 contractors.[76] This represents approximately 7 per cent of the 5,648 jobs in the district in June 2024.[77] With allowance for additional indirect employment (ie in suppliers in and around Waihi and induced employment) the percentage would increase.

(d) Additional export revenue over 18 years of $5,151 billion at an average of $286m per year. Mr Eaqub said that this is comparable to all New Zealand's exports to Italy and Belgium in 2024, and 64% of wool exports, 14% of wine exports and larger than live animal exports.

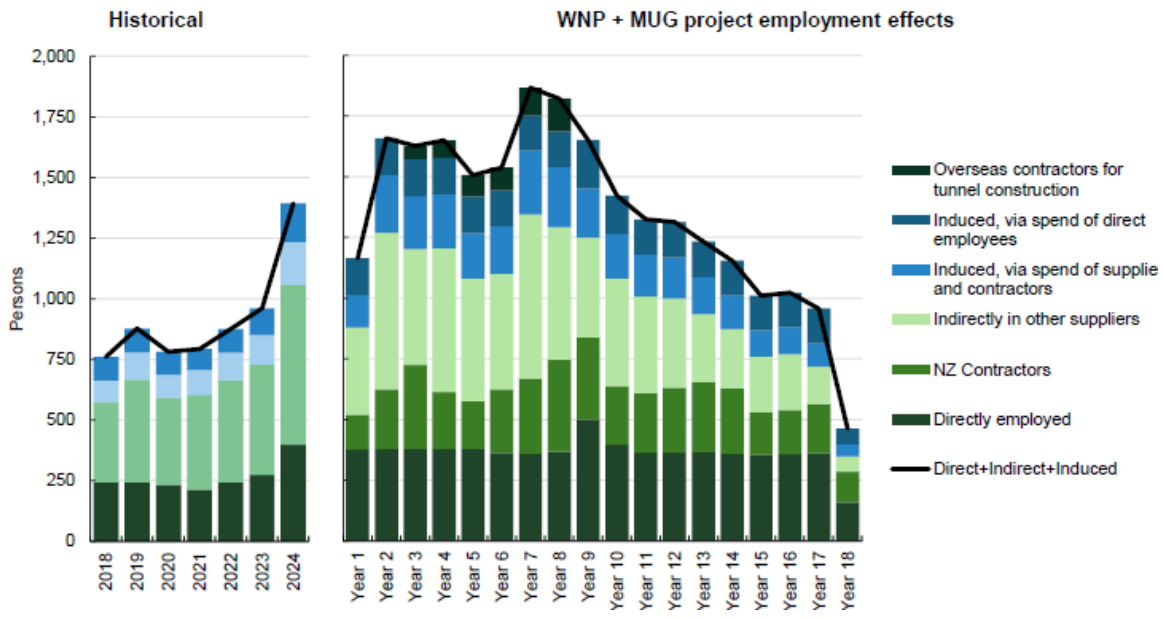
(e) Additional revenue for the Government of $131 million in royalties, $726 million in corporate taxes and $172 million of PAYE in respect of direct employment, a total of approximately $1.06 billion.

(f) Additional employment averaging over the 18 years of the project 858 additional jobs (197 jobs directly in the mine, 223 in contractors working in the mine, 243 indirectly in other suppliers and 195 via induced demand).

The foreign direct investment, operating and capital expenditure total revenue are indications of the scale of the WNP but, for present purposes, what matters are the benefits to New Zealand which in this context means the additional employment and Government revenue.

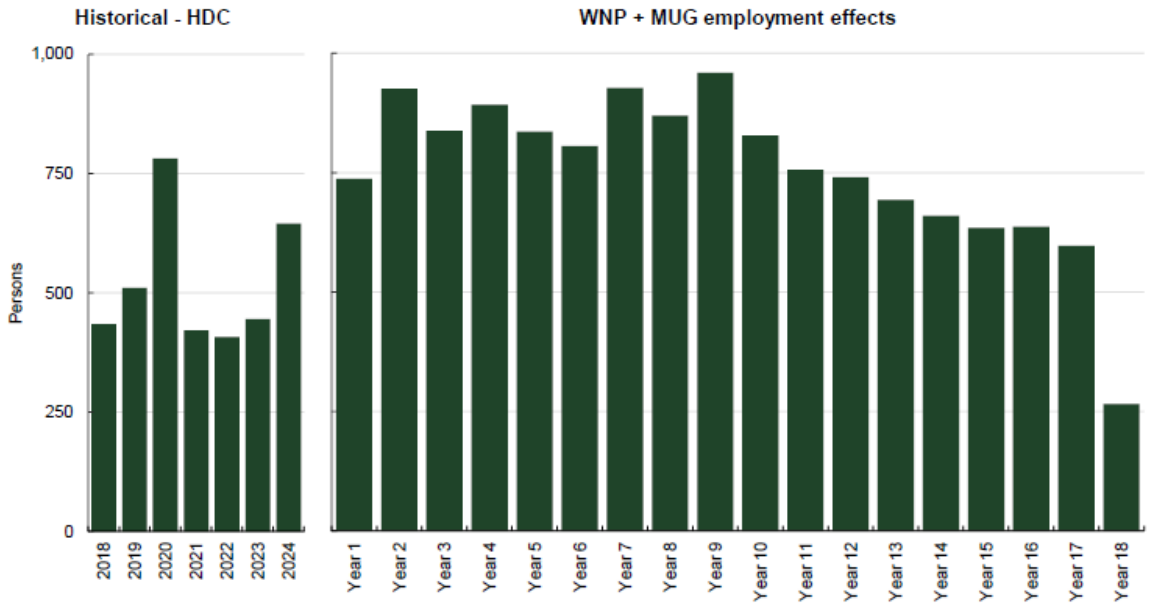
[764] Mr Eaqub depicted how implementation of the WNP would represent a continuation and expansion of its existing operations:

[76] Of the 223 contractors, approximately 30 will be working on a fly-in-fly-out basis.
[77] A little more than 7% if the fly-in-fly-out contractors are included and slightly less if they are not.



[765] After the 14 October 2025 conference, Mr Eaqub provided his calculations as to additional employment in Hauraki District. They show that average additional employment in the Hauraki District over the 18 year life of the WNP is 442.

[766] Mr Eaqub also depicted total employment in the Hauraki District associated with the combination of implementation of the WNP and continuation of existing operations.



[767] Mr Eaqub's financial figures were presented in 2024 prices. As he noted, this excluded the effect of inflation. It also did not make allowances for the time value of money. In other

words, he did not discount to present values expenditure to be incurred and revenue to be derived in the future. We will come back to this shortly.

Mr Eaqub's conclusions

[768] Mr Eaqub's conclusions were:

> WNP would be a transformational project to the local and national economy. The baseline scenario is for mine closure in 2032. WNP would expand and sustain economic benefits over an 18 year period from commencement.
>
> WNP would facilitate over $1b of foreign direct investment ($895m excluding inflation), making it one of 12 funded $1b+ projects nationally. It will lead to exports of over $5b over the project life, averaging $286m a year, and associated royalties and taxes to the crown. It will lead to expenditure in New Zealand of $2b, with a significant portion to be spent locally, leading to current well-paid jobs ($100k+ pa) being sustained over 18 years (versus planned mine closure in 2032). The economic benefits of direct employment and supporting suppliers will be overwhelmingly positive both locally and nationally.
>
> In my opinion, from an economic perspective, WNP is a nationally significant project, which will be facilitated by $1b+ of foreign direct investment, boost exports, create well paid jobs in the provinces and across New Zealand. The Waihi gold mine is already a significant economic contributor. With WNP, it will be bigger and better for longer.

Section 53 comments

[769] Some of those who commented under s 53 supported the general conclusions of Mr Eaqub. Thus, the Ministry of Business, Innovation and Employment (MBIE) noted that

> The Waihi mine is the second largest gold mining operation in New Zealand. Since Oceana Gold acquired it in 2016, the Waihi operation has accounted for, on average, around 25% of New Zealand's annual gold production, and around 23% of all royalties received for the mining of Crown-owned minerals (excluding petroleum).

It commented:

> Oceana Gold's ability to secure the required consents, approvals, and access arrangements is fundamental to the continued operation of New Zealand's second largest gold mine and the eventual transition of mining activities from Waihi to the new Wharekirauponga mine.

It concluded:

> MBIE considers the resources at Waihi and Wharekirauponga have considerable economic significance to New Zealand.

[770] Mr Greg Akehurst (of Market Economics), who provided a peer review report for the HDC, criticised the use of 2024 dollars, rather than net present values, in relation to revenues and impacts that will occur over time. The criticism of the non-discounting of future cash flows to present values was repeated by others who commented under s 53. We agree with these criticisms.

[771] In response Mr Eaqub has produced present value calculations (using an 8 per cent discount rate) of future cash flows. These figures are as follows:

Corporate tax	$303.9m
PAYE (on those directly employed by OGNZL)	$71m
Royalties	$47.9m
TOTAL	$422.8m

In our evaluation we will refer to those values (rather than the nominal values referred to in Mr Eaqub's first report.[78]

[772] Mr Akehurst generally endorsed Mr Eaqub's approach, concluding:

> The … report presents a robust assessment of the expenditures and likely economic effects associated with the WNP. It itemises accurately the likely employment effects and how expenditure is likely to be distributed across different spatial scales. … [B]y presenting all figures in nominal terms, does not accurately portray revenues and impacts that are expected to occur, in current terms. This is a normal part of assessing flows of revenue and impacts over long time horizons to ensure they can be compared accurately with activities that occur today … . By failing to do so, the Eaqub report over states likely effects and therefore likely benefits .
>
> However, on balance, and by aligning the results of the Eaqub analysis and my own assessments, I agree with Mr Eaqub, that the WNP generates significant economic benefits at the local and regional level. While the benefits also exist at the national level, their effect is more muted due to the repatriation of profits.

[78] In material provided after the conference, it was suggested that there may be some arithmetical issues with these figures. As what is required is a broad evaluative assessment, we do not see this as sufficiently material to get into.

[773] Some of the other criticisms can be dealt with briefly.

(a) Dr Richard Meade, who provided evidence for Coromandel Watchdog, suggested that the counterfactual should not be non-implementation of the WNP but rather non-implementation of the WNP under the FTAA. On this basis, he suggested that the relevant economic benefits are confined to acceleration of the development, in other words, involve timing differences only. This, however, is not consistent with s 85(3) of the FTAA which requires the Panel to weigh "the adverse impacts in relation to the approval sought" against the WNP's "regional or national benefits".

(b) It was suggested that Mr Eaqub's listing of different types of benefit implied aggregation: for instance, that FDI of approximately $1 billion was being treated as additional to the expenditure of $2 billion in New Zealand and the employment and Government revenue which results. As will be apparent, that is not the way we read his report. Rather we see the references complained about as intended to demonstrate the significance of the WNP.

(c) As well, Dr Meade and Dr Bertram noted that no allowance had been made for the imported content of supplies to be acquired by OGNZL and the limited economic value to New Zealand of fly in-fly out workers in the mine. In response:

(i) As to the extent to which advantage will accrue to New Zealand, Mr Eaqub referred to statistics that showed that the "metal ore and non-metallic mineral mining and quarrying" sector's suppliers have an import content of 12.7% of sales. He said that thus implied that 87.3% of payments to external suppliers would be spent locally.

(ii) In relation to fly in-fly out workers who are likely to include overseas labour, Mr Eaqub had made no allowance for employment induced by their spending.

[774] Other criticisms warrant more elaborate discussion.

(a) Mr Eaqub should have provided a cost-benefit analysis rather than an economic impact analysis. The criticism is that OGNZL has to show that implementation of the WNP will produce a net economic benefit and this requires an assessment of costs, including those that involve adverse environmental impacts, to which monetary values should have been attributed.

(b) As a subset of the cost-benefit analysis criticism, there are economic disbenefits that that in any event should be off set against the economic benefits claimed.

(c) The input/output methodologies relied on by Mr Eaqub are likely to overstate benefits. This is primarily relevant to the indirect and induced employment effects which Mr Eaqub has attributed to implementation of the WNP.

(d) Mr Eaqub over-assessed the revenue to be derived by OGNZL.

(e) Mr Eaqub over-assessed the tax to be paid by OGNZL.

(f) OGNZL will be taking a disproportionate share of the value of the gold to be extracted.

[775] Each of these criticisms warrants discussion.

An economic impact assessment rather than a cost benefit assessment

The criticisms

[776] Mr Eaqub's first report set out to quantify economic benefits consisting primarily of additional jobs and Government revenue. He did not set out to quantify in monetary terms adverse environment impacts. Although such impacts are not primarily financial in character, monetary values and costs can be attributed to them, for instance using willingness to pay and revealed preference methodologies. Mr Eaqub did not carry out such exercises.

[777] The Parliamentary Commissioner for the Environment commented on what he saw as the limitations of Mr Eaqub's approach:

> On the cost side, the applicant's analysis completely overlooks environmental costs. These should be set out in full. The biodiversity impacts and loss of ecosystem services from the entire mine area should be included as a cost in the economic analysis, based on the best available information.
>
> Assessing environmental (and other non-market) costs is not an exact science, but is possible and regularly done. There is a range of tools that economists use to do so, generally within a Total Economic Value (TEV) framework. In the context of this project, for example, stated preference techniques could be used to estimate the value that society attaches to the existence of particular species in the area.

[778] Drs Meade and Bertram who provided reports for Coromandel Watchdog made the same criticism. This criticism mainly focused on environmental impacts not being costed. Dr Meade gave an illustration of how such a costing exercise might be carried out.

[779] Dr Meade also noted that the benefits of additional employment had also not been valued and commented:

> In principle, a present value for benefits such as these could be generated by applying an appropriate social opportunity cost of capital, given employment generated later in time is worth less to society than employment generated now ... .

Mr Eaqub's response

[780] Mr Eaqub's response was that he carried out his exercise on the basis of assessments that:

> there will be no net biodiversity loss or net loss of ecosystem services with an impact that is more than minor and, in some cases, a net gain has been assessed.

He went on to say:

> ... I am frequently asked to identify the exports, jobs and expenditure that a project will add to the economy, as it remains one of the key ways that decision-makers seek to understand a project's economic effects within the context of a process that assesses different classes of impact separately, each in their own right. It remains a valuable tool for that purpose, and it is offered in that light.

[781] As part of his response, Mr Eaqub carried out an exercise in which he attributed monetary values to possible adverse impacts in the area of the CFP that will be affected by vibrations.

The conference with experts

[782] At the economists' conference, Dr Meade persisted with his argument that a complete cost benefit analysis should have been provided with non-market values attributed to adverse impacts where that was necessary.

[783] There was also discussion as to the weight that Mr Eaqub had placed on additional jobs. Drs Bertram and Meade had the impression that he had, in effect, valued them as being worth 100% of what the employees in the additional jobs would be paid. Mr Eaqub disagreed. His position was that he had treated the creation of additional jobs as being a benefit in itself which could be assessed as such without necessarily attributing a dollar value to the jobs created.

[784] We agree that where economic benefits are relied on by an applicant, any economic disbenefits should be allowed for, particularly if the benefits and disbenefits are of the kinds that have market values against which they can be measured in money terms. But parting company with Dr Meade, we do not accept that adverse environmental impacts must be monetised and factored directly into the assessment of economic benefits. Instead, we are of the view that we can assess the benefits relied on by OGNZL separately from any adverse environment impacts.

[785] We see this as consistent with the language of s 85(3) of the FTAA. Under this subsection, the ultimate question is whether adverse impacts:

> ... are sufficiently significant to be out of proportion to the project's regional or national benefits the Panel has considered under section 81(4), even after taking into account—
>
> (i) any conditions that the Panel may set in relation to those adverse impacts; and
>
> (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

[786] Two points come out of this:

(a) There is no explicit requirement for either the "benefits" or "adverse impacts" to be quantified in monetary terms. This is so even where the claimed benefits are economic in character (as new jobs are). And:

(b) If adverse impacts have already been monetised and factored into the benefits assessment, there would not be much point in a weighting exercise of the kind required by s 85(3).

[787] This accords with the approach taken in Supreme Court in *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board*.[79] The case concerned sea-bed mining and the decision-making criteria included:

> the effects on the environment or existing interests of other activities undertaken in the area covered by the application or in its vicinity.
>
> ...
>
> the economic benefit to New Zealand of allowing the application.

It was argued that the reference to "economic benefit" required a cost benefit analysis which ascribed monetary values to environmental, social and cultural costs. This argument was rejected by the Supreme Court which concluded that a "qualitative analysis of environmental, social and cultural benefits and costs" had been open to the decision-maker.[80]

[788] Also relevant is the point made by Mr Eaqub to which we have referred in [780]. On OGNZL's case, which we broadly accept, the adverse environmental effects of implementation of the WNP are individually no more than minor and, when viewed collectively alongside the overall package of offsets and compensation to be provided and the WNBP that we discuss shortly, the overall long term environmental impact is likely to be positive. If so, there are no overall environmental disbenefits to monetise in the way postulated.

There are some disbenefits that that in any event should be set-off against the economic benefits claimed.

[789] This was alluded to in the s 53 comments in at most very general terms in the material supplied by Dr Meade, but it was supplemented to some extent at the economists' conference and in the unsolicited material provided after the conference.

[790] These disbenefits are:

---

79 *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* [2021] NZSC 127.
80 At [188] – [192].

(a) the loss of productive land in the Willows Road area;

(b) the deferral of benefits associated with Waihi becoming a "post-tourist destination";

(c) socio-economic effects (around increased demand for housing in Waihi); and

(d) the risk of tailings dam failure.

[791] The loss of agricultural production from land in the Willows Road area that is temporary (in other words, only during the duration of the WNP) is of insufficient moment to warrant detailed discussion. We deal with the National Policy Statement: Highly Productive Land (NPS:HPL) in Part G of this Decision.

[792] Deferral of benefits associated with Waihi becoming a post-tourist destination was not mentioned in the s 53 comments. More generally the line of argument developed in the unsolicited post-conference material is speculative (in that it is based on assumptions). We note that effects on tourism and recreation were assessed in a separate report provided as part of the Application.[81] They are also discussed earlier in this Decision in section E15.

[793] Socio-economic effects and the risk of tailing dam failure are assessed elsewhere in this Decision.

The input/output methodology relied on is likely to overstate benefits

Mr Eaqub's calculations indirect and induced employment effects

[794] It will be recalled that Mr Eaqub assessed employment generated by OGNZL's Waihi operations in 2023 as follows:

[81] By Rob Greenway and Associates (Application, B.55).

Types of work	Numbers
Direct employees	357
Contractors in mine	129
Indirectly in suppliers	325
Induced jobs (supported by the spend of employees in the mine (110) and suppliers (122)	232

[795] In material he supplied after the conference with economists, he explained how he arrived at these figures.

[796] The assessment of indirect employment was calculated as follows:

(a) the total spend on suppliers came to $144,203,403;

(b) of that figure, approximately 23% represented the cost of employment (based on input-output tables) which Mr Eaqub calculated as $32,696,926;

(c) the average FTE annual salary in the mix of the industries of the suppliers was assessed at $71,968;

(d) the assessed cost of employment ($32,696,926) divided by the average FTE annual salary as assessed ($71,968), produces a figure of 454, representing the number of additional jobs indirectly attributable to the WNP; and

(e) of the 454 additional indirect jobs, 129 are contractors working in the mine, leaving the rest (325) to be attributed to those working outside of the mine.

[797] For induced employment, in 2023, the approach was as follows:

(a) Consumption resulting from the additional direct and indirect employment was assessed at $22,953,242 and $20,779,045, respectively. Mr Eaqub excluded overseas tunnelling contractors from the calculation because of uncertainty as to how much they would spend locally. And

(b) From the input-output tables, Mr Eaqub assumed 5.3 jobs additional jobs for every $1 million of consumption.

The criticisms

[798] A number of the criticisms were addressed to Mr Eaqub's input-output multiplier analysis.

[799] By way of example, the Parliamentary Commissioner for the Environment noted:

> Multiplier models have known limitations. While they can generate results that may be more accurate at a very local level, they have been demonstrated to overestimate the impact of projects at a regional or national level. This is because the model assumes that any resources – including labour and capital – used in the project were sitting idle before the project happened.
>
> In reality, this will rarely be the case. Resources will be diverted from other economic activities and, depending on what those activities are, there may be relatively little **net** economic gain.
>
> Multiplier effects (indirect and induced), export revenue and total project spend (capex and opex) are of limited value in demonstrating benefit. In lieu of more accurate estimates, I recommend that the Panel only consider the **direct** economic benefits created by this project (197 jobs + 192 contractors). … If the Panel is interested in a more accurate estimate of the benefit of this project at a national level, it could consider using a computable generalised equilibrium model.

[800] Drs Bertram and Meade expressed similar views.

[801] To correlate these comments to the WNP, those who will be directly employed as a result of implementation of the WNP are unlikely to be economically inactive if it does not proceed. Whether and by how much overall employment increases will depend on the ripple effects through the economy of workers taking (or continuing) employment in, and increased activity at, the mine. It follows that the employment generated by the WNP will not necessarily be additional to employment levels in the counter-factual (that is, assuming the WNP does not

proceed). As well, conceivably the demand (including higher wages) generated by the WNP may crowd-out other activity.

[802] As noted by the Parliamentary Commissioner for the Environment in the comments just cited, a more sophisticated (but also time-consuming and expensive) technique for assessing the impact of a project is computable general equilibrium analysis (CGE).

Mr Eaqub's responses

[803] Mr Eaqub's referred to the absence of a CGE in this way:

> 30. ... the key insight from a CGE in this case would be to better understand the substitution effect. That is, would the introduction of new endowment capital (the gold and silver resource) and FDI [foreign direct investment] displace other capital and investments, whether the labour resources for mining will be cannibalised from other parts of the economy or lift overall employment outcomes, especially at the local level, and whether the exchange rate will be raised reducing competitiveness of other exporters.

He then dealt separately with each of the questions posed.

[804] As to the first, he concluded that OGNZL's investment of approximately $1 billion would not displace other investment into New Zealand. And, as to the third, that the additional export revenue to be derived from the sale of gold and silver extracted from the mine would not affect the value of the New Zealand dollar.

[805] In relation to the second question – the most significant of the questions – whether the WNP "will lift overall employment outcomes, especially at the local level", he said:

> 33. We can say with confidence that the employment directly in the mine and contractors are unlikely to exist without this project. Would this project lift incomes in the economy (that is produce a higher cost of labour for employers) and reduce employment in other industries as a result? At the local level this would show up as a reduction in non-mining jobs when mining jobs rise. That is, the growth in gold mining jobs would be *negatively* correlated with jobs in other parts of the economy. Data for the Hauraki District, sourced from Statistics New Zealand's Business Demography, shows the correlation between gold mining and other jobs is strongly *positively* correlated (a correlation of 0.59, where 1 is perfectly correlated).
>
> 34. This is consistent with the analysis I have supplied, where I have broken down the effects at local, regional and national levels. Because the effects are large at the local level, we can observe the effects of mining on the local labour market. But at regional and national levels, there are clearly many other confounding factors at play, and these correlations cannot be easily observed.

> 35. It is my considered opinion, based on the history of the Hauraki District, that mining jobs growth increases overall employment in the district.

He also said:

> 40. Many of the jobs associated with mining are not a straight substitution from other sectors of the economy, due to their specialist skillset. OceanaGold trains many of its employees – ... almost a quarter of the Waihi workforce attended Waihi High School. I am aware that some workers currently taking up employment in mining operations within New Zealand have transferred from two, large completed or soon to be completed tunnelling projects in Auckland. Some workers are joining mining operations within New Zealand from previous mining jobs in Australia (and these are often returning New Zealanders). It is incorrect to characterise the mining workforce as readily transferable into equally productive jobs in other sectors.

The conference with experts

[806] At the conference with the economists the limitations of input-output multiplier analysis were discussed. There was, however, no substantial dispute that implementation of the WNP would involve substantial economic activity and that, as a result, there would be increased:

(a) jobs at the mine that, but for that implementation, would not exist;

(b) demand for supplies to the mine and thus additional economic activity on the part of the firms that make such supplies; and

(c) consumption that would be likely to result in additional induced employment.

Evaluation

[807] We accept that input-output multiplier analysis of the kind used by Mr Eaqub is likely to over-state economic impacts.

[808] That said, it is clear that there will be additional jobs created by the implementation of the WNP. Substantial economic activity in and around Waihi will produce significant employment associated with the mine, most obviously, the jobs of those either employed directly by OGNZL or as contractors in the mine. These jobs are, as Mr Eaqub pointed out, reasonably specialised and also well-paid. Absent implementation of the WNP, these jobs will not exist in Waihi after 2032. We see no rational reason why these jobs will displace existing

jobs in and around Waihi. This is particularly so since an effect of the continuation of mining that will result from the implementation of the WNP will enable a workforce that would otherwise disperse in or before 2032 to have continued employment.

[809] It is likewise clear that implied and induced employment effects are real. Those who supply the mine will need employees to do so. And the spend of those directly or indirectly employed in the mine will support other (or induced) jobs. The problem is not so much the existence of the phenomena that Mr Eaqub referred to, but rather their quantification.

[810] A feature of the WNP is that it will facilitate the extension of what, in broad terms anyway, is an existing activity. We know that just over 50 per cent of OGNZL's current spending is the Waikato Region with 31 per cent in Hauraki District. There are thus current local capacity and capability to meet a substantial proportion of OGNZL's requirements.

[811] If the focus is on Waihi and the surrounding area (the Hauraki District for convenience), the jobs associated with indirect and induced employment will plainly be additional to those in the counterfactual. In other words, without OGNZL's spending those jobs will not exist in Hauraki District.

[812] A focus on Hauraki District is significant for two reasons:

(a) As is apparent from the comments of the Parliamentary Commissioner for the Environment, much of the criticism of input-output multiplier analysis has addressed its use to assess regional and national, as opposed to local, impacts.

(b) What is proposed is not so much a new proposal but rather (i) an increase in, and intensification of, what is already significant mining activity and (ii) the lengthy deferral of a negative shock, that is the cessation of OGNZL's mining activities in an around Waihi. OGNZL already has a substantial workforce (both employed and working on contract). There are already firms in place who supply the mine. The local, regional and national distribution of current spending is known.

For these reasons, in relation to employment in Hauraki District at least, most of the uncertainties that underpin the criticisms of input-output multiplier analysis fall away.

[813] We are thus satisfied that implementation of the WNP will create additional indirect and induced employment in the Hauraki District in figures broadly comparable to those asserted by Mr Eaqub, so that the total jobs created or sustained in that District, counting those directly employed by OGNZL will be around 442, on average, over the life of the project.

[814] As for the rest of the country, the ripple effects of increased economic activity in Hauraki District on employment around the country are not capable of precise assessment. However, the very substantial levels of spending associated with the WNP that will occur outside of the Hauraki District must logically drive additional indirect and induced employment.

[815] It is generally considered that input-output multiplier analysis is likely to over-assess the extent of this additional employment of this kind. Over-assessment risk can be mitigated by discounts for caution built into input-output tables. But as we were not told that such discounts have been built into the tables, we will assume that they have not been. It follows that we accept that that Mr Eaqub's assessments of additional indirect and induced employment outside Hauraki District are likely to be on the high side.

[816] Difficulty of assessment in relation to the extent of indirect and induced employment outside Hauraki District do not absolve us of the duty under s 81(4) to "consider the extent of the project's regional or national benefits". In this context, we allow for uncertainties as to input-output multiplier analysis by concluding that additional employment outside the Hauraki District associated with the WNP will be substantial but probably less than the 416 jobs as assessed by Mr Eaqub.

[817] On that basis we assess increases of employment associated with the WNP as around 442 in Hauraki District and a substantial number (but likely to be less than 416) in the rest of New Zealand.

[818] As already discussed, Mr Eaqub treated additional jobs associated with implementation of the WNP as amounting to an economic benefit which he did not attempt to quantify in

monetary terms. This was subject to some, but not detailed criticism, at the conference with economists.

[819] A well-paid job is beneficial to the person who holds it (and members of that person's family), and in ways that are not only financial. An increase in the number of well-paying jobs strengthens the resources, resilience and social cohesion of the community in which they are located. More generally additional employment is corelated with economic growth. We are therefore of the view that, for the purposes of the analysis required by the FTAA, a substantial number of additional jobs is a benefit and one which need not be separately quantified in monetary terms.

Mr Eaqub over-assessed the revenue to be derived by OGNZL

The criticisms

[820] The primary criticism was from Dr Meade who saw Mr Eaqub's USD 2,000 an ounce gold price assumption as consistent with gold prices between 2010 – 2025 but not "conservative".

Mr Eaqub's responses

[821] Mr Eaqub' response as to the challenge to his gold price assumption was:

> The gold price that has been used to assess export revenue of $5.151 billion, and associated taxes and royalties is USD 2000 / oz at an exchange rate of NZD/USD 0.61. That compares with the gold price history shown below (the spot price on 28 August 2025 was USD 3417 per oz) and an average exchange rate for the 12 months to 28 August 2025 of NZD/USD 0.59. The project would generate export revenue, at today's NZD gold price, of over $9 billion.

The experts conference

[822] Mr Eaqub said that from the point of view of OGNZL and implementation of the WNP, the break-even gold price is NZ$2,142 per ounce. He provided the range of NZD/USD exchange rates since 1990. The minimum value of the NZD during that period was 0.40. At this value, the NZD break-even point would be achieved at USD prices per ounce of $854. At the maximum value of the NZD (0.87) the break-even point would be achieved at $1,863. At the current value of the NZD (approximately US$0.58), the breakeven gold price is approximately US$1,240 an ounce.

[823] As to what the gold price assumption (USD per ounce) should be, Mr Eaqub provided the following figures:

Spot (13/10/25)	$4,048
CIBX Global Mining Group Analyst Consensus Commodity Price Forecasts, October 2025, long term gold price:	$2,646
Average last 5 years	$2,234
Average (last 10 years)	$1,811
Average (last 20 years)	$1,478

[824] At the current gold price (around US$4,200 an ounce) and NZD/USD exchange rate (around US$0.58), 1.5 million ounces of gold is worth approximately NZ$10.8 billion, rather more than twice the revenue assessment of Mr Eaqub.

[825] Also material to this are the probabilities as to whether the gold able to be extracted will amount to 1.5 million ounces. In relation to this, Mr Eaqub advised:

> ... the Resource and Reserve (R&R) statement for Wharekiraupnga Underground Mine (WUG) shows 1.4M ounces of Measured and Indicated Resources of which there are 1.21M ounces of Proven and Probable Reserves, broadly consistent with the economic modelling (1.5M ounces for WUG and Gladstone Open Pit (GOP) combined). The Inferred Resource adds another 0.6M ounces. Exploration drilling continues to increase confidence in the Resource.

[826] The drift of the discussion at the conference with economists was that the gold able to be extracted would likely exceed 1.5 million ounces; in other words, variation from the 1.5 million ounce estimate was more likely to be on the upside than the down side. As to this we note that the figure used in the Application was 1.7 million ounces and that exploration is continuing.

Evaluation

[827] We start our evaluation with two considerations:

(a) we assess that the gold that OGNZL will extract is more likely to be more and not less than 1.5 million ounces; and

(b) the gold price assumption is less than 50% of the current gold price and well-below the consensus forecast referred to in [823], above.

[828] It is possible that the gold price will drop to a point that is less than Mr Eaqub's assumption. There have been substantial falls in the gold price before (by way of examples, between 1979 and 1982 and 2011 to 2015). As well, Dr Meade noted that the January1980 gold price peak (in inflation adjusted dollars) was not reached again until October 2024. But, assessing the probabilities on the basis of the material before us, we regard Mr Eaqub's gold price assumption of $2,000 as appropriate. Indeed, given current prices, it is now conservative.

Mr Eaqub over-assessed the tax to be paid by OGNZL

The criticism

[829] Mr Edward Miller challenged Mr Eaqub's taxable income projections as implying an implausibly high average pre-tax profit margin between years 9 – 17 of 58% compared to its pre-tax profit margin over recent years which has averaged 14% and has not exceeded 22%. He also referred in reasonably general terms to tax avoidance activities. These can include maintenance of artificially high levels of debt, and payment of management fees to associated companies in low tax jurisdictions.

Mr Stevenson's response

[830] Mr Phil Stevenson, a Deloitte tax partner who has advised OGNZL responded to Mr Miller's statement of evidence. He explained the particular tax regime that applies to mining and why pre-tax profit margins during a period in which OGNZL had active mining operations at Macraes and Waihi and, as well was engaged in exploration under the CFP, are not a good indicator of likely pre-tax profit margins in years 9 – 17 of the WNP.

[831] More generally, he said that the tax regime is designed to produce a result that, over time, will mean that OGNZL will pay tax on its pre-tax profits from the WNP and that there are specific anti-avoidance provisions such as the thin-capitalisation rules and deductibility

criteria in respect of intra-group transfers (such as management fees) that deal with the concerns raised by Mr Miller.

The experts conference

[832] Mr Miller argued that the assumed the profitability margin of the WNP overall was unlikely to be achieved in practice, resulting in a reduction in the Government tax take projected by OGNZL. Mr Miller based this on the current profitability of Oceana (a 13-20% margin) and mining companies in general (averaging 14%).

[833] Mr Eaqub responded that the WNP itself is expected to be more highly profitable than present operations, and that the current margins are based on an entity basis, which includes significant expenditure on exploration across the Macraes site as well as Waihi. He also noted that significant expenditure is being incurred now, which effectively serves to reduce current margins, but having already been incurred, will increase margins in the future.

[834] Mr Stevenson discussed the tax regime (in particular the provisions of the Income Tax Act 2007 that address mining income, ss CU 1 to CU 9, expenditure, ss DU I to DU 12, spreading, ss EJ20B – EJ20E, and what would otherwise be stranded losses, s LU 1.

Evaluation

[835] Although Mr Stevenson was able to address the particular tax avoidance possibilities identified by Mr Miller, some scepticism about the corporate tax figures may nonetheless be warranted.

[836] On the other hand:

(a) It is more likely more (and not less) than the assumed 1.5 million ounces of gold will be extracted and that OGNZL will receive more than on average US$2,000 an ounce.

(b) As the PAYE figure is calculated solely by reference to PAYE to be paid in respect of direct OGNZL employees, it too is conservative as it makes no allowance for tax paid by (or on behalf of) contractors working in the mine and

PAYE on other indirect and induced employment. How much that will be is uncertain. Mr Eaqub later told us that the present value of the additional PAYE is $25.2m. We presume that this is on the basis of his national employment figures derived from input-output multiplier analysis which we have discounted. However, some additional PAYE will be paid.

(c) No allowance has been made for taxes that will be paid by suppliers to the mine. And:

(d) Any reductions in OGNZL's profit margins resulting from expenses incurred in New Zealand will be associated with additional economic activity in New Zealand and will generate additional tax revenue from suppliers that will at least mitigate the diminution in corporate tax paid by OGNZL.

[837] In short, we see the net present values assessed by Mr Eaqub as a realistic and likely conservative assessment of the range within which additional Government revenues will lie.

OGNZL will be taking a disproportionate share of the value of the gold to be extracted

[838] It might be thought that the only value the gold has is its realisable value less the costs of extraction. Since there would appear to be no New Zealand-owned miner capable of extracting the gold in question, the costs of extraction are inherently likely to include profits that are remitted overseas. Leaving the gold in the ground obviously preserves options for the future that are excluded by extraction. But whether such options would prove to be advantageous compared to extraction now (particularly when it can be effected in a context in which there is existing infrastructure that can be utilised) is speculative.

[839] In the unsolicited material received after the conference with economists, the future options were explored but at high levels of generality. Raising what in substance in a new line or argument in this way is not consistent with the process provided for in the FTAA.[82] And as it happens, we see the associated discussion in that material as too speculative.

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

Where we get to

Significance

[840] Section 3 of the FTTA sets out its purpose in this way:

> The purpose of this Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

As this purpose is referred to repeatedly in the Schedules to the FTTA which set out decision-making criteria, a brief comment as to "significant" is appropriate.

[841] "Significant" is not defined in the FTAA. But some assistance is provided by s 122(2), which provides the criteria the Minister may have regard in determining whether to refer a project:

> (2) For the purposes of subsection (1)(a), the Minister may consider—
>
> (a) whether the project—
>
> (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
>
> (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
>
> (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
>
> (iv) *will deliver significant economic benefits*:
>
> (v) will support primary industries, including aquaculture:
>
> (vi) *will support development of natural resources, including minerals and petroleum*:
>
> (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
>
> (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
>
> (ix) will address significant environmental issues:

> (x) is consistent with local or regional planning documents, including spatial strategies ...
>
> (Emphasis added)

[842] "Significant" is a word of indeterminate meaning. It can, for instance, be used in in the sense of "game-changing". But it can also have meanings along the lines of "worthy of note".

[843] In the context of "deliver significant economic benefits" and "development of natural resources including mining", it is not particularly likely that any one mining project will produce game-changing effects, certainly across the country as a whole. The same can be said of any one project to "increase the supply of housing". Indeed, in a large city, even a substantial housing project is unlikely to make a material change to the supply of housing. All of this supports the view that "significance" is not to be determined by reference to whether implementation of the project will appreciably change national or regional gross domestic product or the annual tax revenue of the Government. Rather it is an indication of scale.

[844] For reasons explained, we see the economic benefit of implementation of the WNP as additional:

(a) government revenue with a probably conservatively assessed net present value of around $421.99 million; and

(b) jobs over the 18 year life of the WNP that will be in the order of 442 for the Hauraki District with additional employment outside the Hauraki District associated with the WNP that will be substantial but probably less than 416 jobs.

[845] We do not see the word "regional" when used in relation to benefits as denoting the areas of a regional council constituted under the Local Government Act. Rather;

(a) we construe "regional" in a more general sense that, for our purposes, encompasses the area in and around Waihi which we will treat as the Hauraki District; and;

(b) in any event, we consider that 442 additional jobs for the Hauraki District is a significant regional benefit irrespective of the meaning to be attributed to "regional".

[846] The around 442 additional jobs associated with implementation of the WNP will represent a substantial proportion of employment in the Hauraki District (in excess of 7 per cent of the current number of jobs).

[847] We see no job losses likely to result from implementation of the WNP. No other material and tangible economic disbenefits were identified in the assessment process we have conducted. So, we see no relevant economic disbenefits to set off against the benefits we have recognised in relation to the additional jobs in Hauraki District which we regard as resulting in "significant regional ... benefits".

[848] The same is true of the national benefits we have identified, an increase in employment nationwide over the life of the WNP of 442 jobs in the Hauraki District and substantially more (but probably less than 416) in the rest of New Zealand and additional Government revenue with a net present value of around $421.99 million.

A final comment: the precision of the figures

[849] The apparent precision of Mr Eaqub's figures for employment and Government revenue are artefacts of the methodologies he used to calculate them. As will be apparent we see them as merely fairly indicative of what the outcomes are likely to be and we use them in that way for the purposes of our Decision.

F2: Waihi North Biodiversity Project (WNBP)

The WNBD

[850] OGNZL proposes to establish an area of up to 18,870 ha in the CFP for biodiversity enhancement and predator control (Application document B.35). A conceptual project plan for this WNBP has been produced. It will be developed in more detail and then implemented in conjunction with iwi and DOC.

[851] What follows in this section is largely taken from the material supplied by OGNZL.

[852] A baseline monitoring programme is underway. It includes biodiversity and pest mammal monitoring across eight sites in the Southern CFP. As described, the biodiversity monitoring includes:

(a) vegetation community (RECCE plot-based) and incidental observations of notable species;

(b) nocturnal emerged frog surveys for Archey's and Hochstetter's frog surveys;

(c) nocturnal emerged invertebrate surveys (plot-based);

(d) nocturnal and diurnal lizard surveys (plot / transect based);

(e) bird and bat surveys using acoustic recorders;

(f) establishing photo points to monitor vegetation response to proposed pest management (optional).

(g) collection of eDNA samples at each site.

Pest animal monitoring is said to include:

(a) chew card surveys for rodents and possums (7-night monitor); and

(b) camera trap surveys for mustelids, cats and pigs (21-night monitor);

[853] The data collected will form a basis for developing the WNBP Plan which, according to OGNZL will include:

(a) the specific management and enhancement objectives for the WNBP;

(b) the detailed programme of activity for the first 5 years following the commencement of activities authorised by the WNP approvals;

(c) any land access arrangements (concessions) with DOC which are required to implement the Project Plan;

(d) measurable and time bound performance targets for effectively reducing target pest species;

(e) methods of outcome monitoring for pest and native species to determine WNBP effectiveness; and

(f) the reporting and review process for the WNBP

Funding

[854] OGNZL is committing a total of at least NZ$8.4 million (adjusted according to the Consumer Price Index) to the WNBP annually. The initial payment will $2.4 million and will be followed by annual payments of $600,000 annually which is to continue for a minimum of 10 years, or until stoping associated with WUG is completed, whichever is later. This is all provided for in OGNZL's proposed consent conditions.

Design and governance

[855] A Biodiversity Project Group will be set up prior to the commencement of underground mining below Wharekirauponga to oversee the design, governance, implementation, monitoring and review of the WNBP and associated funding. OGNZL proposes that this will consist of the following members:

(a) an independent chair;

(b) representatives of OGNZL;

(c) at least one suitably qualified and experienced restoration ecologist appointed by OGNZL;

(d) a representative from each of Ngāti Hako, Ngāti Maru, Ngāti Pū, Ngāti Tamaterā, Ngāti Tara Tokanui / Ngāti Koi, Ngaati Whanaunga, if they agree to participate; and

(e) a representative of DOC.

Location

[856] The WNBP will be located within an area totalling 18,870 ha in the Southern Coromandel. This encompasses all public conservation land administered by DOC between the Wires/Wentworth Crossing in the north and State Highway 2 in the south.

[857] This area has been chosen given:

(a) Its cultural significance to several iwi groups who have indicated interest in being involved in the WNBP.

(b) It contains significant biodiversity values which would benefit from a wide scale pest control programme, including native frogs, bats, and birds.

(c) Previous survey data indicates the area contains high or very high densities of a range of pest species. Controlling pests within this area would deliver significant benefits for forest health and native species.

(d) The area surrounds the WUG footprint where 632 ha of intensive pest control to manage the potential effects of vibration on frogs is proposed as part of the WNP. A project area adjacent to, or surrounding, the 632 ha of pest control already proposed could provide significant additional benefits for biodiversity.

(e) The area contains the Otahu Ecological Area, which has historically been home to kiwi, kokako, and native frogs.

[858] The final location is expected to be selected on the basis of:

(a) the results of baseline monitoring undertaken;

(b) the funding available and cost of proposed pest control methods, noting that additional funding for the WNBP may sought from sources other than OGNZL;

(c) stakeholder priorities and values, including the willingness of DOC to support the WNBP on Crown land it manages; and

(d) advice from an appropriately qualified restoration ecologist on goals, outcomes, and achievability of any proposed goals and outcomes within the WNBP area.

Conditions dealing with WNBP

[859] The conditions dealing with the WNBP are C29 – C41 in the Combined HDC and WRC conditions.

Why OGNZL has offered the WNBP

[860] OGNZL maintains that the WNBP is not offered as mitigation or compensation for an adverse effect of the WNP. It then explains

> ... it is a positive beneficial project OceanaGold has proposed in addition to the mining related aspects of the WNP. As such, given it provides an opportunity for tangata whenua to take a central role in the development of the Project's goals and practical implementation of the Project in recognition of their role as kaitiaki the exact goals and design of the project are intended to be defined through a collaborative process with iwi. The Department of Conservation (**DOC**), as the land administrator of the Project area, are also expected to be a key stakeholder in the collaborative process to design and implement the Project.

[861] It says that the WNBP can be expected to deliver ecological benefits and can provide:

(a) Social and economic benefits such as training, development, and long-term job opportunities for local residents including iwi. And more generally, it will

advance the NZ Government's Predator Free 2050 goal. In the future, the increase in wildlife may also provide tourism opportunities, with associated increases in visitor numbers to the area. And

(b) Cultural benefits including increased opportunities for tangata whenua to practice traditional cultural uses of the forest, increases in numbers of taonga species, the possibility to reintroduce taonga species to the area that are not currently present, and to create a kaitiakitanga legacy for the area.

Panel assessment

[862] The incomplete level of planning for the WNBP precludes detailed assessment of its benefits. That said, the associated consent conditions provide certainty that the WNBP will result in environmental benefits, even though the scale and nature of those benefits is uncertain.

[863] As to the FTAA criteria, we do not assess the WNBP as offering, in itself, significant regional benefits although it could be seen as supplementing the regional economic benefits primarily relied on by OGNL. This is why this discussion appears in this Part of the Decision. However, and perhaps more significantly, it forms a component of the overall WNP which is before us and as such, it provides part of OGNZL's response to iwi concerns and aspirations as well is a component of the overall environmental package that OGNZL is offering. .

PART G: APPROVALS RELATING TO THE RESOURCE MANAGEMENT ACT

G1: Decision-Making Criteria For Consents Under The RMA

[1] In considering whether to grant resource consents, we must apply cls 17 – 22 of Schedule 5 to the FTAA.[83] For present purposes, it is cl 17 that is primarily important.

[2] Clause 17 is relevantly in these terms:

> **17 Criteria and other matters for assessment of consent application**
>
> (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the Panel must take into account, giving the greatest weight to paragraph (a),
>
> (a) the purpose of this Act; and
>
> (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
>
> (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
>
> (2) For the purpose of applying any provisions in subclause (1),—
>
> (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; ... .
>
> ...

Section 104D of the RMA provides decision-making criteria for non-complying activities. Relevantly for the WNP, the effect of cl 17(1)(b) is that those criteria do not apply.

[3] Clause 17(2)(a) arguably disapplies (by omission) s 8 of the RMA (which requires decision-makers to take into account the principles of the Treaty of Waitangi), We say "arguably" because the cl 17(2)(a) definition of Part 2 of the RMA is said to apply only to references in the RMA and does not explicitly refer to cl 17(1)(b) which provides that the provisions of Part 2 of the RMA are "must take into account" factors. In any event, we have

[83] See s 81(2)(a) of the FTAA.

approached the Application on the assumption that we are required to take into account the principles of the Treaty.

[4] We understand the phrase "take into account" as requiring us to consider the matters so identified and give them genuine consideration; rather than mere lip service, such as by listing them and setting them aside.[84] We consider that this can be best effected (and demonstrated) by considering all relevant considerations (including the purpose of the Act) first but only at the weighing up stage, give effect to the "greatest weight" requirement.

[5] Clauses 17(3) and (4) provide:

> (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
>
> (4) For the purposes of subclause (1), the Panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the Panel to decline the application the Panel is considering.

[6] As noted in Part C of this Decision, s 87A(6) of the RMA precludes the granting of a consents for prohibited activities. Once effect is given to the cl 17(1) and (2) (and in particular, the disapplication of s 104D), there are no provisions in the RMA which, but for cl 17(4), would require the Panel to decline OGNZL's Application for resource consents. So, arguably at least, cl 17(4) is not directly relevant to the decisions we are required to make.

[7] That said, we are inclined to read cl 17(4) alongside s 85(4). On this basis, when dealing with directive avoidance policies in planning instruments which, when taken with s 104D, might usually require an application to be declined, we adopted the approach of :

(a) taking into account that they would usually engage the "bottom line" approach taken in *King Salmon* and thus require an application to be declined;[85] but

(b) recognising and that they do not require the Panel to decline an application.

---

84 *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26.

85 *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* – [2014] NZSC 38; [2014] 1 NZLR 593.

G2: RMA Statutory Instruments

[8] OGNZL's Application listed what it considered to be the relevant statutory instruments and provided an assessment of each of those instruments.[86] We have carefully reviewed that assessment. While we generally concur with it, we provide our own assessments as follows.

National policy statements

[9] The relevant National Policy Statements that we must take into account to under cl 17 of the FTAA were addressed in section 10 of the AEE and include:

(a) National Policy Statement for Freshwater Management 2020 (NPS:FM);

(b) National Policy Statement for Highly Productive Land 2022 (August 2024) (NPS:HPL)

(c) National Policy Statement for Indigenous Biodiversity 2023 (NPS:IB).

National Policy Statement for Freshwater Management 2020 amended 2024

[10] The NPS:FM sets out a framework under which local authorities are to manage freshwater (including groundwater).[87] The objective of the NPS:FM is to ensure that natural and physical resources are managed in a way that prioritises:[88]

(a) First, the health and well-being of water bodies and freshwater ecosystems;

(b) Second, the health needs of people (such as drinking water); and

(c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

86 A.11, section 8.7.3
87 NPS:FM clause 1.5.
88 NPS:FM clause 2.1.

[11] This objective reflects the hierarchy of obligations in Te Mana o te Wai.[89] Policies 1, 2, 6, 7, 8, 9 and 10 are particularly relevant to the WNP. [90]

[12] Regarding Policy 1, we are satisfied that the WNP will accord with Te Mana o te Wai, insofar as the activities have been identified and assessed to ensure that the health of freshwater and of the wider environment is prioritised and protected. In that regard we refer to and adopt the explanation provided in the Application documents.[91]

[13] In addition, regarding the six principles of Te Mana o te Wai, the Iwi Advisory Group will enable tangata whenua to play a role in the formulation of the various management plans that will govern much of the day-to-day WNP activities. The Iwi Advisory Group will be able to nominate tangata whenua participants for the Peer Review Panel and Expert Groundwater Panel. They will also be enabled to participate in the development of a Mātauranga Māori environmental monitoring programme.

[14] Consequently, we disagree with Forest and Bird that the WNP is inconsistent with Policy 1.

[15] Regarding Policy 2 we note tangata whenua have commented on the WNP proposal and consent conditions are proposed to enable their ongoing involvement with the WNP.

[16] Policy 3 is primarily directed to the role of WRC, but we observe that OGNZL has considered the actual and potential effects of the WNP on land and freshwater resources in an integrated manner.

[17] Policy 6 seeks to ensure that there is no loss to the extent of natural inland wetlands and that their values are protected. In its comments, Forest and Bird maintained that this policy is breached in respect of the Gladstone Wetland (in Area 5) and, at least by implication, the Mataura Wetland (in Area 2). This argument warrants brief discussion.

---

89 NPS:FM clause 1.3.

90 Policy 5 relates to the National Objectives Framework which is relevant to the role of the WRC. Policy 11 is not relevant because there is sufficient groundwater available in the Otahu Catchment for the proposed take of groundwater / dewatering of the WUG.

91 Application A11, pages 579 to 581

[18] The likely impacts on the Mataura and Gladstone Wetlands are discussed in section E10. They have been assessed as unlikely to be distinguishable from natural variability.[92] So, we think it unlikely that any adverse effects on them will be sufficiently material to engage Policy 6. In any event, monitoring and remediation (if required) conditions are provided for in WRC Conditions SC2.F.30 (Mataura Wetland) and SC5.D.4 (Gladstone Wetland). These include absolute make good requirements. This means that the relevant WNP activities will be managed to ensure that there is no loss in the extent or values of these wetlands.

[19] We note that Policy 3.A.2 of the Waikato RPS requires the avoidance of the loss of extent of natural inland wetlands, except where the loss derives from an activity that is necessary for the purpose of the extraction of minerals and ancillary activities; the extraction of the mineral will provide significant national or regional benefits; there is a functional need for the activity to be carried out in that location, and the effects of the activity will be managed through applying the effects management hierarchy. In this instance, the first two criteria are satisfied. We consider that there is a functional need for the relevant activities to be carried out in the relevant location.[93] We are also of the view that the effects management hierarchy will be applied.

[20] For the reasons given, we disagree with Forest and Bird that the WNP is inconsistent with Policy 6.

[21] Policy 7 seeks to ensure that the loss of river extent and values is avoided to the extent practicable. This is reinforced by Clause 3.24(1) of the NPS:FM 2020 which requires regional councils to include policies in their regional plans to the effect that the loss of river extent and values is avoided unless the council is satisfied that there is a functional need for the activity in that location; and the effects of the activity are managed by applying the effects management hierarchy. The Waikato Regional Council has adopted such a policy (see Policy 3.A.3 of the RPS).

[22] Activities associated with the implementation of the WNP will involve the reduction in the extent of waterbodies in several locations. This is discussed in section E9. These losses

---

92 As to the Mataura Wetland, GHD, B.26, appendix M, at p 5 and as to the Gladstone Wetland, see GHD, B.26, appendix L at p 8 and Boffa Miskell, B.43 at pp 65-66 and 77.

93 This is for reasons that are along the lines of those given in the reply evidence of John Kyle and Abbie Fowler at paras 3.1 – 3.7.

are largely, although not entirely, associated with the NRS and TSF3. Forest and Bird maintains that loss of extent of streams breaches Policy 7 of the NPS:FM (along with Policy 3.A.3 of the RPS).

[23] We consider that OGNZL has adequately considered the factors relevant to assessing their functional need and that the exceptions in policy 3.A.3 are engaged.[94] And we also accept that (a) OGNZL has applied the effects management hierarchy and (b) the diminution in river extent can be offset or compensated for by an enhancement in values (as will be achieved by riparian planting). Accordingly we are of the view that there is no breach of Policy 7 of the NPS:FM (or policy 3.A.3 of the RPS).

[24] Policy 8 is about protecting the significant values of outstanding water bodies. We understand from Section 3.2 Policy 5 of the WRP that the Natural State Water Class streams in the CFP are considered to be outstanding waterbodies. Six natural state streams are potentially affected by mining activities and we are satisfied that consent conditions will mitigate adverse effects on those waterbodies to the extent practicable. In that regard we observe that the underground mining methodology within Area 1 has been carefully developed to monitor and manage the unlikely but potential risk of dewatering effects on those natural state waterbodies, such that any anticipated effects on stream flows will be less than minor, and within the range of naturally expected variations. We disagree with Forest and Bird that the WNP is contrary to Policy 8.

[25] Policies 9 and 10 address the protection of the habitats of indigenous freshwater species and trout and salmon respectively. We are satisfied that will be achieved through measures such as the WTP discharge standards, erosion and sediment controls, the creation of new stream habitats associated with stream diversions, the implementation of the Aquatic Fauna Salvage and Relocation Plan, maintain appropriate fish passage, riparian planting, and maintaining water levels in the Natural State Waterbodies in the CFP.

[26] The Panel has taken into account the NPS:FM when assessing the effects of the WNP as set out in Part E of this Decision.

---

[94] WUG, TSF3, GOP and GOP TSF, NRS and WRS. See the discussion in the Application A11, pages 587 - 588. See also the reply evidence of John Kyle and Abbie Fowler at paras 3.1 – 3.7. We note as well that EGL (in B.01 at pages 48 - 73) reviewed extensively alternative locations for the NRS and TSF3..

Panel finding

[27] The Panel is satisfied that the WNP is not inconsistent with the NPS:FM.

National Policy Statement for Highly Productive Land 2022 (August 2024)

[28] There are several components of the WNP located within areas of HPL (including within Area 2, Area 3, Area 5 and Area 7). Clause 3.9(2)(j)(iii) of the NPS:HPL provides that the use and development of HPL for mineral extraction is not inappropriate and is not an activity to be 'avoided' where there is a functional or operational need for the mineral extraction activities to be located on the HPL.[95]

[29] As we discuss in Part F, we are satisfied that the WNP will have significant local, regional and national benefits. As outlined above in relation to the NPS:FM, we are also satisfied that the WNP components in question have a functional need to be located in the areas where OGNZL wishes to site them.

Panel finding

[30] We are satisfied that the NPS:HPL does not present a barrier to granting consents for the WNP.

National Policy Statement for Indigenous Biodiversity 2023

[31] The objective of the NPS:IB is:

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

(b) to achieve this:

(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

[95] Where it provides a significant national benefit that could not otherwise be achieved using resources within New Zealand.

(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

[32] The Panel considers that the conditions imposed on the relevant approvals adopt a precautionary approach and are necessary and appropriate to avoid outcomes for indigenous biodiversity that would otherwise be contrary to the objective of the NPS:IB.

[33] The Objective of the NPS:IB is to be achieved through the implementation of the NPS:IB policies. Policies 1, 2, 3, 5, 7, 8, 10 and 13 particularly relevant to the WNP. Other policies are more relevant to the management activities of HDC and TCDC.

[34] Policies 1 and 2 respectively relate to managing indigenous biodiversity in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi and enables tangata whenua to exercise kaitiakitanga for indigenous biodiversity on their land, by identifying taonga biodiversity elements, and by actively participating in decision-making.

[35] While none of the WNP activities occur on Māori-owned land, we received comments from a range of tangata whenua who identified biodiversity that was considered a taonga. The comments actively received from tangata whenua have been taken into account in our decision-making and the conditions provide extensively for iwi-participation in the implementation of the WNP.

[36] Policy 3 requires a precautionary approach. A precautionary approach is generally required when there is uncertainty about potential adverse effects. That arguably applies to the effects of the WNP on frogs in the CFP. We consider that OGNZL's site selection process for drill and evasé sites is suitably precautionary, as are the methods for dealing with any frogs discovered in site surveys. We consider that the same is true generally of the pest-management and monitoring conditions in the HDC and Wharekirauponga Access Agreement along with associated abilities of the HDC (under Condition 210 of the HDC Conditions), the WRC (under Condition G34 of the WRC Conditions) and DOC (under cl 62 and Second Schedule 2.51 to 2.54 of the Wharekirauponga Access Agreement) to intervene if it becomes appropriate to do so.

[37] Policy 5 requires indigenous biodiversity to be managed in an integrated way, within and across administrative boundaries. We are satisfied that will occur in this case as the biodiversity management conditions (including the WUG-ELMP and Pest Management Plan) traverse the HDC and TCDC district boundary. The WUG-ELMP also integrates biodiversity and landscape matters.

[38] Policy 7 is that SNAs are protected by avoiding or managing adverse effects from new use and development. In addition:

(a) Clause 3.10 requires that particular adverse effects on an SNA involving amongst other things "loss of ecosystem extent" are to be avoided unless exceptions provided for in cl 3.11 apply.

(b) Clause 3.11(1) provides for an exception for mineral extraction providing significant national public benefit that could not otherwise be achieved using resources in New Zealand and there is a functional or operational need for the development to be in that location.

(c) If the exception applies, adverse effects are to be managed in accordance with cl 3.10(3) and (4) which deal with the effects management hierarchy and biodiversity offsetting and compensation

[39] The WNP affects SNA T13 P152 and SNA 166. We discussed the effects of the WNP on those SNAs in section E8 of this Decision.

[40] The WUG is under SNA T13 P152 in the CFP and will result in loss of 0.66 ha of vegetation. The presence of the ore body under the CFP means that there are functional and operational necessities for the mining activity to occur there and for associated activities to take place on the surface. Clause 3.11 thus applies.

[41] Forest and Bird claimed that requirements in cl 3.10(4) of the NPS:FM (as to the effects management hierarchy and biodiversity offsetting and compensation) had not been satisfied. This argument appears to be based on the view that offsetting and compensation should not be available in relation to risks to frogs; this on the basis that those risks are so uncertain and/or

adverse as not to be appropriately subject to off-setting or compensation. As will be apparent from section E7, we disagree. So, we are of the view that cl 3.11 is satisfied in relation to SNA T13 P152.

[42] TSF3 will permanently remove 8.3 ha of vegetation within SNA 166. Our view that the location of TSF3 reflects a functional necessity[96] applies a fortiori in the present context (in which an operational necessity suffices for the purposes of cl 3.11).

[43] Forest and Bird advanced a general contention that cl 3.10.(4) was not satisfied but did not particularise this contention in respect of SNA 166. On our assessment of the evidence, cl 3.10.4 is satisfied

[44] For the reasons just given we are of the view that there is no breach of Policy 7 of the NPS:IB.

[45] Policy 8 requires us to recognise and provide for the importance of maintaining indigenous biodiversity outside SNAs. The NPS:IB requires that adverse effects on indigenous biodiversity which is not protected by a SNA be managed by applying the effects management hierarchy where those effects are significant. We have recognised and provided for such biodiversity, as shown by our assessments in sections E7 to E10 of this Decision. We agree with OGNZL that when considering the WNP as a whole, subject to compliance with conditions of consent, the permanent loss of non-SNA terrestrial biodiversity has a "low" to "very low" level of adverse effect and is not significant.

[46] Policy 10 requires us to recognise and provide for activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing. The very process of considering the WNP FTAA Application achieves that purpose.

[47] Policy 13 is to promote and provide for the restoration of indigenous biodiversity. In that regard the environmental mitigation, remediation, offsetting, and compensation measures proposed as part of the WNP will positively contribute to the restoration of indigenous biodiversity and an increase in indigenous vegetation cover in the Waihi area, resulting in an

[96] See the references in fn 94, above.

overall net gain in indigenous biodiversity values. In addition, the WNBP, while not required to manage the effects of the WNP, will assist in achieving the overall objective of the NPS:IB.

Panel finding

[48] The Panel is satisfied that the WNP is not inconsistent with the NPS:IB.

National Environmental Standards

[49] Those that are relevant are:

(a) Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES:FM)

(b) Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NES:Air)

(c) Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NES:ET)

(d) Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES:CS)

(e) National Environmental Standards for Sources of Human Drinking Water 2008 (NES:DW)

Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES:FM)

[50] The NES:FM sets national standards for activities affecting freshwater to protect and improve water quality. It regulates activities including vegetation clearance and land disturbance affecting rivers and wetlands in ways that supplement district and regional rules (see Regulation 6).

[51] Referred to by Forest and Bird were Regulations 45D (in relation to the Gladstone Wetland) and 57D in relation to streams.

[52] Reg 45D is not engaged because the WNP earthworks are situated more than 100m from the Gladstone Wetland.

[53] Reg 57(2) is in terms that correspond broadly with policy 3.A.3 and provides that reclamation of the bed of a river is a discretionary activity if there is a functional need for reclamation of the river bed in that location and the effects management hierarchy has been applied. As we have explained, we consider that there is a functional need for the reclamation and OGNZL has applied the effects management hierarchy regarding the loss of stream extent.

Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NES Air)

[54] We are satisfied that the concentrations of PM_{10}, NO_2, CO and SO_2 associated with air discharges from the WNP are with the relevant standards in the NES:Air, as outlined in section E16 of this Decision.

Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

[55] These regulations are relevant to the relocation of an existing powerline running through Gladstone Hill in the vicinity of the GOP.

[56] We are satisfied that this can be undertaken as a discretionary activity with no more than minor adverse effects on visual, landscape, ecological or heritage values, and sensitive land uses. We note no commentator suggested otherwise.

National Environmental Standards for Sources of Human Drinking Water 2008 (NES:DW)

[57] We are satisfied that the granting of water and discharge permits for activities upstream of the HDC water abstraction points will not affect the quality of water at the abstraction point and is thus consistent with Regulations 7 and 8 of the NES:DW.

[58] As noted in section E3 of this Decision, an additional consent condition has been imposed that addresses the highly unlikely event of a WTP system failure in Area 2.

Panel finding

[59] We find that the WNP is not inconsistent with the relevant national environmental standards and so they are not an impediment to the granting of consents.

G3: Regional and District Planning Framework

[60] An assessment of the relevant statutory instruments was included within the AEE as is required by Schedule 5, cl 5(1)(h).

[61] The Panel has reviewed and considered the assessments provided by OGNZL and the comments provided by DOC, the councils and other commentors. In Part E of this Decision, we discussed the few provisions that were brought to our attention by commentators. In these comments there was only limited reference to the regional and district planning framework.

Waikato Regional Policy Statement (RPS)

[62] The Waikato Regional Policy Statement 2016 (updated in 2018) sets out resource management issues for the Waikato region and associated objectives, policies and methods relating to those issues.

[63] OGNZL undertook a comprehensive assessment of relevant provisions of the RPS in section 8.7.3.10 of Application document A11. The assessment spanned 16 pages and was set out under the following headings:

(a) Integrated Management;

(b) Resource Use and Development;

(c) Decision Making;

(d) Relationship of Tangata Whenua with the Environment;

(e) Air Quality;

(f) Built Environment;

(g) Freshwater Management;

(h) Riparian Areas and Wetlands;

(i) Historic Heritage;

(j) Indigenous Biodiversity and Ecosystem Services;

(k) Landscape, Natural Character and Amenity;

(l) Public Access;

(m) Natural Hazards; and

(n) Soils.

[64] We have read, agree with and adopt OGNZL's assessment of the RPS. In making that finding we observe that in its comments the WRC did not suggest that the WNP was inconsistent with any RPS provisions, which lends weight to the appropriateness of OGNZL's assessment. Consequently, rather than repeat that assessment here, we note:

(a) The technical assessments commissioned by OGNZL and the peer reviews of those assessments commissioned by the councils considered the actual and potential effects of the WNP on land, flora and fauna and freshwater resources in an integrated manner which has assisted us undertaking our decision-making in a holistic manner. And

(b) Based on the range of information before us, we find that the effects of the WNP are generally well understood and subject to the imposition of conditions of consent, potential adverse effects on those resources will be avoided, remedied, or mitigated. However, there are a number of aspects of the WNP where a precautionary approach will be taken and an adaptive management approach including offsetting adopted.[97] We discuss that in Part E and so do not repeat that detail here.

[65] We note Forest and Bird considered that the WNP Application was contrary to RPS Objectives LF-01 and LF-03 of the RPS. Objective LF-O1 seeks to maintain or enhance the

[97] Such as potential effects on leiopelmatid frogs within Area 1

mauri and identified values of freshwater bodies in a manner not dissimilar to some aspects of the NPS:FM. Objective LF-O3 and its associated policies seek that riparian areas and wetlands be managed to maintain or enhance a range of values including water quality.

[66] As outlined in sections E3, E4, E9 and E10 of this Decision we are satisfied that the WNP will maintain the values of the affected waterbodies and wetlands, including the natural state waterbodies in the CFP. In fact, proposed riparian planting will enhance some of those values. We have also discussed these matters earlier in terms of the superior instruments. Consequently, we do not agree with Forest and Bird that the WNP, subject to imposition of conditions of consent, is contrary to these RPS objectives.

Panel finding

[67] In overall terms we are satisfied that the WNP is not inconsistent with the RPS.

Waikato Regional Plan (WRP)

[68] OGNZL sought all necessary land use consents, discharge permits, and water permits under the WRP to authorise activities associated with the construction, operation, maintenance and rehabilitation of the WNP, as outlined in section 4.2.5 of the AEE. The most restrictive consent activity status is non-complying. Under the "bundling" principle this is taken to be the overall activity status for the WRP approvals required.

[69] The WRP contains objectives, policies, rules and other methods relating to the management of natural and physical resources of the Waikato region. We note that the WRP predates the NPS:FM and RPS and has not been reviewed or updated to give effect to these higher-order statutory planning documents in their current form, with the exception of those clauses of the NPS:FM that require mandatory inclusion.

[70] We discussed Policy 3.A.2 of the WRP in the preceding section dealing with the NPS:FM.

[71] OGNZL undertook a comprehensive assessment of relevant provisions of the WRP in section 8.7.3.11 of Application document A11. The assessment spanned 19 pages and was set out under the following headings:

(a) Tangata Whenua Relationship with Natural and Physical Resources;

(b) National Direction;

(c) Management of water resources;

(d) Water Takes;

(e) Efficient Use of Water;

(f) Discharges to Water;

(g) Damming and Diversion;

(h) Wetlands;

(i) Drilling;

(j) River and Lake Bed Structures;

(k) Accelerated Erosion;

(l) Discharges to Land;

(m) Contaminated Land; and

(n) Air Quality.

[72] We have read OGNZL's assessment of the WRP and, as with the RPS, we agree with and adopt it. We do not repeat that detailed assessment here. We observe that in its comments the WRC did not suggest that the WNP was inconsistent with any WRP provisions, which lends weight to the appropriateness of OGNZL's assessment.

[73] Forest and Bird considered that the WNP was contrary to Policy 5 (section 3.2.3) and Policy 1 (section 3.7.3) of the WRP. Those policies are:

Policy 5: Natural State Water Class

The purpose of the natural state water class is to protect the flow regime, water quality and riparian and aquatic habitat for indigenous species in order to maintain the aesthetic and intrinsic values derived from the unmodified or largely unmodified nature of the catchment. These are outstanding waterbodies and important habitats because they are unmodified or substantially unmodified by human intervention.

...

Policy 1: Control Land Drainage in Areas Adjacent to Identified Wetlands and Within Wetlands

Ensure that land drainage activities within wetlands that are areas of significant indigenous vegetation and/or significant habitats of indigenous fauna, or immediately adjacent to wetlands identified in Section 3.7.7, are undertaken in a manner that avoids changes in water level that lead to:

a. shrinking or loss of the wetland, or

b. accelerated dewatering and oxidation, or

c. significant adverse effects on tangata whenua values of the wetland, or

d. adverse effects of flooding on neighbouring properties, or

e. significant adverse effects on the relationship tangata whenua as Kaitiaki have with the wetland, or

f. adverse effects on the natural character of wetlands or

g. adverse effects on the ability to use the wetlands for recreational purposes

[74] Regarding Policy 5, as we outlined in sections E3, E9 and E10 of this Decision, we are satisfied that any potential adverse effects on the natural state water bodies resulting from the dewatering activities in the WUG mine will be either avoided, remedied or mitigated.

[75] As to Policy 1, we firstly note that the WNP is arguably not a land drainage activity. Nevertheless, as we outlined in sections E3, E9 and E10, we are satisfied that any potential adverse effects on the natural state water bodies resulting from the dewatering activities in the WUG mine will avoid changes in water level that would lead to the outcomes specified in relevant clauses a, b, c and f of Policy 1. We refer to WRC conditions UG.7 and UG.12 to UG.18 which collectively achieve those outcomes.

[76] We consequently disagree that the WNP is contrary to those two WRP policies.

Panel finding

[77] In overall terms we are satisfied that the WNP is not inconsistent with the WRP.

Thames Coromandel District Plan (TCDP)

[78] Thames Coromandel is currently operating under two District Plans - the Operative in part District Plan (2024) and the Operative District Plan (2010). The rules in the 2024 TCDP relevant to the activities subject to OGNZL's Application are not subject to appeal and are deemed operative (and the corresponding 2010 District Plan rules inoperative).

[79] The only approval required for the WNP under the TCDP is a land use consent for the installation of two near stream piezometers adjacent to the Otahu River in the Conservation Zone and Rural Zone (to be drilled with the portable rig). OGNZL considered that, given the minor nature of the activities proposed (which are largely associated with monitoring and mostly permitted activities), and the associated negligible effects, the WNP was consistent with the applicable provisions of the TCDP.[98]

[80] We received no comments to the contrary and we accept OGNZL's assessment.[99]

Panel finding

[81] The Panel is satisfied that the WNP is not inconsistent with the TCDP.

Hauraki District Plan (HDP)

[82] The HDP was made operative in 2014 and includes objectives, policies and methods intended to achieve the integrated management of the use, development or protection of land (and associated natural and physical resources) in the Hauraki District.

[98] Application A11, section 8.7.3.13.
[99] The comments provided by the TCDC focused on the consent activity category (which TCDC considered to be non-complying) as opposed to TCDP objectives and policies.

[83] OGNZL sought land use consents under the HDP to authorise activities associated with the construction, operation, maintenance and closure of the WNP. That included activities listed in section 4.2.3 of the AEE which are either wholly or partly located within the Conservation (Indigenous Forest) Zone, Rural Zone, Martha Mineral Zone, Reserve (Passive) Zone, and Residential Zone. The most restrictive consent activity status is non-complying. Under the "bundling" principle this is taken to be the overall activity status for the HDP approvals required.

[84] OGNZL undertook a comprehensive assessment of relevant provisions of the HDP in section 8.7.3.12 of Application document A11. The assessment spanned 11 pages and was set out under the following headings:

(a) Rural Zone;

(b) Conservation (Indigenous Forest) Zone;

(c) Residential Zone;

(d) Reserve (Passive) Zone;

(e) Mineral Martha Zone;

(f) Historic Heritage;

(g) Indigenous Biodiversity and Significant Natural Areas;

(h) Outstanding Natural Landscapes / Features and Amenity Landscapes;

(i) Riparian Margins and Esplanade Reserves;

(j) Hazardous Substances and Contaminated Land; and

(k) Transportation Network.

[85] We have read OGNZL's assessment of the HDP and we agree with and adopt it. We do not repeat that detailed assessment here. We observe that in its comments the HDC did not suggest that the WNP was inconsistent with any HDP provisions, which lends weight to the appropriateness of OGNZL's assessment.

[86] We place weight on the HDC's comment:[100] t

> The engagement process undertaken has enabled the HDC team to be well informed of the nature of the proposal such that the feedback provided is refined and focussed on outstanding matters requiring attention to enable consent to be granted. In this regard, the HDC team have assessed the proposal and consider that there are no adverse impacts that are sufficiently significant that cannot be avoided, remedied, mitigated, offset, or compensated for by suitable conditions of consent being imposed.

[87] We also note HDC's comment that "Relative to section 85(4) of the Act, HDC's assessment has considered the identified adverse impacts, and concludes that they will not result in a situation which overall can be found to be inconsistent with or contrary to a provision of a specified Act or any other document that the Panel must take into account or otherwise consider in complying with section 81(2)." [101]

Panel finding

[88] The Panel is satisfied that relevant key matters pertaining to the HDP have been addressed in our assessment of effects in Part E of this Decision, including any HDP provisions relevant to the setting of consent conditions.

[89] In overall terms we are satisfied that the WNP is not inconsistent with the HDP.

Planning documents recognised by a relevant iwi authority and lodged with the Council

[90] An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.[102]

---

[100] Page 40 of the HDC comments.
[101] Page 24 of the HDC planning assessment comments.
[102] Schedule 5, clause 5(1)(h) and clause 5(2)(g).

[91] It is the Panel's understanding that there are four planning documents recognised by relevant iwi authorities have been lodged with WRC that are potentially relevant:[103]

(a) Ngaati Whānaunga Environmental Management Plan 2019 (NWEP);

(b) Ngāi Tai Ki Tāmaki Take Taiaomaurikura September 2022 (NTKTTTEP);

(c) Ngāti Porou Ki Hauraki Marine and coastal area plan 12/09/2015 (NPKHMCAP); and

(d) Whaia te Mahere Taiao a Hauraki Iwi Environmental Plan March 2024 (HIEP).

[92] As we noted in Part D of this Decision, comments were received from three iwi authorities:

(a) Ngāti Porou ki Hauraki;

(b) Ngāti Tara Tokanui, Ngāti Koi; and

(c) Hako Tūpuna Trust.

[93] No comments were received from Ngāi Tai or Ngaati Whānaunga. Nevertheless, for the sake of completeness we have reviewed the NWEP and the NTKTTEP to determine if they contain environmental objectives relevant to the Panel's decision-making.

[94] The NWEP is primarily focused on opportunities for partnership and collaboration between Ngaati Whānaunga and their strategic partners, including local and central government. It includes goals for healthy land, freshwater, biodiversity and air. Freshwater specific goals include protecting and enhancing water quality and water availability. Specific goals for biodiversity include enhancing native biodiversity, ecosystem functions and processes.

[103] The "Ngāti Porou Ki Hauraki Marine and coastal area plan 12/09/2015" addresses the eastern Coromandel coastal marine area and is not relevant here because the WNP activities are unlikely to lead to contamination of that area.

[95] From our assessments undertaken in Part E of this Decision, we are satisfied that subject to the suites of consent conditions addressed in this Decision, should the WNP proceed it will do so in a manner that is consistent with those goals.

[96] The NTKTTTEP addresses how Ngāi Tai wishes to be involved in resource management issues. It also sets out objectives for freshwater, air, land and biodiversity.

[97] For freshwater the objectives include protecting water's health and well-being and that there are no discharges that impact negatively on water quality. In that regard we addressed the potential adverse effects of OGNZL's WTP on the Ohinemuri River in section E4 of this Decision, concluding that the existing WTP discharge standards have appeared to have avoided the occurrence of adverse effects on the aquatic ecology of the Ohinemuri River.

[98] NTKTTTEP objectives for air include that discharges with the potential to have adverse effects on human health are not supported. From our assessment in section E16 of this Decision we are satisfied that will be the case should the WNP proceed, particularly with regard to dust, PM_{10}, respirable crystalline silica, nitrogen oxides and carbon monoxide; all of which were assessed as remaining within the NES:Air guideline values and current consent limits.

[99] NTKTTTEP objectives for land and biodiversity are wide ranging, including that it will be "lush, healthy and sustaining for all" and "covered by thriving native forests that are free of pests". Unreasonable direct or indirect contamination of the land or water should be avoided and mining should not degrade "te Mauri o te whenua". New earthworks undertaken must include a condition addressing an accidental discovery protocol. The unnecessary clearance of indigenous vegetation and the degradation of habitat for native species should be avoided.

[100] We are satisfied that the WNP will largely achieve these objectives. In particular we note OGNZ's intended weed and pest control measures for WNP Area 1 and the requirements for the Waihi Biodiversity Offset Area, Waihi Biodiversity Offset Enhancement Area, and Ventilation Shaft Offset Area that we discussed in Part E of this Decision. OGNZL has committed to implementing an Accidental Discovery Protocol should any unidentified archaeological sites be encountered during WNP related earthworks. Site selection criteria for drilling sites and ventilation shafts will seek to avoid or remedy adverse effects on indigenous biodiversity, particularly taonga species.

[101] The NPKHMCAP relates to the eastern Coromandel coastal marine area from Kennedy Bay to Waikawau Bay and its associated fisheries resources. The NPKHMCAP states that the threats to that coastal water quality derive from sedimentation, oil spills, septic tank leachate and other waste discharges. It states the biggest risks to coastal fisheries are the non-reporting of the recreational fisheries catch and the commercial fishing activities.

[102] We acknowledge that the streams in the Wharekirauponga area of the CFP drain to the eastern Coromandel coast. Subject to compliance with conditions of consent, it is highly unlikely that the limited OGNZL activities in that area (drill sites, evasé sites, stream monitoring, groundwater piezometers, and groundwater pump test discharges) will result in adverse effects on the eastern Coromandel coastal water quality and its associated fisheries. This is particularly so given that OGNZL have proposed robust erosion and sediment control measures for the drill sites that will be located within the CFP.

[103] The HIEP addresses land, freshwater, air and biodiversity. Relevant objectives include protecting and restoring wetlands and the riparian margins of rivers, reducing the risk from new mines, undertaking animal and plant pest eradication programmes, protecting wāhi tapu and cultural heritage sites, undertaking environmental monitoring, and Hauraki Whānui participate in environmental decision making.

[104] As was the case for the NWEP and the NTKTTTEP, based on our assessments in sections E7, E8, E9 and E10 of this Decision we are satisfied that these objectives will largely be achieved should the WNP proceed. We note the intended riparian planting that is proposed for the Ohinemuri River and stream diversions, and as we discussed in section E23, the conditions offered by OGNZL include extensive monitoring obligations that will be codified in a number of documents including the Waihi Area Water Quality Management Plan, WUG Water Management Plan, and AQMP; all of which will need to be certified by WRC.

[105] Importantly, OGNZL has committed to working with iwi who choose to engage in the development of a Mātauranga Māori-based monitoring programme, which is proposed as part of a Cultural Practices Plan. Those matters are codified in offered conditions of consent.

[106] Ngāti Porou ki Hauraki did not mention the HIEP in their comments. Nor did the CIA authored by Ngāti Pū. Ngāti Hako noted that the HIEP was:

> ... a foundational document that articulates the environmental, cultural, and spiritual values of iwi across the Hauraki rohe. It provides a robust framework for assessing development proposals, particularly those with potential to impact freshwater, coastal ecosystems, and sites of significance.

[107] Relevantly, Ngāti Hako advised that the HIEP requires that Mātauranga Māori must be integrated alongside western science in all environmental assessments. Seasonal indicators, species relationships, and tikanga-based restoration practices were said to offer critical insights into ecosystem health. To the extent practicable, those matters were acknowledged in our Part E assessments.

[108] OGNZL addressed the HIEP in section 8.7.3.14 of Application document A11 noting that the HIEP addressed the following in relation to mining activities:

(a) The extraction of gold, silver and other mineral resources has left long-standing environmental problems in the Hauraki rohe. The disposal of wastewater, chemicals and spoil from the mining process, although much improved, remains an environmental concern to Hauraki iwi.

(b) The loss of waahi tapu, including Pukewa (the site of Martha Hill mine and not impacted by the WNP).

(c) Hauraki iwi seek reduced environmental risk from mining in the Hauraki rohe. And

(d) Hauraki iwi seek to enhance their capacity by monitoring mine sites.

[109] We are satisfied that, should the WNP proceed, as described in Part E of this Decision, the robust suites of consent conditions that will be imposed will ensure that new environmental problems are highly unlikely to arise as a result of the WNP activities. As mentioned above, iwi will have an opportunity to be part of a Mātauranga Māori-based monitoring programme.

[110] Having assessed the iwi management plans that we understand are relevant to the WNP, we are satisfied that relevant objectives they contain will largely be achieved by the WNP (inclusive of its associated consent conditions and environmental restoration, enhancement and

offset initiatives) such that we find that having regard to the iwi management plans does not weigh against a grant of consent.

G4: Part 2 of the RMA

[111] Clause 5 (1)(g) of Schedule 5 of the Act requires an assessment of the WNP against ss 5, 6 and 7 of the RMA. OGNZL addressed Part 2 of the RMA in the AEE.[104]

[112] The purpose of the RMA set out in s 5 is to promote the sustainable management of natural and physical resources. In light of the preceding Parts of this Decision, we are satisfied that the WNP will enable the social and economic wellbeing of Waihi and the Hauraki District through the provision of additional and continued employment, and the generation of significant benefits to the local, regional and national economy.

[113] Subject to the imposition of conditions of consent that avoid, remedy or mitigate potential adverse effects, the WNP will safeguard the life-supporting capacity of air, water, soil and ecosystems.

[114] Sections 6(e), 7(a) and (aa) of the RMA are all relevant to the WNP. They require the recognition of the relationship Māori have with their ancestral lands, water, sites, wāhi tapu and other taonga, as well as having regard to kaitiakitanga. We discussed those matters in section E2 of this Decision where we concluded that the conditions of consent will offer Māori significant opportunities for participation in the implementation of the WNP, including monitoring, supervision, kaitiakitanga, and co-governance. While these measures do not fully address the cultural concerns expressed by tangata whenua, they represent steps towards genuine partnership and the recognition of Mātauranga Māori in decision-making.

[115] Taking into account our assessments of effects in Part E, we consider that the WNP is not "inappropriate" in the context of ss 6(a) or (b). Appropriate conditions of consent seek to preserve the natural character of the wetlands, rivers and their margins and to protect the outstanding natural landscape of the CFP. Consent conditions will also enable areas of significant indigenous vegetation and significant habitats of indigenous fauna to be protected (s 6(c)) and regard has been had to the intrinsic values of those resources (s 7(d)).

[116] The WNP activities will not restrict public access to the Ohinemuri River, Ruahorehore Stream or their tributaries (s 6(d)). The WNP will affect some scheduled sites of historic

[104] Application document A11, section 8.7.2.

heritage listed in the HDP (s 6(f)), but an appropriate Archaeological Authority has been sought. The design of the WNP (including the GOP, TSF3 and the various rock stacks) has accounted for the risks posed by natural hazards (s 6(h)).

[117] The WNP has been designed to make use (where appropriate) of existing infrastructure associated with the existing mining operations at Waihi (s 7(b)).

[118] The amenity values of Waihi and the surrounding rural areas will be maintained to the extent practicable given the intended extension of mining activity contemplated by the WNP. That will be achieved by the imposition of limits on noise, vibration, lighting and dust from mining (and associated processing) activities (s 7(c)). Conditions of consent will also maintain the quality of the environment and some aspects of the environment will be enhanced, particularly in light of the proposed riparian planting, pest management within the CFP, including the WNBP (s 7(f)).

[119] The habitat of trout in the Ohinemuri River will be protected by the discharge standards imposed on the WTP discharge. That habitat will be enhanced by the proposed riparian planting. All instream works will be undertaken in accordance with a site wide aquatic fauna salvage and relocation plan (included within the applicable ELMP) which will protect any trout encountered in instream works or diversions (s 7(h)).

[120] OGNZL advised that it applies, to the extent practicable, an emissions reduction hierarchy by firstly evaluating opportunities to reduce and ideally avoid greenhouse gas emissions via procurement, feasibility, design and process decisions.[105] It then seeks to replace or substitute emissions intensive energy sources with renewable or lower emissions alternatives that are commercially feasible. Regarding the effects of climate change (such as changes to rainfall), we are satisfied that the assessments of WNP activities have taken that into account (s 7(i)).

[121] As summarised above, as a result of the conclusions reached on the effects of the WNP and in the context of the relevant planning provisions and the imposition of appropriate consent conditions, the Panel finds that the WNP is consistent with Part 2 of the RMA.

[105] Application document B.08, Technical Report Climate Change, Energy Use and Greenhouse Gas.

G5: Decisions as to Resource Consents

[122] In light of our assessment of the potential adverse effects of the WNP that we set out on Part E and our preceding assessment of the relevant statutory instruments that guide our decision-making, we are satisfied that subject to the imposition of clear and certain conditions of consent, the resource consents sought from the HDC, TCDC and WRC can be granted. Our conclusion in this respect is not dependent on, but is supported by, the requirement to give the greatest weight to the purpose of the Act when taking into account the cl 7(1) factors and also s 85(3).

[123] We discuss conditions of consent in Part N of this Decision.

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.

[2] The Wharekirauponga access arrangement OGNZL is addressed only to activities that will occur on the surface; in other words, the proposed access arrangement does not extend to underground mining activities. Likewise, OGNZL does not seek access arrangements in relation the WUG Access Tunnel which will go under land owned by Andrew and Rachel Wharry. Whether OGNZL's approach in these respects is correct depends on the application to the facts of s 57 of the Crown Minerals Act and is not before us.

The statutory context

[3] In considering whether to grant and vary access arrangements, we must apply cls 7, 9 and 10 of Schedule 11 to the FTAA.[106] 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(4)(l) (relating to section 61 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)(1), 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

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

(iii) any purpose for which the land is held by the Crown; and

(iv) any policy statement or management plan of the Crown in relation to the land if authored, co-authored, or approved by a Treaty settlement entity; 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

(vii) any other matters that the panel considers relevant:

(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.

[4] The combined effect of s 78 of the FTTA and cls 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

[5] The purpose of the FTAA is:

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

[6] The land is held under the Conservation Act. 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

[7] 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.

[8] Section 19(1) requires that:

> 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.

Application of cl.7(1)(a)(iv) of Schedule 11: any policy statement or management plan of the Crown in relation to the land if authored, co-authored, or approved by a Treaty settlement entity

[9] We are not aware of strategies or management plans "of the Crown" that have also been "authored, co-authored, or approved by a Treaty settlement entity". Given the rather different wording used in cl 7 of Schedule 6 in relation to what might be thought to be the same topic (which is discussed in Part I), it is possible that the words "of the Crown" were mistakenly inserted and should be ignored. We note that strategies and management plans of the Crown are "may consider" factors under cl 7(1)(b).

[10] We discussed iwi environmental management plans Part G of this Decision. As noted in Part I, one or more may have been at least "approved by a Treaty settlement entity" (although if so, we were not told). For this reason, we have treated them as potentially relevant under cl 7(a)(iv). But, as explained in Part G, we see the WNP as largely consistent with those plans and, as will also be apparent, we have taken into account what we have been told by all iwi groups who engaged with us.

Statutory instruments under the Conservation Act

[11] As just noted, these are "may consider" factors under cl 7(1)(b).

[12] 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).

[13] 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.

[14] 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

[15] 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.

[16] 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"].

[17] 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)

[18] 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."

[19] 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.

[20] 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.

[21] 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.

[22] 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

[23] The 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

[24] 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.

[25] It also proposes a total of 18 additional investigation and exploration drill sites, comprising:

(a) What are now 6 new 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.

[26] Establishing the drill sites will 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.

[27] 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.

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

[29] 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).

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

[31] 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.

[32] 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.

[33] 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.

[34] 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.

[35] 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.

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

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

[38] 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.

[39] 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.

[40] 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.

[41] 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.

[42] 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.

[43] 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.

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

[45] 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.

[46] 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.

[47] 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.

[48] 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.

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

[50] 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.

[51] 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.

[52] 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).

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

[54] 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.

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

[56] 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.

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

[58] 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 across the proposed access arrangement site.

[59] 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.

[60] 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.

[61] 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.

[62] 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.

[63] 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.

[64] 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

[65] 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), historic heritage (reviewed in section E18) and hazardous substances (reviewed in section E19).

[66] 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

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

[68] The Application does not sit easily with the objectives of the Conservation Act and the purposes for which the land is held (cls 7(1)(a)(ii) and (iii)); but, that said, mining is permitted in the areas of the CFP in which OGNZL wishes to mine, subject, of course to authorisation.

[69] We have already discussed cl 7(1)(a)(iv).

[70] We have given extensive consideration to the "safeguards against potential adverse effects" (cl 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.

[71] As to (cl 7(1)(a)(vi)), we consider the benefits reviewed in Part F of this Decision are significant. This is so just in terms of benefits to New Zealand (in the form of additional employment and Government revenue). These are "direct net economic benefits" as they are not offset by any economic disbenefits. If, as we think is the case, "benefits" in cl 7(1)(a)(vi) also encompasses benefits to be derived by OGNZL and everyone else who will derive income from implementation of the WNP , then total "direct net economic benefits" are much greater.

[72] 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. Policy 9.2.2.14 is a "may consider" factor under cl 7(1)(b).[107] So too is policy 16.3.5.3. 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 the "greatest weight" requirement in cl 7(1) and that cl 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. This we have already done.

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

[74] 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.

[75] They thus invoked cl 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 the land that they currently own adjacent to the CFP and land they expect to own in the future.

[76] 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 cl 7(2)(b) as meaning "has adverse effects on other land". Rather it refers to an interest in land that is inconsistent with (probably because it overlaps) another interest in the same land. And we do not see an interest in land that may come into existence in the future as material to the application of cl 7(2)(b).

Conclusion as to access arrangement

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

---

[107] If the application was required to be dealt with under s 61 of the Crown Minerals Act, it would be a "have regard to" factor, see s 61(2)(c) of that Act.

The terms and conditions of the access arrangement

[78] 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, including the conditions that we impose, is set out in Appendix C of this Decision.

Favona Access Arrangement

[79] 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.

[80] 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).

[81] 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).

[82] 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

[83] 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.

PART I: APPROVALS RELATING TO CONCESSIONS THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE CONSERVATION ACT

[1] OGNZL is seeking two concessions, one referred to as the Northern Area Concession and the other as the Willows Area Concession.

[2] OGNZL provided the Schedule 6, Part 1 (clause 3) information for the Northern Area Concession Area and the Willows Concession Area in section 8.8.1 of Application document A11.

The statutory setting

The Conservation Act

[3] Concessions are provided for in Part 3B of the Conservation Act.

[4] Section 17O(2) provides:

> Except as provided in subsection (3) or subsection (4), no activity shall be carried out in a conservation area unless authorised by a concession.

[5] "Concession" is defined as:

> concession or concession document—
>
> (a) means—
>
> (i) a lease; or
>
> (ii) a licence; or
>
> (iii) a permit; or
>
> (iv) an easement—
>
> granted under Part 3B; and
>
> (b) includes any activity authorised by the concession document.

OGNZL is seeking a licence for the Northern Area Concessions and a permit for the Willows Area Concession.

[6] Outside of the FTAA procedure, applications for concessions are dealt with under Part 3B of the Conservation Act (ss 17O – 17ZJ). They are granted by the Minister (s 17Q).

[7] Section 17U(1) relevantly provides:

> (1) In considering any application for a concession, the Minister shall have regard to the following matters:
>
> > (a) the nature of the activity and the type of structure or facility (if any) proposed to be constructed:
> >
> > (b) the effects of the activity, structure, or facility:
> >
> > (c) any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity:
> >
> > ...
>
> (3) The Minister shall not grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.
>
> ...

We will come back shortly to s 17U(3).

[8] Also relevant is s 17W(1):

> **17W Relationship between concessions and conservation management strategies and plans**
>
> (1) Where a conservation management strategy or conservation management plan has been established for a conservation area and the strategy or plan provides for the issue of a concession, a concession shall not be granted in that case unless the concession and its granting is consistent with the strategy or plan.

Schedule 6 to the FTAA

[9] Clause 7 of Schedule 6 to the FTTA provides:

> **7 Criteria for assessment of application for concession**
>
> (1) For the purposes of section 81, when considering an application for a concession, including conditions in accordance with clause 8, the panel, giving the greatest weight to paragraph (a)(i),—
>
> > (a) must take into account—

(i) the purpose of this Act; and

(ii) Part 3B of the Conservation Act 1987 (except sections 17SB and 17U(3) of that Act) as if the application were an application for a concession under Part 3B; and

(iii) any other relevant provisions of Parts 3, 4, 4A, 5, 5B, and 5C of the Conservation Act 1987 that direct decision making in relation to Part 3B of that Act; and

...

(vi) the purpose for which the land is held ...; and

(vii) in the case of a [licence] ...

(A) any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and

(B) the views of the entity referred to in subsubparagraph (A) on the proposed concession; and

(b) may consider,—

(i) ... any policy statement or management plan of the Crown ...

(2) For the purposes of subclause (1), the panel must take into account that the following provisions would or may normally require a decision maker to decline an application for a concession, but must not treat the provisions as requiring the panel ... to decline the approval the panel is considering:

(a) sections 17U(5) and (6) and 17W(1) and (3) of the Conservation Act 1987:

...

(3) The panel must decline the approval if,—

...

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

...

[10] What this means is that there is a requirement to take into account s 17W(1) in the particular sense described in cl 7(2), but it is not controlling.

[11] Section 17U(3) is disapplied but the purposes for which the land is held is a "must take into account factor" under cl 7(1)(a)(vi).

The Northern Area Concession

[12] The Northern Area Concession consists of land that lies generally around the northern sides of the area to which the Wharekirauponga Access Arrangement relates.

[13] The activities for which OGNZL seeks approval are:

(a) All pest control and monitoring on public conservation land.

(b) The installation and maintenance of a telemetry system to transmit environmental data, including the continued use of the existing telemetry system authorised under concession 101993-OTH.

(c) The installation and maintenance of three river flow monitoring stations, and the continued use of the existing surface water monitoring site (originally permitted under concession 70763-OTH and subsequently 87585-OTH).

(d) The installation and maintenance of three near stream piezometers.

(e) The continued use of a flow tracker for flow gauging (authorised under concession 87585-OTH).

(f) Low impact monitoring activities. And

(g) The hovering of helicopters delivering equipment associated with the placement, maintenance, use monitoring and subsequent removal of piezometers, river flow monitoring stations.

[14] The proposed activities are discussed in more detail in Sections 2.6, 4.4 and 8.8.1 of the Application and Appendix C to DOC's s 51 Report.

Issues

[15] As already referred to, Ngāti Porou ki Hauraki maintained that the Wharekirauponga Access Arrangement would create an interest in land that was incompatible with their present interest in land adjoining the CFP and expected future interests in the CFP itself. We have already discussed in Part H of this Decision a similar contention in relation to clause 7(2)(b) of Schedule 11 In relation to the Northern Area Concession, the corresponding provision is cl 7(3)(b) of Schedule 6. For reasons given in relation to Wharekirauponga Access Arrangement, we do not see cl 7(3)(b) as engaged.[108]

[16] This means that the principal issues in terms of actual and potential effects involve:

(a) Native herpetofauna (including the Archey's frog, the Hochstetter's frog's and Threatened and At Risk lizard species) associated with piezometer installation, increased human use and tramping and noise and vibration associated with helicopters;

(b) Heritage;

(c) Kauri dieback disease; and

(d) The effects on Wharekirauponga track users and hunters of helicopter noise, visual nuisance associated with piezometer sites and loss of solitude from increased presence of OGNZL personnel.

We will also discuss the operation of the relevant cl 7, Schedule 6 criteria.

Effects on herpetofauna

[17] These are generally reviewed in sections E7 and E8 of this Decision.

[18] The activities that will be carried on in the Northern Area Concession are less intense that those for which authorisation is sought under the Wharekirauponga Access Arrangement. It follows that the conclusions in sections E7 and E8 apply with greater force.

[108] OGNZL originally sought a licence conferring an interest in land but later made it clear that it was seeking only a licence.

Effects on heritage

[19] These are addressed in section E18 of this Decision.

Effects on Kauri dieback disease

[20] These are addressed in E8 of this Decision.

Effects on Wharekirauponga track users and hunters

[21] These are assessed in sections E14 and E15 of this Decision. They will be no more than minor.

The application of cl.7, Schedule 6 criteria: cl.7(1)(a)(1): purpose of the FTAA

[22] This favours OGNZL given our conclusion that the WNP as a whole will provide significant regional and national benefits.

The application cl.7, Schedule 6 criteria: clause 7(1)(a)(ii), Part 3B of the Conservation Act

[23] The material provisions of Part 3B have already been set out.

[24] The decision-making criteria are in s 17U.

[25] Also relevant is s 17W which deals with the relationship between concessions and conservation management strategies and plans, to which we will revert shortly.

Application of cl.7(1)(a)(iii) and (vi) of Schedule 6: other provision of Conservation Act and purposes for which land is held

[26] Section 19 requires Conservation Parks to be managed so as to preserve and protect natural and historic resources. And, as already noted, under s 7(1) the land is held for conservation purposes, which means:

> ... 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.

[27] Looked at in isolation, the activities for which the concession is sought (basically pest control and water monitoring) are consistent with conservation purposes. There is, however, the broader context in which the pest control and water-monitoring are ancillary to, and thus part and parcel of, mining activities. In this sense it the activities might be thought to sit at least uneasily with ss 19 and 7(1). However, as already noted in Part H, mining is permitted (in the sense that it can be authorised) in the area in which OGNZL wishes to mine.

Application of cl.7(1)(a)(vii) of Schedule 6: any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and the views of that entity

[28] We discussed iwi environmental management plans Part G of this Decision. Some may be regarded as having been at least "approved by Treaty settlement entities" and, for this reason we have treated them as potentially relevant under cl 7(a)(vii). But, as explained, in Part G, we see the WNP as largely consistent with those plans and, as will also be apparent, we have taken into account what we have been told by all iwi groups who engaged with us.

Any policy statement, conservation management policy statement or management plan of the Crown

[29] These are relevant by reason of cls 7(1)(b) and (2) and s 17W(1).

[30] The relevant provisions of the General Conservation Policy (GCP) (which require compliance with conservation management strategies (see policy 11.1(a)) the Waikato Conservation Management Strategy (WCMS) and the Coromandel Peninsula Conservation Land Management Plan (CPCLMP) have been already set out in Part H of this Decision on access arrangements.

[31] The issues as to consistency that arise in relation to the Northern Area Concession overlap with those already discussed in respect of the Wharekirauponga Access Arrangement. The overlap, however, is not complete. This is because:

(a) the intensity of the primarily relevant activity in the concession area is far less than the access arrangement activity;

(b) the provision of the WCMS with which the access arrangement activities are tangibly inconsistent (policy 9.2.2.14 – avoidance of "habitats important for persistence of nature frogs") applies to access arrangements, not concessions; and

(c) helicopter landings (relevant to policy 16.3.5.3 of the WCMS) are not proposed.

[32] The DOC s 51 Report concluded that the concession sought was inconsistent with:

(a) the GCP in respect of sections: 4.5(b) (intrinsic values of landscape, landform and geological features), 4.6(a) (activities on public conservation land to avoid or minimise adverse effects), and 11.1(a)-(b) (consistency with the Conservation Act and purpose for which land is held);

(b) the WCMS in respect of policies 5.1.1.1 (preserving diversity of New Zealand's natural heritage), 5.2.1.3 (prioritising and protecting actively conserved historic places) and 16.1.1.2 and 16.1.1.3 (management of conservation land to be consistent with purposes for which they are held and the outcomes, and policies of the WCMS); and

(c) the CPCLMP in relation to objectives 3.1 (protecting biodiversity) and 3.9.1 (aircraft).

[33] The provisions invoked by DOC are all in general terms. DOC's conclusions are in part based on assessments of effects (including mitigation) and in part evaluative. DOC's conclusions as to effects (and mitigation) are not consistent with our own. As for the more evaluative aspects of DOC's approach, there is obviously scope for debate and different views as to whether activities associated with mining should occur on conservation land. But, as already noted, mining on conservation land (other than the areas of land listed in Schedule 4 to the Crown Minerals Act) can be authorised. It is also of note that OGNZL holds an existing concession for similar activities in the same area (including the installation of near-stream piezometers and the installation of a telemetry system). The granting of the existing concessions must have been predicated on a conclusion that these activities were consistent with the GCP, WCMS and CPCLMP.

[34] Our primary view is that there is no relevant inconsistency in relation to the concession. This is because we see the very limited intensity of the activities proposed as not inconsistent with the relevant statutory instruments. As well, and if that is not right, the adverse impacts of the relevant effects are trivial so that the inconsistency is outweighed by the purpose of the FTAA (in relation to cl 7(1)(b) and is not determinative given cl 7(2) and s 85(3)).

Should a concession be approved?

[35] For the reasons just given, and more generally giving effect to the requirement to give the greatest weight to the purpose of the Act when taking into account the cl 7(1) factors and also s 85(3), we are of the view that the concession sought should be approved, but on appropriate terms.

The terms of the concession

[36] The terms of the concession are as set out in Appendix E of this Decision.

The Willows Area Concession

The concession that OGNZL seeks

[37] The concession sought is to conduct rehabilitation planting and pest control and associated monitoring.

[38] The proposed activities are discussed in more detail in Section 8.8.1 of the Application and in Appendix C to DOC's s 51 Report.

[39] The land is marginal strip and is therefore held under s 24 of the Conservation Act. Under s 24C of that Act:

> ... subject to this Act and any other Act, all marginal strips shall be held under this Act—
>
> (a) for conservation purposes, in particular—
>
> (i) the maintenance of adjacent watercourses or bodies of water; and
>
> (ii) the maintenance of water quality; and
>
> (iii) the maintenance of aquatic life and the control of harmful species of aquatic life; and

(iv) the protection of the marginal strips and their natural values; and

(b) to enable public access to any adjacent watercourses or bodies of water; and

(c) for public recreational use of the marginal strips and adjacent watercourses or bodies of water.

Should the concession be granted?

[40] Having regard to the statutory criteria which we have already discussed and consistently with s 24C we grant the concession sought.

Terms of the concession

[41] The terms of the concession are as set out in Appendix F of this Decision.

PART J: AUTHORITIES THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE WILDLIFE ACT

The restrictions in the Wildlife Act 1953

[1] Section 63 of the Wildlife Act creates offences that are committed by anyone who, "without lawful authority":

(a) Hunts or kills "any absolutely or protected or partially protected wildlife or any game"; and

(b) Possesses "absolutely protected or partially protected wildlife or any game".

[2] "Hunt or kill" has a definition that extends to:

> **...** the hunting, killing, taking, trapping, or capturing of any wildlife by any means; and also includes pursuing, disturbing, or molesting any wildlife ... .

This definition was explained by the Supreme Court in *Shark Experience Ltd v PauaMAC5 Inc*.[109] On the approach adopted, disturbance of wildlife involves activity which carries a "a real risk of significant harm".[110]

[3] Lawful authority to catch alive or kill or have in possession for the purpose of relocation absolutely or partially protected wildlife can be conferred by the Director-General of Conservation under s 53.

[4] Also material is s 53A which was inserted in the Act on 14 May 2025. Section 53A(1) and (2) provide:

> **53A Authority may be granted under section 53 to kill wildlife incidentally**
>
> (1) Without limiting section 53, the Director-General may grant an authority under that section that authorises killing of wildlife that is incidental to carrying out an otherwise lawful activity.
>
> (2) Killing of wildlife is *incidental* if it is not directly intended but is unavoidable and foreseeable as a consequence of carrying out the lawful activity.

---

109 *Shark Experience Ltd v PauaMAC5 Inc* [2019] 1 NZLR 791.
110 See [76] of the judgment.

Section 53B imposes limitations on the grant of authorities under s 53A which require a decision-making focus on protection of both populations of, and individual, wildlife.

[5] Under s 68AB, in a prosecution for an offence under s 63, it is not necessary to prove that the defendant intended to commit the offence and, under subsection (3):

> It is a defence ... if the defendant proves—
>
> (a) that the defendant did not intend to commit the offence; and
>
> (b) that,—
>
> ...
>
> (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

The FTAA

[6] Applications for approvals that would other be applied for under the Wildlife Act can be made under the FTAA, see s 42(4)(h).

[7] The criteria for determining such applications are set out in clause 5 of Schedule 7 to the FTAA. This provides:

> For the purposes of section 81, when considering an application for a wildlife approval, including conditions under clause 6, the panel must take into account, giving the greatest weight to paragraph (a),—
>
> (a) the purpose of this Act; and
>
> (b) the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval; and
>
> (c) information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement).

[8] The purposes of the Wildlife Act include the protection of species and particular populations of wildlife that are at risk.

[9] Clause 5(c) of Schedule 7 refers to the NZ Threat Classification System. This is a national system the assesses the conservation status of species found in the wild in New Zealand.

The approvals sought by OGNZL

[10] OGNZL lodged its Application on 11 April 2025. As set out in the main body of its Application, OGNZL sought approval:[111]

(a) to undertake monitoring of leiopelmatid frogs within the vibration impact area, Wharekirauponga Pest Management Area and a control area, all of which are located within the CFP;

(b) to undertake monitoring of leiopelmatid frogs in waterways within and outside the area potentially affected by the dewatering of the WUG, all of which are located within the CFP;

(c) to handle, salvage and relocate leiopelmatid frogs and lizards in order to enable vegetation clearance at TSF3, NRS, GOP and Willows SFA, all of which are located on OGNZL-owned land; and

(d) to handle, salvage and relocate leiopelmatid frogs and lizards in order to enable vegetation clearance for drill sites and pumping test / ventilation shaft sites located within the CFP

[11] The proposed Wildlife Act Authority conditions (that were also part of the Application) provided for authorities to:

a) To catch, salvage and relocate native frog and lizard species listed in Schedule 4 prior to vegetation clearance at mineral exploration and mining operation sites (see list of sites, in next section)

b) To catch and hold native frogs for the purpose of long-term monitoring

c) To take or destroy the eggs of wildlife when unavoidable (any taxa)

d) to kill wildlife when unavoidable (any taxa).

At the time the Application was lodged, s 53A had not been enacted. As will become apparent, there is scope for argument as to what was envisaged by the third and fourth activities (ie, those listed as c) and d)).

[111] Application A.07 at pp 341-42.

[12] As DOC's s 51 comments indicate, in the course of its engagement with DOC, OGNZL indicated that it was seeking authority:

> To .... harm ... wildlife that could arise from any of its other activities.

And in updated proposed conditions, OGNZL sought authority for:

> any accidental/unintentional harm to wildlife that could arise from any of the activities undertaken in relation to the Waihi North Project

The wording suggests an intention to invoke s 53A.

[13] DOC's comments under s 51 of the FTAA recorded concern about the two additional activities referred to in the proposed conditions and as to what they were intended to cover, for instance whether it extended to harm caused by "vibrations, dewatering, unsuccessful salvage, by-kill from pest-control operations etc". DOC also noted that it had approached the completeness test on the basis that the Application was for the lizard salvage, frog salvage and frog monitoring and commented that if more extensive authorities were sought, the information requirements of cl 2 of Schedule 7 FTAA had not been complied with.

[14] In its comments, Forest and Bird referred to the matters just discussed. It noted that the Application had not sought approval to disturb frogs by vibration (or air quality effects). It further claimed that the extension of the Application to "accidental/unintentional harm" was out of scope and that in any event the associated issues could not be dealt with appropriately by OGNZL providing supplementary information.

[15] In its response to the comments OGNZL made it clear that it was not seeking approval to harm frogs indirectly, by way vibration (and presumably any other indirect) effects. Our understanding of OGNZL's response to DOC's s 51 report was that it intended to seek approval only for the four activities listed in the Application set out in [10] above. This may have been a misinterpretation of what OGNZL intended to convey. As well, we contributed to any resulting confusion by not carrying our understanding of OGNZL's position through to the proposed Wildlife Authority recorded in Appendix G to the Draft Decision.

Our conclusion as to what is in scope

[16] DOCs response to the draft conditions suggests that we treat the third and fourth activities referred to in the original proposed conditions (ie, those listed as c) and d)) as relating to harm that was incidental to the activities referred to in the first and second activities – those listed as a) and b) – or the vegetation clearance referred to in a). We propose to do so. This reading of what OGNZL sought in the Application is consistent with the information provided and the legislative scheme as it was at the time the Application was lodged. Consistently with this, we will discuss the Application under the headings of:

(a) Lizard salvage;

(b) Frog salvage;

(c) Frog monitoring; and

(d) Harm to other fauna incidental to frog and lizard salvage and monitoring and vegetation clearance.

Lizard salvage

[17] OGNZL has identified that, based on lizard surveys and previous records, several species of native lizards are, or are likely to be, present across the WNP area. OGNZL seeks wildlife approval to salvage (capture and relocate) lizards. This is to mitigate the effects of vegetation clearance.

[18] The species of lizards in issue are:

Common name	Scientific name	Threat status (NZ Threat Classification System)
Northern striped gecko	*Toropuku inexpectatus*	Threatened - Nationally Endangered
Elegant gecko	*Naultinus elegans*	At Risk - Declining

Common name	Scientific name	Threat status (NZ Threat Classification System)
Forest gecko	*Mokopirirakau granulatus*	At Risk - Declining
Striped skink	*Oligosoma striatum*	At Risk - Declining
Ornate skink	*Oligosoma ornatum*	At Risk - Declining
Copper skink	*Oligosoma aeneum*	At Risk - Declining
Moko skink	*Oligosoma moco*	At Risk - Relict
Raukawa gecko / Common gecko	*Woodworthia maculata*	Not threatened
Pacific gecko	*Dactylocnemis pacificus*	Not Threatened
Common gecko	*Woodworthia maculata*	Not threatened

[19] The species primarily affected is copper skink (At Risk – Declining). This species is generally widespread, particularly in the upper North Island, and has a large national population. The only relevant threatened species, northern striped gecko, is unlikely to be encountered and OGNZL is proposing to seek to avoid sites where it is detected.

[20] OGNZL has provided conditions in its resource consent and access arrangement applications as to drill site selection under which any lizards with a threat status higher than At Risk are captured. Such animals will be held temporarily and DOC will be consulted on actions to take.

[21] Annual monitoring of lizard populations, habitat condition and pest control effectiveness is proposed for the first five years, then every five years until mine closure.

[22] This is discussed in more detail in the Application at B.36 (Bioresearches 2025a) and B.37 (Boffa Miskell 2025a) and in the DOC s 51 Report, Appendix D. The relevant management plans are the ELMP-WUG and ELMP-Waihi.

[23] We see no issue with granting approval as sought ,but subject to conditions to optimise benefits and minimise risks.

Frog salvage

[24] Capture and relocation of frogs (primarily the Archey's frog but also the Hochstetter's frog) is proposed to prevent injury and mortality to them associated with the aboveground activities in the CFP of clearing of drill sites, vent shafts and portable rig sites. Both are classified as At Risk – Declining. OGNZL anticipates that approximately 40 frogs may be salvaged. This is a consequence of site selection criteria that reduce the chance that drill sites will be established where a high density of frogs is likely. OGNZL proposes to release the frogs to one of two prepared release sites within the Wharekirauponga Animal Pest Management Area.

[25] This is discussed in more detail in the Application (B.36.(Bioresearches 2025a) and B.37 (Boffa Miskell 2025a). It is also reviewed at length in the DOC s 51 Report, Appendix D.

[26] If the new locations into which salvage frogs are moved have existing frog populations there are risks of some detrimental impacts on those populations (such as disease, shortage of space and competition for resources). We are, however, satisfied that such risks are limited and outweighed by the potential benefits (see OGNZL's response to DOC's s 51 and 53 comments, Appendix K. Katherine Muchna).

[27] Given the conclusion just expressed, we are satisfied that the possible benefits of frog salvage outweigh the risks and we grant the approval sought subject to conditions that we consider will optimise the likelihood of the frog salvage being successful.

Frog monitoring

[28] The proposal is to monitor leiopelmatid frogs in:

(a) the vibration impact area, the Wharekirauponga Pest Management Area and a control area, which are in the CFP; and

(b) in waterways within and outside the area potentially affected by the dewatering of the WUG, all of which are located within the Coromandel Forest Park.

[29] The purpose is to monitor potential effects of the WUG and the proposed pest animal management mitigation package on local populations of Archey's and Hochstetter's frogs. This is discussed in more detail in the Application (at B.58, Frog Monitoring Plan, Lloyd 2025) and in DOC's s 51 Report at Appendix D.

[30] What is proposed involves some risks to frogs from handling. So, in issue is whether the benefits of knowledge gained from such handling outweigh those risks. On the basis of the material supplied, including the DOC s 51 Report, we are satisfied that, providing best practice methods are followed (which is addressed in conditions), the benefits will outweigh the risks.

Harm to other fauna incidental to frog and lizard salvage and monitoring and vegetation clearance

[31] DOC has proposed an amended set of conditions which we regard as appropriate.

Decision

[32] The Wildlife Act Authority is set out in Appendix G of this Decision.

PART K: AUTHORITIES THAT WOULD OTHERWISE BE APPLIED FOR UNDER THE HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014

[1] In considering whether to grant an archaeological authority that would otherwise be applied for under the HNZPT Act we must apply cls 4 and 5 Schedule 8 to the FTAA.

[2] For present purposes, it is cl 4 that is primarily important. It provides:

> **4 Criteria for assessment of application for archaeological authority**
>
> (1) For the purposes of section 81, when considering an application for an archaeological authority, including conditions in accordance with clause 5, the panel must take into account, giving the greatest weight to paragraph (a),—
>
> (a) the purpose of this Act; and
>
> (b) the matters set out in section 59(1)(a) of the HNZPT Act; and
>
> (c) the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and
>
> (d) a relevant statement of general policy confirmed or adopted under the HNZPT Act.
>
> (2) For the purposes of subclause (1), the provisions of the HNZPT Act referred to in that subclause must be read with all necessary modifications, including that a reference to Heritage New Zealand Pouhere Taonga must be read as a reference to the panel.

[3] OGNZL provided the Schedule 8 (Clause 2) information for archaeological authorities in section 8.10.1 of Application document A11.

[4] The Panel must undertake an assessment of the effects of the WNP on the values of the archaeological sites. We undertook that assessment in section E18 of this Decision where we were guided by the comments received from the Ministry for Culture and Heritage and HNZPT. Having done so we found it appropriate to grant the Archaeological Authority subject to conditions that were sought by HNZPT and agreed to by OGNZL. These are set out in Appendix H to this Decision.

PART L: APPROVALS RELATING TO COMPLEX FRESHWATER FISHERIES ACTIVITIES

The context

[1] OGNZL proposes to create to stream diversions, the Northern Uphill Diversion Drain and the Southern Uphill Diversion Drain.

[2] The Northern Uphill Diversion Drain is a proposed diversion of 1,389 m length of an Ohinemuri River tributary (TB1) around the NRS, to form 695 m of diverted watercourse. TB1 is an existing formed diversion created during earlier mining operations.[112]

[3] The Southern Uphill Diversion Drain is a proposed diversion of 2,118 m of Ruahorehore Stream and associated tributaries and canals to form 2,503 m of diverted watercourse around the TSF3. This diversion will be an extension to the existing Southern Uphill Diversion Drain which currently starts behind TSF1A and runs behind the Eastern Stockpile.

The statutory background

[4] Part 6 of the Freshwater Fisheries Regulations 1983 deals with fish passage. Regulation 43(1) provides:

> **43 Dams and diversion structures**
>
> (1) The Director-General may require that a dam or diversion structure proposed to be built include a fish facility, except if the dam or diversion structure is subject to a water right issued before 1 January 1984 under the Water and Soil Conservation Act 1967.
>
> (2) A person proposing to build a dam or diversion structure must—
>
> (a) notify the Director-General; and
>
> (b) forward a submission seeking the Director-General's approval or dispensation from the requirements of these regulations; and
>
> (c) supply to the Director-General any information that is reasonably required to assist the Director-General in deciding any requirements that may apply (including plans and specifications of the proposed structure and any proposed fish facility).

[112] See Boffa Miskell, B.43, appendix 14.

[5] The scheme of the regulations is that where a diversion is proposed, the Director-General may impose requirements which may include a fish facility.

[6] The FTTA defines "complex freshwater fisheries activity" as including:

> (c) a permanent dam or diversion structure ... .

[7] Under s 42(1)(j)of the FTAA, an application for fast-track approvals may seek:

> .. an approval or a dispensation that would otherwise be applied for under regulations 42 or 43 of the Freshwater Fisheries Regulations 1983 in respect of a complex freshwater fisheries activity ... .

What OGNZL is seeking

[8] OGNZL is separately seeking approvals under the RMA for consents for structures in rivers (s 13, RMA) and diversion of water (s 14, RMA). In relation to what is now under consideration, OGNZL is seeking what in effect is confirmation that it is not required to provide a fish facility.

The criteria

[9] Clauses 5 and 6 of Schedule 9 provide:

> **5 Criteria for assessment of applications for complex freshwater fisheries activity approval**
>
> For the purpose of section 81, the panel must take into account, giving the greatest weight to paragraph (a),—
>
> (a) the purpose of this Act; and
>
> (b the alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines; and
>
> (c) how the proposed activity will manage risks to freshwater values or habitat, including prevention of access to or spread of invasive species; and
>
> (d) the availability and quality of the habitat upstream and downstream of the proposed activity; and
>
> (e) the presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity; and

(f) the advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity.

6 Conditions on complex freshwater fisheries activity approval

A panel may impose conditions on an approval that the panel considers necessary to manage the effects of the activity on freshwater fish species, taking into account—

(a) best practice standards; and

(b) the New Zealand Fish Passage Guidelines.

The Northern Uphill Diversion Drain

[10] Fish populations were assessed by the OGNZL at two sites along TB1, with only shortfin eels (a non-threatened species) detected). The New Zealand Freshwater Fish Database indicates that longfin eel, Cran's bully, common bully and kōura are present in the catchment (in nearby reaches of Ohinemuri River). Introduced rainbow trout, brown trout and rudd have also been recorded. Only the longfin eel is At Risk.

[11] A large natural waterfall downstream is a significant natural barrier to migration to the site.

[12] OGNZL's position is that the stream diversion will be ecologically functional:[113]

> The design of the diversion channel is planned to replicate aquatic habitat attributes with a range of suitable stable microhabitats for fish and invertebrates, including the creation of stable pool habitats, the inclusion of gravel and cobble riffle habitats, and provide for the passage of climbing fish, especially eels.

[13] The stream gradient may make it difficult to maintain fish passage for general fish species. Fish salvage is proposed before diversion works are undertaken.

[14] The catchment area above the diversion is limited (around 1,000 m^2).

[113] Application, B.43, section 18.1.7

Southern Uphill Diversion Channel Extension / Ruahorehore Stream

[15] Fish species detected in the Ruahorehore Stream and tributaries were common bully, shortfin eel, longfin eel, kōura and rainbow trout. The longfin eel is classified as "At Risk – Declining".

[16] The New Zealand Freshwater Fish Database indicates that three other native freshwater fish species have been recorded nearby in the wider catchment. These are banded kōkopu, kōaro and Cran's bully. Introduced species brown trout, rudd and goldfish have also been recorded.

[17] The lower 1,800 m of the diversion will replicate a fully formed ecologically functional watercourse connected to the Ruahorehore Stream proper. The upper part of the diversion will enable fish passage for eels and "some climbers".

[18] In relation to this diversion too, the stream gradient may make passage for general fish species difficult to manage. So, the diversion is intended to allow passage of migrating eels and other "native fish with climbing abilities" in the upper reaches, but with passage and habitat for trout to be provided in the lower reaches. Fish salvage is to take place before works are undertaken.

[19] As with the proposed Northern Uphill Diversion Drain, there is a natural waterfall that forms a barrier to the passage of "swimming fish" and the catchment area upstream of this diversion is limited (in this instance, around 500 m^2).

The primary area of controversy

[20] Conditions that are not in dispute manage risks to freshwater values and habitat (cl 5(c) of Schedule 9).

[21] The only substantial area of dispute is whether the conditions should incorporate the New Zealand Fish Passage Guidelines. DOC's position is that they should whereas OGNZL's position is that since the diversions will provide for fish passage that is consistent with what is already available, no additional requirements should be imposed.

[22] We note that condition G20 of the WRC conditions are outcome-orientated. The design of the diversions must be sufficient to achieve a level of function equivalent to those predicted in the Boffa Miskell Freshwater Ecological Assessment. These include:

- TB1 diversion: at a minimum it should enable passage of Anguilliforms along its length, with passage for climbers and swimmers within the lower reaches.
- TSF3 diversion: at a minimum the lower, ecologically functional, reaches need to enable the passage of swimming fish. The upper, steeper, reaches of the diversion should enable the passage of climbers and Anguilliforms.

There was also this explanation:

> The Ohinemuri River is classified as a significant trout fishery and there are important trout spawning tributary streams (including the Mataura Stream) as well as streams providing habitat for juvenile trout populations (including the Ruahorehore Stream). A juvenile rainbow trout was captured
>
> As stipulated above, the design of the TSF3 diversion must allow the passage of trout within the lower reaches. Trout are a swimming species and have no ability to climb, unlike many native species. The upper reaches of the Ruahorehore Stream naturally impeded the passage upstream of trout and the diversion channel should replicate this, with the passage of trout in the upper reaches considered undesirable.

[23] On this issue, we see the specificity of Condition G20, we consider it unnecessary for the conditions to also incorporate the New Zealand Fish Passage Guidelines.

[24] The formal decision is set out in Appendix I of this Decision.

PART M: OVERALL APPROACH

General comments

[1] Many of the potential adverse effects of the WNP are typical of those associated with large scale development. These include noise, lighting, stream diversions and vegetation clearance (outside the CFP) and impacts on the Ohinemuri River (from the WTP), historic heritage, landscape character, air quality and the transportation network. They are all addressed in Part E of this Decision.

[2] Other effects that are particular to underground gold mining (such as blasting and vibration, ground settlement and subsidence and acid and metalliferous drainage from the waste rock stacks) are not new as they have been associated with the operation of the Martha mine for several decades and are generally well understood and managed. These effects are also addressed in Part E of this Decision.

[3] While the effects were the subject of a number of comments, we consider that they were generally adequately addressed by OGNZL's technical assessments, the technical peer reviews undertaken by the HDC and WRC and the extensive and comprehensive proposed conditions in relation to the resource consents and other approvals.

The principal issues that were in contention

[4] The principal issues in contention were:

(a) The nature and scale of the regional or national benefits of the WNP. We address this in Part F of this Decision.

(b) The effects of mining activities on flora and fauna within the CFP, in particular Archey's and Hochstetter's frogs. This relates to:

(i) investigative and preliminary activities (the site selection process for drill sites and ventilation shafts and the effects of those activities);

(ii) operational mining activities (in particular, the effects on native frogs of vibration and potential stream dewatering). Also,

(iii) the efficacy of the measures proposed to mitigate residual effects on native frogs and lizards, including by way of their salvage and relocation.

These matters are primarily discussed in sections E7 and E8 of this Decision.

(c) The effects of vegetation clearance and associated loss of habitat which we discussed in section E8 of this Decision.

(d) The dewatering of surface streams and wetlands as a result of underground mining activities, and the loss of stream extent as a result of reclamations and diversions, which we discussed in sections E3, E7, E9 and E10 of this Decision.

(e) The social impacts of the WNP which are reviewed in section E22 of this Decision; and

(f) Effects on the values and interests of tangata whenua, particularly with regard to any active role they may play in monitoring and reviewing the effects of the WNP. These are discussed in section E2 of this Decision.

Our main findings in relation to these issues

[5] An overall summary of the ecological effects of implementation of the WNP and the ways in which OGNZL has proposed to manage them is provided in Table 6.1 in the AEE (at pages 457 - 460). For ease of reference this Table is reproduced as Appendix K of this Decision. We are of the view that implementing the WNP will result in the individual ecological effects addressed in the Table (and discussed earlier in the relevant sections of Part E) being avoided, remedied, mitigated, offset or compensated for to the point that, in each respect, the ecological outcome is positive. By way of example, the approach to be taken by OGNZL in relation to Archey's frogs involves site selection, salvage and relocation of frogs to a pest-controlled release site, intensive pest control over an area of 632ha in the WAPMA and research into the efficacy of the pest control in that area. We are of the view that the outcome for Archey's frogs will be favourable compared to the counterfactual (in which the WUG does not proceed). The

same is true of the other ecological effects addressed in the Table. This means that the overall ecological impact of implementation of the WNP will be positive and, even more so, once the WNBP is taken into account.

[6] More generally, the Panel's main findings on the principal issues in contention are:

(a) The WNP will generate significant regional benefits, in terms of increased employment, and additional Government revenue.

(b) The potential adverse effects of investigative activities on flora and fauna in the CFP will be adequately managed by robust site selection processes that avoid adverse effects on Archey's and Hochstetter's frogs, to the extent practicable. The few individual frogs that cannot be avoided will be salvaged and relocated to a secure and pest-free habitat.

(c) Mining activities are unlikely to have adverse effects on Archey's and Hochstetter's frogs. Any effects that do occur will be offset by extensive and robust pest control within and around the area of the CFP directly affected by underground mining induced vibration. The effectiveness of these measures will be monitored. In the unlikely event that such monitoring indicates a necessity for additional measures, the councils and DOC have the ability to initiate the imposition of further restrictions or requirements. Additionally, the WNBP will achieve long-term (inter-generational) positive ecological outcomes for the wider area.

(d) The loss of a small area of high value vegetation and habitats within the CFP, and the loss of a larger area of lower value vegetation elsewhere, will be addressed by the substantial offset mitigation package proposed. That includes a mixture of planting, fencing, and animal pest control.

(e) Potential impacts of dewatering on the loss of stream extent and wetland condition will be minimised by the proposed conditions of consent. Any residual uncertainty with respect to dewatering effects will be addressed by monitoring and the proposed remedial measures. The unavoidable reclamation

of waterways will be largely mitigated by ensuring that newly created diversions are ecologically robust. Any residual effects will be offset by measures including riparian planting and enhancement.

(f) The WNP will result in increased job security and sustained livelihoods for existing OGNZL employees. OGNZL's Waihi Skills Development and Training Action Plan will improve local skills and expand the locally available workforce for employment in mining and its servicing sectors. The Workforce Accommodation Assessment will reduce the extent to which the WNP activities contribute to any local housing shortages. OGNZL will provide further compensation to potentially affected landowners by the continuation and extension of an existing Amenity Effects Programme and ex-gratia payments to properties that the WUG Access Tunnel passes directly beneath. And

(g) Tangata whenua will be involved the ongoing monitoring and review of the WNP activities to the extent that they wish to be, primarily through the establishment and functioning of the IAG. In particular the IAG will assist in the development of management plans that directly affect taonga resources within and outside the CFP.[114] Tangata whenua (through the IAG) will also be enabled to assist with the development and implementation of a Cultural Practices Plan that will guide the application of tikanga to the WNP activities and a Mātauranga Māori Monitoring Programme. Tangata whenua will be actively involved in managing any accidental discovery of koiwi and monitoring of effects (through participation in the Peer Review Panel and the Expert Groundwater Management Panel). The residual cultural deficit which is discussed in E2 is in part a function of the scheme of the FTAA.

Would the WNP be consentable outside the FTAA?

[7] If OGNZL had persisted with seeking approvals for the WNP outside the FTAA, it would have been exposed to prolonged processes.

[114] Including the Ecology and Landscape Management Plans, Coromandel Forest Park Kauri Dieback Management Plan, Wharekirauponga Animal Pest Management Plan and Vibration Management Plan.

[8] Applications under the RMA for the resource consents that OGNZL seeks would have involved debate as to the application of s 104D(1)(b) of the RMA in relation to the district and regional planning instruments discussed in Part G (although, as will be apparent, we consider that the WNP is not contrary to the policies in the relevant planning instruments). As well, the usual RMA processes would have provided the opportunity for more elaborate consideration of, and thus conditions more closely tailored to, underlying mana whenua interests. There would also have been more scope for argument than there is under the FTAA in relation to the Concessions (particularly as to ss 17U(3) and 17W1 of the Conservation Act). We nonetheless think it at least likely that the WNP would have been able to obtain the approvals it requires to implement the WNP outside of the FTAA.

The relevance of the FTAA decision-making criteria

[9] As already explained, the FTAA decision-making criteria are, in some respects, distinctly different from those that would otherwise have been applicable. It follows that our Decision to grant the approvals sought does not depend upon the WNP being consentable outside of the FTAA.

[10] The decision-making criteria in the Schedules impose obligations that are never more stringent than to "take into account" the various matters specified. In the case of Schedule 5 (applying in relation to resource consents), Section 104D of the RMA is specifically disapplied and with it the s 104D(1)(b) requirement that non-complying activities "not be contrary to" planning instrument objectives and policies. Similarly, the provisions in the Conservation Act that would have caused OGNZL the greatest difficulty in relation to the Concessions are not of controlling effect under the FTAA.

[11] Also material are:

(a) The heavy emphasis in the Schedules on the purpose of the Act;

(b) The way in which s 85(3)(b) is expressed; and

(c) The prohibition in s 85(4) from concluding that 85(3)(b) threshold has been met "solely on the basis" of inconsistency with a statutory provision or document that must be taken into account or considered.

[12] The differences just referred to include the following overlapping considerations:

(a) The s 85(3) test and the decision-making criteria in the Schedules require a weighing of incommensurables between what are claimed to be economic benefits on the one hand and, on the other, actual or potential adverse effects (perhaps environmental or cultural). Carrying out the weighing exercise is likely to involve something akin to the overall judgment approach that was rejected by the Supreme Court in *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors.*[115]

(b) Associated with this, there are no "bottom lines" of the kind applied in *King Salmon*.

(c) Planning objectives and policies do not play as critical a role in relation to resource consent applications (particularly for non-complying activities) as they would under the RMA.

(d) Where the activities (or effects) are not consistent with provisions in the planning instruments, there is thus scope for greater focus on the significance of the effects in issue than would be permissible under the RMA.

[13] For the reasons given in Part E of this Decision and earlier in this Part, we conclude that the conditions we have imposed mean that the ecological effects of implementation of the WNP will be positive and that the potential adverse environmental effects of the WNP will be avoided, remedied or mitigated (and/or offset or compensated for) to the extent that they will be no more than minor or otherwise acceptable. They therefore do not weigh against granting the approvals. This would also be at least substantially so even if, and contrary to our view, implementation of the WNP is not completely consistent with the objectives and policies of all relevant planning instruments.

[115] *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38; [2014] 1 NZLR 593.conjdiotion

[14] Social impact effects will be positive, albeit that this is basically the corollary of the additional employment which is a major component of the regional benefits that are assessed in section F1.

[15] All of this means that the primary factor which can be said to "weigh against granting" the approvals is the cultural deficit discussed in section E2.

[16] Under s 81(4), when taking into account the purpose of the FTAA, we must consider "the extent of the project's regional or national benefits". This we have done in section F1, both in in quantitative terms (as to additional employment and government revenue) and qualitatively (as to whether they are "significant"). Although the benefits are not "game-changing" in the sense discussed in section F1, they are sufficiently "significant" to be within the purpose of the FTAA and thus, under the decision-making criteria in the Schedules, to be accorded "the greatest weight".

[17] Also to be assessed under s 85(3) is the significance of the adverse impacts. Obviously the "greatest weight" requirement does not preclude a conclusion that adverse impacts may be sufficiently significant to be "out of proportion" to the benefits. And it as this point that we get to the weighing of incommensurables, economic benefits on one hand and a cultural deficit on the other. In assessing the significance of the cultural deficit, the factors referred to in section E2 are relevant, including the conditions that are discussed and the reality that our assessment of the tangible effects of implementation of the WNP differs significantly from the assessments of iwi and hapū that we engaged with. As well, some of the distress that will be associated with the granting of approvals will be associated with the non-implementation of proposals that lie outside of what is possible under current legislative settings. An example of this is given in Part N, involving Ngāti Pū's comments on the draft conditions. One of these comments is in these terms:

> Ngāti Pū demands inclusion in co-governance mechanisms and binding powers equal to or greater than those afforded to councils.

That the conditions we impose have provided less mitigation of the cultural deficit than may have been achievable with more time and under different statutory processes is largely a function of the way the FTAA operates.

[18] We conclude that the significance of the cultural deficit is not "out of proportion" to the regional and national benefits, in the sense envisaged by s 85(3), ie as outweighing the benefits.

Decisions

[19] We grant the approvals sought and impose the conditions set out in Appendices B – I.

PART N: CONDITIONS

FTAA and General Requirements

[1] Section 81 of the FTAA provides that the Panel must set out any conditions to be imposed on the approvals. Section 83 of the FTAA must be complied with and provides:

> **83 Conditions must be no more onerous than necessary**
>
> When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

OGNZL's Proposed Conditions

[2] On 28 July 2025 OGNZL provided a suite of conditions for all of the approvals sought. Those conditions took into account discussions between OGNZL, the three councils and DOC. Amendments to that 28 July 2025 suite of conditions were proposed by DOC in their s 51 reports and their s 53 comments. The three councils also suggested amendments to those conditions in their s 53 comments.

[3] HNZTP discussed conditions for the archaeological authority in their s 51 Report and in their s 53 comments they sought to retain OGNZL's preferred resource consent conditions.[116]

[4] Various other s 53 commentors also provided comments on OGNZL's proposed conditions.

[5] OGNZL provided an updated suite of conditions for all the approvals sought as part of their 1 September 2025 response to comments received. On 13 November 2025 OGNZL provided clean copies of the Wharekirauponga Access Arrangement, Varied Favona Access Arrangement, Northern Area Concession and Willows Area Concession. The documents contained populated schedules for the standard conditions which had been agreed between OGNZL and DOC, and a placeholder for the Panel to populate the special conditions should we grant the approvals sought.

[116] HDC condition 89, TCDC condition 47 and WRC/HDC condition C29.

[6] On 20 November 2025 OGNZL proposed some administrative changes to the conditions, particularly with regard to the certification of management plans and the timeframes within which certain works and activities are to occur. OGNZL advised that the amendments had been discussed and agreed with the WRC and the HDC.

Panel's Initial Assessment

[7] In Part E of this Decision, we addressed the conditions that should be imposed on the approvals sought, taking into account the requirements of s 83 which requires that the Panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of the FTAA that confers the discretion.

[8] We also took into account the following FTAA requirements for conditions pertaining to particular approvals:

(a) Schedule 5 clause 18 for resource consents under the RMA 1991;

(b) Schedule 5 clause 19 for conditions on the resource consents dealing with standard freshwater fisheries activity;

(c) Schedule 7 clauses 8 and 9 for the Northern Area Concession and Willows Area Concession sought under the Conservation Act 1987;

(d) Schedule 7 clause 6 for the wildlife approval sought under the Wildlife Act 1953;

(e) Schedule 8 clause 5 for the Archaeological Authority sought under the Heritage New Zealand Pouhere Taonga Ac 2014;

(f) Schedule 11 clause 9 for the Wharekirauponga Access Arrangement and the variation to the Favona Access Arrangement sought under the Crown Minerals Act 1991.

[9] The Panel notes that if a Treaty settlement or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval then s 82 of the FTAA applies. That is not the case for the WNP.

[10] Under s 78 of the FTAA the appropriate Minister may specify conditions that a Panel may be required to impose. In this case the Minister of Conservation specified the imposition of Bond conditions that specify that initial bond, insurance, and fee values are set following independent valuation at OGNZL's cost. The specified conditions are included in the Wharekirauponga Access Arrangement.

[11] The Panel was cognisant of the fact that resource consent conditions must meet the requirements of s 108AA of the RMA.

[12] We were also mindful that the underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.[117] Conditions must also be certain and enforceable.[118]

Panel's Draft Conditions

[13] As required by s 70 of the FTAA, on 24 November 2025 we directed the EPA to provide our draft conditions to:

(a) the parties listed in s 70(1);

(b) the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development, as required by s 72(1); and

(c) the Minister of Conservation for the Concessions and the Ministers of Conservation and Minister for Resources for the Access Arrangements as required by s 77.

[14] Those draft conditions were accompanied by the Panel's draft Decision document.

---

117 *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156].
118 *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

Repetitive Conditions

[15] As noted earlier, OGNZL sought a range of approvals for the WNP including resource consents, Access Arrangements, Concessions and a Wildlife Act Authority. Each of the approvals necessarily contain a suite of conditions.

[16] In the conditions that were proposed by OGNZL many of the conditions in the Second Schedule of the Wharekirauponga Access Arrangement and Schedule 3 of the Northen Area Concession duplicated (in full or in part) conditions proposed for the resource consents, particularly the land use consent pertaining to the Hauraki District Council.

[17] Similarly, many of the conditions proposed for the Second Schedule of the Wharekirauponga Access Arrangement duplicated those in Schedule 3 of the Northern Area Concession. Also, some of the conditions in Schedule 3 of the Wildlife Act Authority duplicated conditions in either HDC land use consent, the Second Schedule of the Wharekirauponga Access Arrangement, or Schedule 3 of the Northern Area Concession.

[18] However, in some cases the precise wording of the duplicated conditions differed between the various approvals.

[19] The FTAA provides a single process for seeking a range of approvals which would otherwise have to be sought under different statutes and by different processes.

[20] Duplicated conditions (particularly where there is inconsistent wording) creates uncertainty, increases the complexity of the approvals and potentially frustrates the delivery of the project. The Panel's view is that it is better to state the conditions once in a relevant approval and to cross-refer to those conditions in the other approvals.

[21] Consequently, the Panel adopted the following approach for its draft conditions suites:

(a) Rather than repeating (or duplicating) conditions in the Wharekirauponga Access Arrangement for matters that were adequately addressed in the resource consent conditions we instead cross-referred to the relevant conditions in the HDC, TCDC and Combined HDC and WRC condition suites.

(b) Rather than repeating (or duplicating) conditions in the Northern Area Concession that were adequately addressed in the conditions for the Wharekirauponga Access Arrangement, we instead cross-referred to the Wharekirauponga Access Arrangement conditions. And

(c) Rather than repeating (or duplicating) conditions in the Wildlife Act Authority we e cross-referred to either the HDC, TCDC and Combined HDC and WRC condition suites or the Wharekirauponga Access Arrangement conditions. In particular we referred to the relevant management and monitoring plans that will be certified under condition C5A of Schedule One: Conditions Common To The Hauraki District Council And Waikato Regional Council Resource Consents. Having made that amendment we saw no need to detail the contents of those management and monitoring plans in the Wildlife Act Approval.

[22] We saw no particular issue with that approach because the HDC, TCDC and Combined HDC and WRC condition suites already contained conditions that referred to the Department of Conservation directly and to the matters addressed by the Concessions and Access Arrangements. We understand that OGNZL had consulted extensively with Departmental officials regarding the wording of those conditions.

[23] We acknowledged that the conditions in the HDC, TCDC and Combined HDC and WRC condition suites may be reviewed by the respective councils under s 128 of the RMA. Accordingly, we amended the s 128 review conditions in those consents to require that when undertaking any review of conditions that are cross-referred to in the Wharekirauponga Access Arrangement; Favona Access Arrangement; Northern Area Concession; or Willows Area Concession the respective council(s) will invite the Department of Conservation to comment on the proposed wording of any amended conditions and take into account any comments received when finalising the wording of any amended conditions.

[24] As will be apparent later, as a result of comments made on the draft conditions, we have resiled to some extent from that approach.

Tangata whenua consultation outcomes

[25] As we noted in Parts D and E2, the Panel undertook direct consultation with four iwi authorities, including those who lodged comments on the substantive application, namely Ngāti Porou ki Hauraki (NPKH), Ngāti Pū, Ngāti Tara Tokanui, Ngāti Koi; and Ngati Hako (Hako Tūpuna Trust). Following that consultation, the first three of those entities provided us with additional comments on conditions that primarily addressed the role of the proposed Iwi Advisory Group (IAG) in relation to individual iwi entities.

[26] NPkH wished to be referred to in conditions and we have done so. They queried how many tangata whenua representatives would be on the IAG. The conditions are silent on that point and so we see no issue with a particular iwi having more than one representative attend IAG meetings. As we noted earlier the IAG will have input to both management plans and monitoring programmes, as was sought by NPkH. OGNZL will meet the reasonable costs of all appointed iwi representatives. As part of our consultation process NPkH provided detailed suggestions for other conditions, but we deferred our consideration of those suggestions until s 70(1) comments were received from all parties.

[27] Ngāti Pū was not a s 53 commentator but we engaged with them directly because the Applicant provided us with a CIA that they had authored. Ngāti Pū sought "binding decision-making authority", but that is not appropriate here because the approvals for the WNP must be exercised by OGNZL (as consent holder). OGNZL are also ultimately responsible for the contents of management plans and monitoring programmes, although the IAG will have input to those processes. Ngāti Pū sought a specific role in developing the Cultural Practices Plan and Mātauranga Māori Monitoring Programme. However, input will necessarily come from the IAG to ensure the voices of all tangata whenua can be heard.

[28] As part of our consultation with Ngāti Tara Tokanui/Ngāti Koi we were supplied a list of proposed conditions that conferred specific roles for NTTNK as distinct from the IAG. As with NPkH, we deferred our consideration of requests to amend conditions pending the receipt of comments from all parties in accordance with s 70(1) of the FTAA. Ngāti Tara NTTNK also sought a specific role in developing the Cultural Practices Plan and Mātauranga Māori Monitoring Programme. However, as we noted in relation to Ngāti Pū, such input will necessarily come from the IAG to ensure the voices of all tangata whenua can be heard.

Comments on the Panel's Draft Conditions

[29] Comments on the Panel's 25 November 2025 draft conditions were received from 22 of the original 34 commentators as follows (we also received comments from Ngāti Pū):

1 Andrew and Rachel Wharry

2 Anne and Chris Hatton

3 Bruce Morrison

4 Bryce Ede

5 Coromandel Watchdog

6 DOC

7 Fish and Game

8 Forest and Bird

9 Gloria Sharp

10 HDC

11 HNZPT

12 MBIE

13 Minister for Māori Crown Relations and Māori Development (s 72 comments)

14 Minister for Resources

15 Ngāti Porou ki Hauraki

16 Ngāti Tara Tokanui Trust

17 NZTA

18 Perrins Robertson Partnership (John Perrins)

19 TCDC

20 Waihi Community Forum

21 Waikato Conservation Board

22 WRC

[30] In the sections that follow we summarise the comments received by these parties and our response to them, with a particular focus on any amendments to the draft condition suites that we found to be appropriate.

Andrew and Rachel Wharry

[31] Andrew and Rachel Wharry disputed OGNZL's assertion that the proposed underground tunnelling activities were exempt from access-arrangement requirements under s 57 of the Crown Minerals Act and postulated that an access arrangement was required under s 60 of the Act. However, the commentators did not request any amendments to the draft conditions.

Anne and Chris Hatton

[32] Anne and Chris Hatton expressed concern about effects on property values. We addressed that matter earlier in this Decision. They also sought the independent review of management plans relating to noise, blasting and vibration, and air quality. Those management plans will be certified by the councils utilising in-house or contracted technical expertise. Accordingly, we do not consider it necessary to require an additional independent review of those plans. The Hatton's also requested that OGNZL commence the planting of vegetation buffers as soon as possible. We addressed that matter in section E22 of this Decision.

Bruce Morrison

[33] Bruce Morrison advised that he had satisfactorily resolved easement and boundary adjustment matters with OGNZL.

Bryce Ede

[34] Bryce Ede expressed concern about effects of the WNP on groundwater. This was addressed in Part E3 of this Decision. No amendments to the draft conditions were requested.

Coromandel Watchdog

[35] Coromandel Watchdog expressed their continued opposition to the WNP. They advised that due to the complexity of the draft conditions, and the volume of material to review in the timeframes given, they had not suggested any precise amendments to the conditions. However, we record by way of overview only with regard to conditions (as opposed to our substantive Decision on matters such as economic benefits), that Coromandel Watchdog expressed concern about:

(a) Imprecise terms in the conditions dealing with management plans. We have reviewed the conditions setting out the objectives of the various management plans and have omitted any subjective or imprecise wording.

(b) Ensuring compliance with conditions. As decision-makers, we must assume that conditions of consent will be complied with, noting that the costs of compliance monitoring activities incurred by the councils can be cost recovered from the consent holder.

(c) Involvement of iwi and the public in management plan amendments. We have amended the conditions to require that the IAG have input to both the preparation of and any amendment to relevant management plans (Combined HDC and WRC Consent condition C10). Under the scheme of the FTAA there is no provision for the general public to have input to consent conditions.

(d) DOC involvement with management plans. We have expanded the Combined HDC and WRC Consent conditions to expand the list of management plans that DOC is to have input to and clarified that DOC's role relates to both the initial certification of the plans and their recertification following any amendments to them (Combined HDC and WRC Consent condition C5AA). Importantly, we have also required the management plans that pertain to the conservation estate to be certified by DOC, with any amendments to those plans being the subject of a separate variation process administered by DOC. And

(e) The effects management hierarchy, including the avoidance of risks from discharges and spills and the purpose of the WNBP. We are satisfied that the design of key infrastructure such as the TSFs, rock stacks and hazardous substances storage facilities have been designed using recognised engineering techniques to appropriately avoid discharges in the first instance. We note that the WNBP is not intended to offset adverse ecological effects, but is proposed by OGNZL as ecological enhancement over and above the avoidance, remediation or mitigation of adverse effects.

Department of Conservation

[36] DOC provided overview comments and suggested extensive and detailed amendments to the condition suites. We cannot address all of the detailed amendments sought here, but we acknowledge the thoroughness of DOC's approach and observe that we have accepted the vast majority of condition amendments that they suggested. By way of overview we have amended the conditions to:

(a) Provide a certification role for management plans that affect the conservation estate and the CFP in particular;

(b) Ensure that any changes to cross-referenced resource consent conditions do not automatically "flow through" to the DOC approvals, without a formal variation of the DOC approvals;

(c) Re-instate a separate Native Frog Salvage Release Plan within the Wharekirauponga Access Arrangement and Northern Area Concession;

(d) Impose conditions to provide for Hochstetter's frog salvage;

(e) Include salvage translocation monitoring conditions into the HDC conditions (and by cross-reference to the Wharekirauponga Access Arrangement and Northern Concession) which specify the requirements for the Native Frog Monitoring;

(f) Re-instate the two-staged approach to frog (and lizard) salvage at vent shaft sites in the HDC conditions (which will apply by cross-reference to the Wharekirauponga Access Arrangement and Northern Area Concession);

(g) Ensure the consistent application of the key frog success indicators proposed by OGNZL, namely a three-fold increase in frog populations over 15 years;

(h) Clarify the scope of what is to be authorised, for the purposes of the Wildlife Act 1953, so it is clear the approval includes the incidental killing of wildlife that will occur during vegetation clearance and related activities (e.g. salvage and relocation) and monitoring; and

(i) Amend the wildlife approval, so that all activities it authorises must be undertaken in accordance with the access arrangements, concessions and consents, to the extent that those conditions relate to wildlife.

[37] The only significant matters raised by DOC where we did not amend the conditions as sought related to the buffer zones around discovered frogs and the incorporation of the NZ Fish Passage Guidelines into the Freshwater Fisheries Dispensation. The reasons for that were set out in Part E of this Decision, but we elaborate on the buffer distance as follows.

[38] Regarding frog buffers for Drill/Portable Rig/Water pump sites, DOC maintained its preference for a default 6 m buffer, but suggested that a 3 m buffer could be applied in exceptional circumstances. It was clear from the Ecology Conference that DOC considered that

a wider buffer might provide greater access to potential refuges and lessen potential impacts of vegetation clearance on canopy cover. That is, DOC preferred a 6 m buffer over a 3 m buffer to avoid effects on frogs. We note that, regardless of buffer width, at these sites OGNZL would still be required to:

(a) avoid sites with high frog numbers (i.e., five or more frogs);

(b) fence off the site to prevent frogs from entering; minimise vegetation removal beyond the site;

(c) salvage and relocate any frogs found within the site prior to vegetation removal; and

(d) undertake pest animal control and monitor frogs within the relocation area.

[39] We heard from other experts at the Ecology Conference that including more suitable candidate sites (by reducing the frog buffer distance criterion) may reduce impacts on frogs, because the total area of intensive searching would be reduced. We also heard from those experts that the proposed avoidance and mitigation measures were amongst the most stringent they had encountered, and that there would be negligible difference in effect between a 3 vs 6 m buffer. OGNZL advised that reducing the frog buffer distance from 6 to 3 m would have allowed an additional 10 out of 102 potential sites to be used for drilling under their existing Access Arrangement. Having considered all the matters above, we concluded a 3 m buffer adequately protects frogs, given the extent of protection to frogs afforded by other conditions.

Fish and Game

[40] Fish and Game sought a wide range of amendments to the consent conditions, many of which we understand were intended to protect or enhance trout habitat and provide for trout passage in the streams and rivers affected by the WNP. However, we are satisfied that the proposed ecological enhancement of diverted streams will provide for fish passage that broadly matches what is currently available (noting that such passage is presently affected by natural barriers) and observe that this will be achieved through consent conditions and the Freshwater

Fisheries Dispensation conditions. In particular, in Part L of this Decision we noted that the design of the TSF3 diversion must allow the passage of trout within the lower reaches.

[41] Fish and Game sought that fish populations be monitored including in the Ohinemuri River and other streams. We note that under WRC condition SC5.K.13 electric fish monitoring is already required at sites OC2, OH5, RU1, OH1, OH6 and a site on the Mataura Stream (M1). We did not impose additional fish population monitoring in the Ohinemuri River and elsewhere, as it would be difficult to isolate population level effects (if any) arising from the WNP activities compared to influences of activities in the wider catchments.

[42] Fish and Game sought NTU (Nephelometric Turbidity Unit) discharge standards that would sustain trout populations. However, we were satisfied that the existing NTU standards in the WRC consents relating to discharges from pump testing, Willows Collection Pond, Willows Surface Facilities Area Silt Pond ,the NRS Collection Pond and Collection Ponds (S6 and S7) were adequate. Fish and Game were also concerned about the use of existing discharge standards for the WTP, but as we discussed in section E4 of this Decision we conclude that those standards are appropriately protective of instream aquatic ecology.

[43] Fish and Game wished to be included on the WNBP Panel. We find that to be appropriate and so we added Auckland / Waikato Fish and Game to Combined HDC and WRC condition C35. Fish and Game's inclusion on that Panel will assist with the achievement of aquatic habitat enhancement within the WNBP area.

[44] Fish and Game were concerned about transparency of monitoring data and wished to be part of the certification process for the Waihi Area Water Quality Management Plan (WRC condition G29). We consider that the consent conditions already include transparent reporting processes. Combined HDC and WRC Consent condition C5 requires that the Plan is certified by the WRC, which in our experience is both adequate and practical. It would be unusual to have Fish and Game directly involved in plan certification, monitoring or reporting unless the affected waterways were of regional or national significance to trout angling. That is not the case here

Forest and Bird

[45] Forest and Bird provided extensive comments on the draft conditions. They were particularly concerned about the lack of specificity in some of the management plan conditions. As outlined above, we have reviewed the objectives of the management plans that were set out in the consent conditions to remove subjective terms. Ten management plans to be certified (or recertified should those plans be amended) by the councils will be subject to input from DOC (Combined HDC and WRC Consent condition C5AA). Furthermore, the management plans that pertain to activities within the CFP will now be subject to certification by DOC and any amendments to those plans will be subject to a formal plan variation approval process administered by DOC. On that basis we were satisfied that the management plans will adequately serve their intended purpose.

[46] Forest and Bird was concerned that there was no requirement for the current management plan content to be included in the plans that are eventually submitted to the relevant council for certification. We have addressed that omission through Combined HDC and WRC Consent condition C5AAA.

[47] Forest and Bird was concerned about the objectives for the Biodiversity Project. The design, governance, implementation, monitoring and review of the Biodiversity Project will be overseen by the Biodiversity Project Group that includes iwi, DOC and now Fish and Game. We are satisfied that will ensure its objective of long term (inter-generational) ecological benefits for the wider CFP area will be achieved. To address concerns of Forest and Bird we have amended condition C34 to ensure that the Biodiversity Project fund will be solely allocated to Biodiversity Project activities. However, we do not consider that the fund need extend past the completion of mining activities (stoping) because thereafter the area will be rehabilitated in accordance with the certified Rehabilitation and Closure Plan.

[48] We have amended condition C41 to require any update of the Biodiversity Project Plan to be undertaken in partnership with the Biodiversity Project Group as was suggested by Forest and Bird.

[49] Responding to Forest and Bird's comments on other management plans,[119] we have amended some of the conditions they referred to in order to improve the clarity and certainty of the conditions, including HDC Consent conditions 44, 54A, 169, 171C, 173, 175 and 210; Combined HDC and WRC Consent conditions C44 and C45; and WRC Consent conditions G19, UG.4, UG10.3, UG.29, UG.41, SC5.D.5, SC2.F.30 and SC2.F.31.

[50] Regarding Forest and Birds concerns about condition C46, we consider that Underground Activities Attachment 1 to the WRC Consent adequately sets out how the surface water alert and response trigger level will work in practice. In terms of Forest and Bird's concern about the objectives of the sub-plans listed in C47A and C47B, we observe that the plans relevant to the conservation estate will now be certified by DOC. For the other plans that will be certified by the councils we are satisfied that the certification process (inclusive of input from the IAG and DOC) will ensure those plans meet their intended purpose and that the effects management outcomes specified in Appendix K of this Decision will be achieved.

[51] For Forest and Bird's concerns about WRC condition G20, as noted earlier, the WRC conditions specify discharge standards for the WTP, pump testing, Willows Collection Pond, Willows Surface Facilities Area Silt Pond, the NRS Collection Pond and Collection Ponds (S6 and S7). We find that to be adequate.

[52] Forest and Bird commented on the conditions dealing with frogs, a Native Frog Salvage and Release Plan, the objective of the WPAMP (regarding a threefold increase in frog population) and a Native Frog Monitoring Plan. Those issues were also raised by DOC and we consider that the numerous amendments we have made to the HDC land use consent and the Wharekirauponga Access Arrangement in particular adequately address the matters raised by Forest and Bird. We consider that also applies to the comments made by Forest and Bird regarding the conditions of the various DOC approvals required for the WNP.

[119] Dewatering and Settlement Monitoring Plan, Ecology and Landscape Management Plans, Blasting and Vibration Management Plan, Lighting Management Plan, Waihi Area Water Quality Management Plan, and the Wharekirauponga Underground Mine Water Management Plan.

Gloria Sharp

[53] Gloria Sharp provided a wide-ranging document addressing monitoring, noise, dust, traffic, blasting and vibration, lighting, drinking water standards, air quality and royalties. We addressed all of those matters in Part E of this Decision and having considered Ms Sharp's comments we remain satisfied that the conditions imposed on the various resource consents and other approvals adequately manage the effects of the WNP.

Hauraki District Council

[54] HDC identified several typographical errors that we corrected.

[55] For the Combined HDC and WRC Consent, the HDC:

(a) Noted that the Peer Review Panel had no role in management plan certification. That is correct and so we have deleted condition C4B.a.iv.

(b) Suggested that condition C4B.b should enable input from DOC to any relevant amended management plan. We agree that such input is appropriate, but we amended condition C5AA.1 to provide for that.

(c) Noted an inconsistency between conditions that addressed the input of DOC to management plans (condition C5AA) and the amendment of management plans (conditions C7 to C8D). We agree and have amended condition C5AA so that it refers to all of the management plans that were listed in condition C8A and have simplified condition C8A accordingly.

(d) Suggested that the Peer Review Panel should include a person suitably qualified in Landscape Architecture. We agree and have amended condition C52.1 accordingly. And

(e) Suggested that conditions C67.g and C68.d that addressed a similar matter should use consistent language, requiring the recontoured landforms to "integrate with the surrounding natural landforms". We agree and have aligned the wording in those conditions.

[56] For the HDC land use consent HDC suggested :

(a) There was an ambiguity with condition C29.b.ii. We agree and so we have deleted that condition with the result that the peak particle velocity for 95% of blast events must be no more than 5mm/s.

(b) Amendments to condition 29.d dealing with blasting over pressure were required to align with the wording of the draft Decision. We agree that the condition was not consistent with our findings and we have amended the condition accordingly.

(c) Amendments to address blasting fume by requiring a fume rating in accordance with AEISG guidelines. We agree that would be appropriate and have amended conditions 33.1 and 45 accordingly.

(d) An amendment to clarify that condition 45.a.ix was intended to refer to the GOP and Borrow Pits which we find to be appropriate. And

(e) Amending condition 73 (we presume they meant 73A) to either expand the wording to contain an objective and list of contents for the TTMP, or to incorporate the intent of the TTMP as a component of the CMTP required under condition 84. Condition 73A was sought by NZTA and we adopted their precise wording. We are satisfied that the condition is clear and capable of implementation as written and so we have not amended it.

Heritage New Zealand Pouhere Taonga

[57] HNZTP supported the draft Archaeological Authority conditions, subject to the insertion of macrons in condition 6 and a correction to condition 8 to remove reference to the Auckland Council and Museum and to insert instead a reference to the Hauraki District Council, Waihi Arts Centre and Museum. We made that change.

Ministry of Business Innovation and Employment

[58] MBIE addressed the Access Arrangements and the wording of the Approvals part of those documents in particular. We have amended that wording to reflect the matters raised by MBIE.

Minister for Māori Crown Relations and Māori Development

[59] The Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development supported the draft Decision and conditions because the Decision acknowledged the relevant Treaty Settlement legislation and had considered the s 53 feedback provided by Māori. The Minister sought no changes to the conditions.

The Minister for Resources

[60] The Minister for Resources advised he was pleased to hear about the pending approval of the WNP, which would deliver nationally and regionally significant benefits. No changes were sought to the conditions, however the Minister noted that MBIE would be providing detailed comments.

Ngāti Pū

[61] Ngāti Pū did not lodge comments on the Application when invited to do so under s 53 of the FTAA. We did, however, meet with them. As well, on 4 December 2025 we received comments from them outlining their continued opposition to the Application and seeking 'conditions' prohibiting WUG activities in Area 1 and a 'veto right' over the operation of the WTP. For the sake of completeness, we observe that such 'conditions' would not be warranted based on our assessment of effects set out in Part E of this Decision. Ngāti Pū also sought that all environmental monitoring be undertaken in partnership (presumably with themselves). We observe that conditions C9 and C18B of the Combined HDC and WRC conditions already enable that to occur by way of the IAG.

[62] Ngāti Pū's second set of comments sought co-governance mechanisms and binding powers equal to or greater than those afforded to councils. That is clearly outside the scope of

what we can do here. Ngāti Pū expressed concern about TSF3 and the NRS. As we discussed in section E3 of this Decision, we are satisfied (as was WRC) that the conditions appropriately manage those facilities. Other matters raised by Ngāti Pū are addressed in section E2 of this Decision.

Ngāti Porou ki Hauraki

[63] We discussed Ngāti Porou ki Hauraki's initial comments earlier in this Part of the Decision and their general concerns in section E2. In response to some of the more specific matters they raised in their s 70 comments, we have added the 'replacement Partnership Engagement Group" to Combined HDC and WRC Consent condition C16. We addressed the Mataora block in section E14 where we concluded that noise from the WNP activities would not result in adverse effects at Mataora. The IAG already has a role to input to the relevant management plans (conditions C10 - C12) and condition C14.h outlines the role the IAG has regarding the outcomes of cultural monitoring. As discussed in section E2, we did not find it appropriate to mirror those IAG conditions for specific iwi entities. NPkH's other requests included having the IAG to be codesigned with tangata whenua. In response to that we amended condition C9 to require OGNZL to invite the IAG to participate in the co-development of a Terms of Reference for the IAG.

Ngāti Tara Tokanui Trust

[64] We discussed Ngāti Tara Tokanui Trust's general concerns in section E2. In particular they sought a 'fundamentally restructured engagement and management framework' and conditions 'guaranteeing NTTNK decision-making roles (not just input) in the development, approval, and monitoring of all management plans, cultural impact assessments, and environmental protection measures within their rohe'. While acknowledging NTTNK's dissatisfaction with the IAG, we note the conditions provide for the IAG (which NTTNK is a part of) or a replacement Partnership Engagement Group (which could include NTTNK) with a role in the development of certain management plans, the preparation of a Mātauranga Māori Monitoring Programme and membership on the Peer Review Panel and Expert Groundwater Panel. While not specific to NTTNK, those conditions will enable them to participate in the matters raised in their comments, albeit not in a decision-making or co-governance capacity.

New Zealand Transport Agency

[65] NZTA supported conditions C44, C46 and C50 - C58 of the Combined HDC and WRC Consent. NZTA also supported conditions 73 (including its Advice Note) and condition 73A of the HDC land use consent. NZTA sought that condition 72(1)(b) revert back to six months (from twelve months) as they considered that the proposed right turn bay would provide mitigation for the reduced forward sight distance and reduce potential safety risks at the intersection as a result of the increased traffic movements associated with the WNP. NZTA considered that the intersection upgrade should be completed prior to the majority of the bulk earthworks occurring at the site. We agree and have made the changes suggested.

Perrins Robertson Partnership (John Perrins)

[66] Perrins Robertson Partnership (John Perrins) expressed concern about the independence of OGNZL equine expert Andrew McLean, briefly citing evidence Mr McLean purportedly gave regarding the effects of a mine on horses in Australia. We observe no information was provided regarding the circumstances of the Australian situation. No amendments to the draft conditions were requested by Mr Perrins.

Thames-Coromandel District Council

[67] TCDC advised that they were generally in agreement with the draft conditions for the TCDC land use consent subject to some further amendments to conditions 13, 13A, 23 and 41, 42 and 43. Contrary to our understanding based on their s 53 comments, TCDC advised that they wished to certify the Siting Report (conditions 13 and 13A). We have no issue with that. TCDC sought to align condition 23 with the similar HDC condition which is appropriate. Also contrary to our understanding based on their s 53 comments, TCDC wished to certify the Construction Management Plan that is particular to their District boundary in Area 1 (conditions 41, 42 and 43). Again, we have no issue with that. We amended the TCDC land use consent conditions accordingly.

Waihi Community Forum

[68] The Waihi Community Forum sought further restrictions on helicopter flight paths and helicopter noise. However, as we set out in section E14, we are satisfied with OGNZL's agreement to apply the noise limits from "NZS 6807:1994 Noise management and land use planning for helicopter landing areas" to the WNP to helicopter movements. The NZS 6807 noise limits will control the frequency of helicopter movements allowed over a 7-day period and on any single day.

[69] The Forum commented on blast notification, lighting compliance and dust monitoring. We understand that OGNZL currently notifies the community about blasts and HDC will monitor compliance with HDC Consent condition 52 (lux limits). Under WRC Consent condition ALL.A.24 the Air Quality Management Plan must include an ambient air monitoring programme for particulate matter.

[70] The Forum sought the independent review of several management plans including those relating to noise, blasting and vibration, and air quality. As we noted earlier, those management plans will be certified by the councils utilising in-house or contracted technical expertise. Accordingly, we do not consider it necessary to require additional independent review of those plans. Regarding the Forum's concern about screen planting, Attachment 9 to the HDC consent specifies that screen planting (fast growing natives) for the NRS is to be completed within the first planting season following the commencement of the consent. For the GOP existing pine trees will be retained whilst Gladstone Pit is in operation. We consider that to be adequate.

[71] The Forum also addressed the Streets Ahead programme and property values. We addressed those matters in Part E22 of this Decision. They commented on effects on Black Hill Orchard (BHO) Limited, but we note that property was not invited to comment on the Application.

Waikato Conservation Board

[72] The Board raised the issue of 'cultural deficit'. We discussed iwi matters in Part D section E2 and we have earlier outlined changes we have made to address the concerns expressed by the iwi entities who provided s 53 and s 70 comments.

[73] The Board expressed concern about dewatering effects from the WUG on frog habitat and frogs within the CFP Park and the level of uncertainty in OGNZL's assessments. We addressed those matters in section E7 of this Decision. As did other commentators, the Board was concerned about the absence of a management plan certification role for DOC. As outlined above, we have rectified that matter.

Waikato Regional Council

[74] WRC made one suggested change to the Combined HDC and WRC Consent, namely that that condition C2 refer to the relevant Application documents as recorded on the WRC document recording database. We made that change.

OGNZL's Response to the Panel's Draft Conditions

[75] OGNZL provided a range of suggested amendments to draft conditions on the same day that comments were received from the s 53 parties. We reviewed those suggested amendments and adopted them where we found they improved the clarity and certainty of the draft conditions.

OGNZL's Response to the s 70 Comments on the Panel's Draft Conditions

[76] On 11 December 2025 we received OGNZL's response to the s 70 comments made by other parties on the Panel's draft conditions. The response comprised a Memorandum from counsel for OGNZL accompanied by a table responding to some of the changes to conditions sought by DOC, HDC and WRC.

Scope of Other Parties Comments

[77] Counsel submitted that where the Panel's draft conditions substantively differed from those proposed by the Applicant, the Applicant understood and accepted those changes as reflecting the Panel's considered view as to the most appropriate conditions that ensured the necessary controls would be in place to address the actual and potential impacts of the WNP, while being no more onerous than they need to be to achieve their intended purpose.

[78] Counsel advised that comments that sought to achieve an outcome that was substantively different from the Panel's findings and draft conditions were not addressed in substance in the Applicant's response. The reason being such comments went beyond the scope of comments envisaged by s 70 and instead strayed into an attempt to reopen matters the Panel had already determined.

[79] However, we take a more expansive view of the s 70 comments and, as outlined in the preceding sections of this Part N, it is evident that we have made numerous amendments to the draft conditions in response to the s 70 comments received in order to ensure that the conditions of the various approvals address the potential effects of the WNP in a robust, clear and certain manner. Doing so does not alter our substantive determination which was (and is) to grant the approvals sought. It merely ensures that those approvals are fit for purpose, particularly with regard to the management of flora and fauna within the CFP.

DOC's Certification Role

[80] Counsel addressed the role of DOC in certifying management plans, stating that the Applicant accepted that while it was comfortable with a limited management plan certification role for DOC, limiting the formal certification role to Councils (as proposed in our draft conditions) under the resource consents was more appropriate. Counsel submitted that there is no requirement in law that DOC must certify management plans.

[81] As outlined above, we have formed a different view and concluded that it was appropriate for DOC to have a certifying role for management plans that pertained to the conservation estate. We are not aware of any requirement in law that precludes that approach. In that regard we accepted DOC's submission that "...a parallel DOC certification role within the relevant conservation approvals would enable DOC to manage elements of the management plans which fall within DOC's expertise and align with its statutory functions." That does not apply to management plans that are to be certified under the resource consents. For those management plans DOC has been enabled to review and comment on those plans (Combined HDC and WRC Consent condition C5AA). The certification role we have enabled for DOC is included in the Wharekirauponga Access Arrangement and the Northern Area Concession for management plans that relate to flora and fauna in the CFP (namely the Native Frog Monitoring

Plan, Native Frog Salvage Release Plan, Wharekirauponga Animal Pest Management Plan, the Coromandel Forest Park Kauri Dieback Plan and the Rehabilitation and Closure Plan).

Wharekirauponga Access Arrangement Drill Sites

[82] Counsel reiterated the Applicant's view that the Wharekirauponga Access Arrangement should enable eight new drill sites, comprising two already permitted sites and six new ones. We have amended clause 1.2(a)(ii) of the First Schedule of that Arrangement to read "Establishment of up to 6 additional Drill Sites (as set out in Table 1) in addition to the 12 sites previously authorised under Access Arrangement 48614 giving 18 sites in total" on the understanding that resolves the differing views of DOC and the Applicant on this matter.

Cultural Impacts

[83] Counsel advised that the Applicant accepted our changes to the conditions in the Combined HDC and WRC Consent that deal with tangata whenua matters (C9 to C22), but that comments from iwi and others that the conditions should go further were not accepted. As outlined earlier in this Part of our Decision we have made several additional amendments to the conditions in response to the comments of NPkH in particular. We do not consider the amended conditions are unduly onerous.

Andrew and Rachel Wharry

[84] Counsel noted that Andrew and Rachel Wharry had asked the Panel to provide them with "complete technical detail of the proposed tunnelling activities to properly assess impacts, please provide within 10 working days the tunnel location and depth". Counsel submitted that there was no requirement for the Panel to provide a commenter with information and we concur with that submission. Counsel advised that the Applicant did not agree that an access arrangement was required under the Crown Minerals Act for tunnelling through the property of Mr and Mrs Wharry. We agree with counsel that their indication of their intention to seek a Court determination as to whether an access arrangement was required is not a process under the FTAA and so it need be of no concern to us.

Detailed amendments

[85] As we noted earlier, OGNZL's response addressed comments from DOC, HDC and WRC. We have considered those comments and record that the Applicant supported the amendments to the following conditions that we had already resolved to make based on our assessment of the s 70 comments:

(a) Combined HDC and WRC Consent conditions C2 and C47A;

(b) HDC Consent conditions 137, 139, the insertion of new condition 140A, 147 (albeit that we have retained clause 3 that OGNZL wished to omit), 148, 152, 156A and 157;

(c) Wharekirauponga Access Arrangement Second Schedule conditions 2.7(h) and 2.7(i);

(d) Favona Access Arrangement Interpretation of "Parties", what are now conditions 7(d), 9(c) and 47 and the deletion of duplicate bond conditions;

(e) Northern Area Concession Schedule 3 conditions 9, 10 and what is now 13;

(f) Willows Area Concession Schedule 3 conditions 4, 5 and 9 to 11; and

(g) Wildlife Act Authority Schedule 1 Note, Schedule 3 conditions 1, 3, 22, 23, 24 and Schedule 4 (inclusion of the Stag beetle).

[86] Changes that the Applicant proposed that we have not accepted are to:

(a) Combined HDC and WRC Consent condition C4B.b because we have made other amendments that result in the same outcome to condition C5AA; and

(b) HDC Consent condition 115 as we have determined that DOC should certify the application of the Site Selection Protocol under the provisions of the Wharekirauponga Access Arrangement and we inserted an Advice Note to that effect.

Conditions Imposed

[87] The conditions that we have imposed on the various approvals sought for the WNP are set out in Appendices B to I of this Decision.

Dated 18 December 2025

Sir William Young KNZM KC (Chair)

Cathy Katene (member)

Rob van Voorthuysen (member)

Cameron Lines (member)

Dr Greg Burrell (member)