



Taharoa Ironsands Mine - Central and Southern Blocks Mining Project Response to Comments

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1 Report overview

This report provides a summary response to comments from the following invited parties in relation to the Substantive Application for Taharoa Ironsands Ltd's Central and Southern Mining Blocks Project (TIL) that is currently before the Expert Panel:

- The Proprietors of Taharoa C Block Incorporated (Taharoa C).
- Minister for Economic Growth.
- Minister for Infrastructure and RMA Reform.
- Minister for Māori Development and Minister for Māori Crown Relations.
- Department of Conservation (DOC).
- Heritage New Zealand Pouhere Taonga (HZNPT).
- Waikato Regional Council (WRC).
- Waitomo District Council (WDC).
- Roy Wetini Whaanau Trust.
- Te Whakakitenga o Waikato Incorporated (Waikato Tainui).
- Te Nehenehenui.
- Te Ruunaunga o Ngati Mahuta Ki to Hauaaruru Charitable Trust (NMKTH).
- Natasha Willison-Reardon, named applicant for the Marine and Coastal Area (Takutai Moana) Act 2011 application CIV-2017-419- 082-P (rohe moana to Tirua Point), and named applicant for the Marokopa Mātaitai Reserve (Fisheries Notice 2010 No. F567) and Aroa Pou, Co-Chair of Mirumiru Pā ki Marokopa (Mirumiru Pā ki Marokopa – Marokopa Marae).

Additionally, a Peer Review of the hydrology and hydrogeology assessments (Appendix I and Appendix N to the Substantive Application) was provided which was prepared by Phillip Kelsey from Earthtech Consulting Limited (Earthtech). The Earthtech Peer Review report is also responded to.

Experts engaged by TIL that prepared technical assessments that supported the TIL application have provided specific response reports to comments in their field of expertise. Those expert response reports are appended in full to the separate Memorandum from TIL's legal counsel (Minter Ellison Rudd Watts "MERW"), and are summarised in this report. Specific planning matters that have been raised in comments are also addressed in this report.

Whilst this is not an Environment Court proceeding, I have read the Expert Witness Code of Conduct set out in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this report. The content of the report is within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in the report.

2 Response relating to the Fast-track Approvals Act 2024

2.1 Regional and national benefits

The purpose of the Fast-track Approvals Act 2024 (FTAA) as set out in section 3, is *to facilitate the delivery of infrastructure and development projects with significant regional or national benefits*.

It is clear that approving the Application will meet the purpose of the Act. The comments received on the Application reinforce this.

The regional and national benefits of the Project are set out in sections 2.2 and Appendix C (Economic Assessment) of the Substantive Application. These benefits include:

- TIL contributes a sizable contribution to the New Zealand economy from export revenue, which is projected to grow to \$14 billion over the next 30 years (to 2055).
- TIL is the largest single export company in the Waikato region and is the country's largest single exporter by gross tonnage. The mine is expected to increase annual production to over 5 million tonnes, accounting for approximately 9 % of New Zealand's total export tonnage.
- Currently, the operation generates \$316 million in export revenue annually.

These economic benefits are substantial and projected to grow over the next 30 years, with royalties to shareholders and landowners increasing. Conversely, the adverse impacts of the Project will, through the effect of the conditions of consent, be capped to the level set at the time the application is approved and will apply for the duration of the consents (sought for 35 years).

The opportunity cost of declining the Application (for an existing Mine and Export Facilities) is immense - the Mine would need to close and the substantial national and regional economic benefits the mining and export activities generate, together with the significant social and cultural benefits, will not be realised.

This is a unique circumstance where a village has been established around the Mine and is intrinsically linked and reliant on it and the benefit that it provides.].Employment opportunities and housing for village residents, community facilities in the village, educational support for high-school aged children of mine employees, and travel support for local whanau all derive from the profitable existence of the Mine and Export Facilities. The closure of the Mine would thus have a profoundly negative social impact on the village of Taharoa.

I note key reticulated services at Taharoa Village are not (and never

have been) provided by Waitomo District Council ("WDC"). TIL owns, operates and maintains the essential services supporting the Village, including the wastewater treatment plant, as well as the potable water supply bore for the village that supplements roof water supplies. TIL also funds the rubbish collection service. This is a benefit not only to the residents of the village but to the ratepayers of the Waitomo District as a whole. If the mine were to cease operations, the WDC would presumably have to take over (unbudgeted) ownership, operation and maintenance of these key reticulation assets that serve Taharoa Village.

The significant regional and national economic benefits of the Project have been recognised in comments from the Minister for Economic Growth, the Minister for Infrastructure and RMA Reform, WRC and Taharoa C.

- Taharoa C set out the broad range of benefits that the Project will provide, and the benefits that the ongoing operation of the Mine has provided since TIL took ownership of the Mine, including through substantial royalty payments, employment, and full support to community infrastructure. Taharoa C states the Mine has helped shareholders retain and remain on their ancestral land, strengthening their connection to the whenua, and that the mine "*is the only significant commercial operation and employer in the district.*" It supports the full 35-year approval term on the basis that it ensures operations and associated benefits continue through to the early 2060s, broadly in line with the term of the lease.
- The Minister for Economic Growth stated in comments that the Application is broadly consistent with the Government's Minerals Strategy, which identifies ironsands as an existing mineral that can be scaled as part of an export-led growth pathway, and assesses it as having the potential to deliver significant regional and national economic benefits under s22(2)(a)(iv) of the FTAA by enabling an "*established nationally significant export operation to continue over the long term, supporting sustained export earnings, regional expenditure, and employment.*"

- The Minister for Infrastructure and RMA Reform notes that “*Mining and export-oriented infrastructure are important for growth and prosperity*” and recognises that the Project builds on “*an existing mining operation that has contributed to the New Zealand economy and the Taharoa community for several decades*”.
- Mr Chrisp for WRC sets out at Section 2 of the WRC s53 report that the Executive Summary of the application “summarises the regional and national benefits of the proposal as follows:

“The Central and Southern Block Mining Project delivers significant regional and national benefits (both economic and social), which are central to the purpose of the FTAA. TIL is the largest single exporter by tonnage in New Zealand and contributes \$316 million in annual export revenue. The Project will support 350 full-time equivalent jobs and continue regional spending, with the mine having generated \$1.2 billion in regional spending since 2017. TIL also provides, at its election, the ongoing provision of housing, infrastructure and essential services to the Taharoa Village which is closely tied to the mine. The continuation of mining operations is clearly important to the economic and social wellbeing of the local and regional community”.

Based on the above, along with more detail presented in Section 2.2 of the application and the Economic Assessment presented in Appendix C of the application, it is my opinion that the proposal will deliver significant regional and national benefits and is therefore consistent with the purpose of the FTAA. I also agree with statements in the application that the environmental effects of the proposal are not sufficiently significant as to be out of proportion such that they outweigh the regional and national benefits. On that basis, section 85 of the FTAA does not require that the application be declined in this instance. However, none of that avoids the need to ensure that the consent conditions appropriately address the environmental effects of the proposal, which is the primary focus of the following sections of this report”.

No parties have challenged the overall scale of the mine’s regional and national benefits. Even those parties who oppose the applications acknowledge the historical and current benefits of the mine.

For example, the Roy Wetini Whanau Trust recognise the “*social and economic benefits that mining can contribute to the community within which it is located and the wider region. When the mine site was first established and up until around 2017, we understand there were significant social and economic benefits for Tahaaroa including the introduction of infrastructure such as roading, power, opportunities for employment, education, upgrades to marae*”.

Te Nehenehenui also state that they “*do not debate the proposal’s regional or national benefits*”, accepting that mining delivers significant regional and national economic value.

2.2 The application should be approved

2.2.1 Proportionality test

Section 85(3) of the FTAA provides that a Panel may decline an approval, if in complying with section 81(2), it decides that the adverse impacts in relation to an approval sought are sufficiently significant to be out of proportion to the project’s regional or national benefits, even after taking into account conditions or modifications to an application. Some parties have stated they do not support the application in its current form and/or have requested that the application be declined by the Expert Panel¹. NMKTH also comment that the current economic, social and development benefits do not in their opinion outweigh the adverse effects of the application.

¹ Roy Wetini Whaanau Trust, Te Nehenehenui, Waikato -Tainui, Mirumiru Pā ki Marokopa – Marokopa Marae

As set out in the Substantive Application and in section 3.2 of this report, with the conditions proposed the adverse impacts of the mining and export activities are, at worst, low. The benefits of the mine and export activities are extremely significant as set out above. The adverse impacts are not therefore sufficiently significant to be out of proportion to the regional and national benefits of the mine², and accordingly the application should be approved.

None of the experts who have provided technical assessments in support of the Substantive Application have suggested that the conclusions of their assessments in terms of impacts should change following consideration of comments on the Application, and very few additional recommendations for changes to conditions have been made. This reflects the advanced state of the conditions, and the fact that they are based on those tested and arrived at through the RMA application and hearing process.

Resource consents have already been granted by WRC under the Resource Management Act 1991 (RMA) for the continuation of the mining and export activities (albeit for a slightly different scope). This demonstrates that the majority of the impacts/effects of the Project and the export facilities have been considered acceptable, without the additional evaluation and weighting of the regional and national benefits. As the RMA does not explicitly include the 'proportionality test' as set out in section 85(3) of the FTAA, it sets a higher bar for consents to be approved.

As set out in more detail above I note that the grant of the Application is supported by a number of parties including The Proprietors of Taharoa C Block Incorporated, the Minister for Infrastructure and RMA Reform, the Minister for Māori Development and Minister for Māori Crown Relations (conditional support), and WRC. As set out above WRC (as the regulator who will be ultimately responsible for the consents) agree that the environmental effects of the proposal are not sufficiently significant as to be out of proportion such that they outweigh the regional and national benefits.

2.2.2 Treaty settlements and recognised customary rights

Te Nehenehenui is the post-settlement governance entity for Ngāti Maniapoto. Te Nehenehenui have commented that whilst they do not debate the proposal's regional and national benefits, they note the Panel must decline an approval if they consider that granting the approvals would breach an obligation relating to Treaty settlements and recognised customary rights.

Under section 85(1)(b) of the FTAA the Panel must decline an approval if it considers that granting the approval would breach section 7. Section 7 of the FTAA requires that all persons performing and exercising functions, powers and duties under the FTAA must act in a manner that is consistent with obligations arising under existing Treaty settlements and the Marine and Coastal Area (Takutai Moana) Act 2011.³

Section 2.6.2 of the Substantive Application outlines the relevant principles and provisions with respect to the Ngāti Maniapoto Settlement recorded in the Maniapoto Claims Settlement Act 2022.

The Settlement Act defines a Coastal Statutory Acknowledgement in favour of Ngāti Maniapoto that encompasses the part of the Coastal Marine Area where the Port of Taharoa is located. The statutory acknowledgement also includes the Mitiwai Stream. Although Te Nehenehenui comment that the statutory acknowledgement also includes the Wainui Stream, MERW set out in their separate legal memorandum that the Wainui Stream is not within the scope of the statutory acknowledgement.

As outlined in the Substantive Application, the Maniapoto Deed of Settlement grants Ngāti Maniapoto participation in resource management processes for activities affecting Ngā Wai o

² Section 85(3) of the FTAA

³ And the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 which is not relevant to this approval.

Maniapoto including joint management agreements and planning document participation. Te Nehenehenui has a Joint Management Agreement (JMA) with WRC (and Waitomo District Council) which relates to RMA planning processes, including preparation, review, change or variation of RMA planning documents (rather than the resource consent process). The JMA contains general principles pertaining to working in good faith, co-operation and co-management in that context.

Te Nehenehenui were invited to consult with TIL in respect of the Application. An offer to meet with Te Nehenehenui was made by TIL but was not taken up by Te Nehenehenui. A full assessment of the application against the Ngati Maniapoto Environmental Management Plan was completed and is contained in section 8.3.10 of the Substantive Application. I consider that the application has been prepared in a manner that is consistent with the obligations arising under this Treaty settlement, noting these relate to planning document participation rather than resource consent processes. Nevertheless, the potential adverse impacts of the activities for which consent is sought have been assessed and will be managed by the proposed conditions in a manner that is in accordance with the statutory acknowledgement.

2.3 Conditions to be no more onerous than necessary

Section 83 of the FTAA 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 Act that confers the discretion.

In terms of the resource consents, the reason for the proposed conditions is to address a substantiated potential adverse impact resulting from the mining and export activities.

The proposed resource consent conditions appended to the Substantive Application as lodged, and as further amended set out in Appendix O of MERW legal memorandum, are based on those imposed by the independent hearings panel that heard the original TIL RMA applications in 2024, with some exceptions. In that regard, the majority of the conditions are not in contention even after the receipt of comments from invited parties, most of whom preferred the condition set (in its entirety) attached to the 2024 RMA hearing panel decision.

In considering the resource consent conditions it is important to note that the activities for which resource consents and other authorities are sought have been ongoing at the site for more than 50 years. The potential effects of the activities at the site are well understood. This is not a situation where a new and unproven activity is being introduced to the environment, which due to inherent uncertainty might generate more stringent or onerous conditions.

Also, putting aside 'existing environment' considerations, the reality is that the environment is acclimatised to the long standing presence of the mining and export activities. Given the sound knowledge base that underpins the activities for which consent is sought under the RMA, and given this is the third time the majority of the activities have been considered for their appropriateness, TIL's proposed conditions are a measured and proportionate response to the level of effect associated with the mining and export activities.

Many of the new or amended conditions sought in comments from invited parties are more onerous than necessary to mitigate the corresponding effect and do not therefore meet the test as set out in section 83 of the FTAA. Many of the amendments sought have not been substantiated by expert evidence, are disproportionate to the scope and effects of the consents sought (e.g. seeking air quality monitoring at Marokopa some 15 kms to the south), or are aimed at gathering information that is more akin to general state of the environment monitoring (e.g. seeking preparation of an independent sediment budget for the West Coast littoral cell).

The financial implications to the consent holder of the cost of complying with conditions sought is a factor to consider in terms of their onerousness. TIL has quantified the financial costs of compliance with some of the more onerous requested conditions, as follows:

- Fencing all of the wetlands (both at the lake margins and throughout the site) and planted riparian setback areas on the site as requested by WRC to protect against wandering third party stock would generate substantial upfront establishment cost, with substantial ongoing maintenance costs given the established practical difficulties of maintaining fencing survival and performance in the dune environment at the site. It is not uncommon for new fences at the site to be overwhelmed by windblown sand within 12-24 months of establishment.
- The cost of annual monitoring and reporting of the condition of all the wetlands on the site as sought by WRC will be over \$1 million annually, equating to a total of more than \$35 million over the course of a 35 year consent term. This is an onerous cost imposition when the informational value of the monitoring is questionable, and the majority of the “wetlands” that would be being monitored do not meet the NES-F definition of a “natural inland wetland”. Further, the previous RMA consent process that culminated in the 2024 Hearing Panel decision did not require such extensive monitoring, and instead recognised that the focus should be on the high value flax and raupo wetland habitats around the margins of Lake Taharoa and the Wainui Stream. TIL has proposed monitoring of a representative sample of retained natural inland wetlands to inform wetland augmentation triggers which is considered to be a more reasonable and less onerous approach.
- The upfront establishment cost of installing 1.5mm fish screens on the freshwater intake pumps in the Wainui Stream will be approximately \$1 - \$1.5million and likely require a period of mine shutdown to implement (which may be a period of days).

With the exception of extent of the wetland monitoring, none of these condition proposals are new. They have been extensively considered through the RMA consenting process and in the preparation of TIL’s Fast-track application, and again, in response to comments. TIL’s position on these conditions is set out in the Key Issues Table attached as Appendix G to the Substantive Application Report.

The extreme economic and social costs of mining setbacks

There is an extremely significant financial cost to both TIL and the shareholders of Taharoa C (and thus to the wider Taharoa and regional community) through both lost production/revenue and associated royalties to Taharoa C that will be generated if several of the overly onerous and unnecessary mining setbacks⁴ requested by parties (which align with those imposed by 2024 Hearing Panel) are imposed.



⁴ 200 m from third party landowner boundaries, 100 m from the Mitiwai Stream, 100 m from natural inland wetlands – all as sought by the Roy Wetini Whaanau Trust and NMKTH.

The extreme adverse impacts set out above do not need to occur, because based on the available evidence, those setbacks (which have the effect of sterilising access to a regionally significant resource⁵) are a more onerous method than necessary to address the potential adverse impacts of dust emissions (in the case of the 200 m setback), hydrological impacts on the Mitiwai Stream (in the case of the 100 m setback), and impacts on natural inland wetlands (noting that the need for such a setback has now been superseded by the current application to undertake mining activity within 100 m of natural inland wetlands).

The test in the FTAA with regards to the onerousness of conditions balances the requests by some parties to impose the setbacks as referred to above on a purely precautionary basis.

The proposed conditions of consent attached as Appendix O to the MERW legal memorandum, are a more proportional approach to addressing the potential impacts of those matters set out above.

3 Response relating to the Resource Consent Applications

3.1 Extent of mining

3.1.1 2013 Applications and spatial extent of mining

Comments

The Roy Wetini Whaanau Trust and NMKTH have asserted that the spatial extent of mining on the Central Block has extended outside that which was authorised by consents granted in 2013.

Waikato-Tainui and NMKTH have also commented that the extent of mining now occurring on the site may exceed the intentions and expectations of those who were involved in the establishment of the mine.

Response

Whether or not there has been a breach of a previously granted resource consent is a compliance matter for WRC and is only relevant to the Panel's decision to the extent it has resulted in any formal enforcement action, as set out in the memorandum from MERW provided separately.

Whether or not the extent of mining now occurring on the site may exceed the intentions and expectations of those who were involved in the establishment of the mine is also not relevant to an assessment of the current applications under the FTAA.

Ultimately, TIL's Application seeks to continue mining activities within the full extent of the Central and Southern Blocks apart from where the proposed conditions of consent preclude mining operations (e.g. due to setbacks from perennial waterbodies). That is the activity the Fast Track Panel needs to consider.

In any case, the facts remain that:

- (i) A mining lease is in place between owners of the land that exercise mana motuhake that provides for mining to continue on the Taharoa C Block until 2062;
- (ii) There have historically been no limitations on the spatial extent of mining on the site (under the lease or historical resource consents) apart from conditions that impose setbacks from perennial waterbodies (30 m) and Mean High Water Springs (100 m), and where successive

⁵ As identified in the Proposed Waitomo District Plan.

mine operators (including TIL) have voluntarily avoided mining within the identified archaeological reserve areas on the site;

- (iii) Taharoa C in their response to comments⁶ state that “the lease with TIL enables the whenua to be mined in its entirety and there is a long history of mining throughout the Central and Southern Blocks, and more recently in the Northern Block – this includes reworking areas in both blocks as technology has developed, where valuable material had been left behind. This has not changed since the lease was signed”.
- (iv) Mining on the entirety of the Taharoa C Block has been a Permitted Activity in successive Waitomo District Schemes and Plans since the early 1970's to the present day and holds existing use rights as confirmed by WDC;
- (v) No compliance or enforcement action has ever been taken by WRC against TIL in respect of mining outside the spatial boundaries of any resource consents.

3.1.2 Mining to site boundaries

Comments

NMKTH request that information is provided to demonstrate existing use rights to enable mining up to the site boundaries.

The Roy Wetini Whaanau Trust have questioned the ability for TIL to mine up to the external boundaries of the site under its existing consents (and in particular up to the boundary in the Central Block adjoining their property which includes a ridgeline).

Response

These comments inherently relate to compliance with TIL's existing resource consents and relevant planning rules. Accordingly, the comments above about the relevance of compliance matters to the Panel's decision apply here.

This matter has not been the subject of any compliance action by either WDC or WRC – and TIL's existing consents and existing use rights do not restrict mining activities up to the site boundaries.

The Application before the Panel seeks to continue mining activities within the full extent of the Central and Southern Blocks apart from where the proposed conditions of consent preclude the disturbance (e.g. due to setbacks). That is the activity the Panel needs to consider.

Existing use rights are a land use matter under the jurisdiction of WDC. TIL's application indicates that it relies on Existing Use Rights in respect of Proposed Waitomo District Plan Rule RPROZ-S1.9]. As part of the application completeness phase under the FTAA, WDC advised the Environmental Protection Agency that although it did not disagree that the Mine is likely to meet the requirements of section 10 of the RMA, a more comprehensive assessment of the existing use rights relied on in TIL's Substantive Application was required. Information was subsequently provided to WDC by TIL to address the matter. The outcome is that WDC confirmed to the Expert Panel their acceptance of the applicability of existing use rights for mining up to the boundaries of the site, within 250 m of a building housing a residential activity on an adjoining site.

In respect of the Roy Wetini Whaanau Trust's comments, I briefly state for completeness that:

- (i) No specific consent conditions were imposed by WRC in 2006 (or 2013 when TIL's existing consents were varied) requiring a setback from the site boundary for mining activity

⁶ Dated 19 June 2026, paragraph 10(c)

- (ii) The conditions requiring consent holders to comply with application materials require “activities to be undertaken in general accordance with those documents” which imparts some flexibility in activities undertaken on site.
- (iii) There is nothing in TIL’s historical application documents which indicates that mining activities would be subject to boundary setbacks. This is consistent with historical mining practices across the two blocks – where mining has occurred up to site boundaries, and with the mining lease with Taharoa C.
- (iv) TIL’s existing consents authorise mining activities at the location of the Taharoa C Block, which includes the Central and Southern Blocks.
- (v) I note that WRC (in relation to the scope of the 2013 application) has recorded in correspondence⁷ that the “..consent conditions that authorise the Southern and Central Block operations and specifically Condition 1 to the Schedules provides for some flexibility within the overall scope of the application”.

I also note that in general, a number of the effects related concerns raised by the Roy Wetini Whaanau Trust are related to land use amenity matters (for example, light spill and noise) that are controlled by the Waitomo District Plan⁸. The extent of conditions that can be applied to the land disturbance consent sought by TIL, are confined to matters that are within the jurisdiction of the WRC (and thus the Waikato Regional Plan) to enforce. This means that any conditions must be directly relevant to the activity of disturbing the ground (i.e. erosion and sediment control, dust emissions, etc). Conditions of consent have been proposed that address those relevant matters.

Comments relating to noise and light emissions are responded to in sections 3.4.13 and 3.4.14 of this report.

3.1.3 Pine Tree Plantations

Comments

Allied to the spatial extent of mining issue and the setback issues noted above, the comments from the Roy Wetini Whaanau Trust and NMKTH assert that, particularly where mining activity was discussed in the 2013 applications to change the conditions of TIL’s existing resource consents, the presence of pine trees in the north of the Central Block was a dust mitigation measure that was relied upon by WRC in their granting of the existing consents.

Both parties request the retention of pine trees currently present on the site.

Response

TIL has not faced any compliance or enforcement action in respect of this matter, and it is only relevant to the Application to the extent that both commenting parties request the retention of pine trees currently present on the site.

Pine forestry (including harvesting) has been a long standing permitted land use on the wider Taharoa C Block. The pine plantations and smaller stands of pine trees that have historically and are currently present on the site, including the Central and Southern Blocks, were established by and at the request of the landowner (The Proprietors of Taharoa C Block) in order to provide an interim land use on areas of the site where mining was not programmed to occur in the longer term that would, upon harvest, provide an economic return to the landowner. Pine trees on the site have not

⁷ Letter from Ana-Maria D’Aubert (Manager Regional Consents) to Roy Wetini Whanau Trust, dated 26 February 2026

⁸ WDC provided correspondence to the Fast Track Panel dated 19 May 2026 stating that they had “... no further comments to make on the substantive application under section 53 of the Fast-track Approvals Act 2024, as no non-compliances with the Proposed Waitomo District Plan (PDP) have been identified that require consideration through the application process.”

been established, nor needed to be retained, as a requirement of a condition of any consent granted to TIL or previous mine operators, including the 2013 change to conditions application.

No resource consents have been necessary for the harvesting of the pine plantations, or the felling of any smaller groups of pine trees, undertaken to date on the Central and Southern Blocks (the most recent harvest in the central block occurring circa 2016/17).

Accordingly, the felling of pine trees undertaken to date on the site has been lawful and there has been no past or current statutory requirement for their continued presence.

The consent currently sought by TIL for clearance of existing plantation forestry in the future is a requirement of the National Environmental Standard for Commercial Forestry, due to the sandy nature of the site (i.e. the ground conditions trigger the need for a consent). The activity status of the application under the NES-CF is Restricted Discretionary, with discretion restricted to matters associated with erosion and sediment control. Conditions of consent have been proposed that adequately address those matters, based on other similar resource consents issued by WRC, including in the Lake Taharoa catchment.

There is thus no ability for the Expert Panel to decline consent for the clearance of the pine trees for the reasons raised by Roy Wetini Whaanau Trust and NMKTH.

3.2 Environmental effects

3.2.1 Existing Environment

The MERW legal memorandum provided separately addresses comments from the Roy Wetini Whaanau Trust, NMKTH, Te Nehenehenui, and DOC with regards to Existing Environment matters.

From a planning perspective I note that the DOC legal view of the existing environment is based on the premise that the dam will require a consent from WRC for its removal, based on comments contained in a Conceptual Site Closure Plan from 2007 provided by NZ Steel (para 12). That document states that given the consent requirement, the removal of the dam is not certain.

The Waikato Regional Plan provides for removal of structures from a stream bed as a permitted activity (Rule 4.2.20.2), and I see no reason why the permitted activity conditions could not be complied with, provided careful management of sediment during removal works was undertaken. Removal of the dam structure is otherwise a controlled activity, an application for which must be granted in any case.

There is therefore no uncertainty created through the Waikato Regional Plan provisions with respect to consideration of removal of the dam.

3.2.2 Management Plans

Comments

Comments regarding the use of management plans were provided by Te Nehenehenui and DOC. Te Nehenehenui have commented that the use of management plans provides limited certainty that effects will be suitably managed. They have a preference for the use of quantified standards. DOC notes that while the use of an Environmental Management Plan provides flexibility to refine operational management measures over time, it provides limited certainty to stakeholders at the time the consent is granted.

Response

The use of management plans is a common and accepted tool in resource management to guide how activities are carried out and environmental effects are managed. They are frequently used on

complex and large-scale activities such as the Taharoa Mine where baseline parameters, multifaceted mitigation measures and required operational procedures is not fully known at the resource consent application stage. For example, hydrological monitoring of wetlands over a 12-month period is required to inform appropriate mitigation. A management plan is therefore the appropriate vehicle to outline the monitoring requirements and the appropriate responses.

The resource consent conditions prescribe a structured framework for each proposed management plan. These typically include the objective/outcomes for the management plan and what it must address, including matters such as responsibilities, procedures, methods, actions, trigger levels, monitoring/review and reporting requirements. The management plan is then certified by WRC to confirm it meets the requirements set out in the condition. Although the use of management plans provides a degree of flexibility for the consent holder, the level of mitigation for an effect must still be achieved.

Additionally, proposed condition 15 of Schedule 1 (Appendix BB to the Substantive Application) requires consultation with relevant parties during the development of, and for any material amendments, to the Environmental Management Plan. The Environmental Management Plan will contain the remainder of the management plans as component plans (refer to Schedule 1 - Condition 14 (g)). Consultation will enable concerns to be raised and addressed during development of the management plan.

I consider the use of management plans required by conditions of consent to be wholly appropriate for the environmental management of the Taharoa Mine, being a large scale and dynamic operation. The management plans set out the practices and procedures which enable the potential environmental effects of mining activities to be avoided, remedied and mitigated, including once mining has concluded.

3.2.3 Precautionary approach

Comments

DOC have commented that Policy 3 of New Zealand Coastal Policy Statement 2010 (NZCPS) requires a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse. DOC states that its experts consider that there is more uncertainty, and a greater level of risk, than the applicant has recognised.

Mirumirū Pā ki Marokopa – Marokopa Marae also ask that the Panel apply the precautionary principle with respect to effects on Marokopa, declining the consent applications and requiring independent assessments of a range of matters including dune profile transect monitoring at Marokopa and other nearby locations, regional sediment budgets, and effects on the Marokopa River mouth.

Response

Policy 3 of the NZCPS is assessed in section 8.3.4 of the Substantive Application.

It is important to take into account that the Mine and export facilities is not a new activity which is yet to be established. It has operated since the early 1970's and its effects on the coastal environment are well understood and effectively managed. The various technical assessments pertaining to coastal impacts that support the TIL Application all conclude that actual and potential adverse impacts are at worst very low.

Management of environmental effects includes monitoring of the environment and clear measures which are documented in management plans (required by conditions of consent) to respond to potential adverse effects if they arise.

3.2.4 Air Quality

Comments

Comments relating to air quality effects were provided by WRC, Roy Wetini Whaanau Trust, NMKTH and Mirumiru Pā ki Marokopa – Marokopa Marae.

WRC has commented on the following matters:

- Effectiveness of dust mitigation measures, including coconut matting and rehabilitation;
- Management of exposed and unstabilised areas over time;
- Adequacy of monitoring approach, including use of Total Suspended Particulates (TSP) instead of PM₁₀ (Particulate Matter less than 10 microns in diameter);
- Representativeness of monitoring data and background conditions;
- Potential dust contributions from elevated tailings and exposed areas;
- FIDOL⁹ assessment conclusions and interpretation of wind and frequency data;
- Health-related particulate effects including PM₁₀, PM_{2.5}, and Respirable Crystalline Silica (RCS);
- Effects of removal of ridgeline and vegetation screening near receptors, particularly R4;
- Adequacy and prescriptiveness of proposed consent conditions and Environmental Management Plan (EMP) framework and

The Roy Wetini Whaanau Trust, NMKTH and Mirumiru Pā ki Marokopa – Marokopa Marae cumulatively express concerns relating to dust nuisance and amenity effects on sites adjoining and adjacent to the mine site. Comments are also made in terms of the Marokopa and Kiritehere areas.

Response

Cameron Brown and Andrew Curtis from Pattle Delamore Partners (PDP) have provided a technical response to these comments, which is attached to MERW's Memorandum of Counsel dated 22 June 2026 as Attachment J.

Mr Brown and Mr Curtis have provided further information to respond to the technical matters raised including indicating where effects are already proposed to be managed through proposed conditions and management plans, and where revisions to the proposed conditions are appropriate

The WRC air quality comments on the Application recommended that PM₁₀ monitoring replace the existing Total Suspended Particulate (TSP) monitoring undertaken at the mine. I note that PM₁₀ monitoring was already proposed in the proposed conditions of consent as lodged. Mr Brown and Mr Curtis consider PM₁₀ monitoring is a practical option which can monitor for potential health effects while still being a valuable tool for managing nuisance dust.

One of the key changes to the as-lodged proposed consent conditions addressing air quality¹⁰ is a commitment from TIL to a 12 month timeframe (from consent commencement) for concluding sand extraction in the Priority Stabilisation Area, and a 3 month timeframe (from mining operations being completed) for stabilisation in the Priority Stabilisation Area.

Other condition amendments are referenced in the conclusions set out below.

Mr Brown and Mr Curtis conclude as follows:

“The additional investigations undertaken for this memorandum, including the further site visit, PSD analysis, crystalline silica testing, review of workplace exposure monitoring data, and supplementary dust deposition assessment, do not alter the conclusions of the AQA. The results indicate that the

⁹ Frequency, Intensity, Duration Offensiveness, Location of Effects

¹⁰ Refer proposed conditions for AUTH142035.01.01

materials present on site contain a very low proportion of fine particulate matter capable of contributing to airborne PM₁₀, PM_{2.5}, or RCS concentrations. The screening assessments undertaken therefore support the conclusion that there is a very low potential for adverse off-site human health effects associated with the mining activities.

PDP acknowledges that dust generation can occur during periods of very strong winds, particularly within exposed coastal environments such as Taharoa. However, when the proposed rehabilitation, stabilisation, monitoring, and operational dust management measures are implemented, PDP considers that activities undertaken within the Central and Southern Blocks are unlikely to result in offensive or objectionable dust effects beyond the site boundary.

PDP considers that the initially proposed, and subsequently revised, consent conditions and EMP provide a robust framework for managing dust effects. This framework includes continuous PM₁₀ monitoring around the site in targeted locations, a NESAQ-compliant PM₁₀ monitor at Taharoa kura, monitoring near sensitive receptors, progressive rehabilitation requirements, and a targeted Priority Stabilisation Area.

Overall, PDP considers that the assessments presented within the AQA, together with the additional investigations and responses contained in this memorandum, demonstrate that the adverse air quality effects associated with the proposed activities can be appropriately managed through the proposed monitoring programme, consent conditions, and EMP. Accordingly, PDP maintains its conclusion that the proposed activities are unlikely to result in offensive or objectionable air quality effects on surrounding communities, provided the proposed mitigation and management measures are implemented”.

3.2.5 Discharges to land, water and the coastal marine area

Comments

Comments regarding discharges were provided by NMKTH, Te Nehenehenui and DOC.

NMKTH are concerned that additional discharges beyond those considered in the 2024 RMA Hearing Panel Decision will increase adverse effects to waterbodies and wetlands.

Te Nehenehenui state that the application anticipates that sediment-laden water, mine water and operational runoff may enter streams, wetlands, groundwater systems and the coastal environment.

DOC raise concerns regarding the following discharges / potential discharges:

- Discharges to land from fuel.
- Discharge of process water and wastewater to land potentially contaminating groundwater.
- The discharge of dredge process water “within the mine footprint” may potentially contaminate groundwater.

Response

As per the Substantive Application, consents are sought for the following proposed discharges. Refer to section 5 of the Substantive Application for further details.

Discharges to land

Waikato Regional Plan:

- Discharge of mine process water to land. Consent is required as the plan does not specifically provide for this discharge.
- Discharge of water to land associated with the placement of tailings. Consent is required as the plan does not specifically provide for this discharge.

- Incidental discharges of water to land associated with various stages of processing.

Discharges to water

National Environmental Standard for Freshwater 2020:

- Discharge of process water to wetlands. This will be directly if clean or via ground soakage if silty. This discharge includes trace amounts of sediment in stormwater.

National Environmental Standard for Commercial Forestry 2017:

- Discharge of sediment related to the harvesting of the pine plantation forest to water bodies. A discharge consent is required as the volume of earthworks required for the associated access road exceeds the permitted threshold. Sediment will be controlled with erosion and sediment control measures which will be set out in the mine's Environmental Management Plan.

Waikato Regional Plan:

- Discharge of mining process water back into the dredge pond and to water management ponds.
- Incidental discharge of stormwater that may incorporate washdown water into the Wainui Stream.

Discharges to the Coastal Marine Area

Waikato Regional Coastal Plan and Proposed Waikato Regional Coastal Plan:

- Discharge of stormwater and process water.
- Discharge of iron sand slurry water during shiploading.

Permitted Discharges

The discharge of clean water from mining to the Mitiwai Stream to augment flow levels is a permitted activity under the Waikato Regional Plan. There are therefore no effects to consider with respect to this discharge as part of this application.

Response to comments

I note the following with regards to the proposed discharges:

- The effects of the discharges for which consent is sought are comprehensively assessed in the Substantive Application.
- TIL do not propose to discharge sediment laden water directly to streams or wetlands.
- The sediment discharge into the coastal marine area is very small and effects have been evaluated as very low at most (refer to Appendix V of the Substantive Application).
- The proposed consent conditions¹¹ require that there are no discharges of oil, grease, fuel or detergents that result in a conspicuous oil or grease film, scum, foam or a conspicuous change in colour of visual clarity after reasonable mixing, to ensure the discharge does not result in elevations of key contaminants that could adversely impact aquatic biota in Wainui Stream or within the coastal marine environment.
- Discharges of fuel are not proposed. Proposed Condition 8 on AUTH142035.17.01 requires that all machinery is operated in a manner which ensures the spillage of fuel is prevented, including during refuelling.

¹¹ AUTH142035.06.04 Condition 2, AUTH142035.12.01 Condition 4, AUTH142035.13.01 Condition 5

- Ironsand processing is described in section 4.4 of the Substantive Application. No hazardous substances are used in the ironsand concentration process. It is purely a gravity and magnetic separation process.
- The discharge of process water to land is assessed in section 8.1.6 of the Substantive Application and the effects are less than minor.
- The discharge of wastewater to land is not proposed.

Refer to Attachment I of MERW's Memorandum of Counsel dated 22 June 2026 regarding comments that focus on the ecological risks associated with water abstraction and flow augmentation to Mitiwai Stream and other water bodies.

3.2.6 Hydrology

Comments

Comments relating to hydrology effects were provided by DOC, WRC, Te Nehenehenui and NMKTH. There are also comments in the peer review prepared by Earthtech. Comments relate to the following matters:

- The lake water balance model configuration and assumptions¹²;
- Scenario design and intensification of takes and modifications of lake levels¹³;
- Dam low flow pumping triggers and cease take levels¹⁴; and
- Dam / lake related flooding¹⁵.
- DOC and Earthtech have queried the relationship of the water take applications to the water allocation provisions of the Waikato Regional Plan.
- Earthtech have also queried which section of the Waikato Regional Plan the proposed abstractions are to operate under.

Response

These comments have been responded to by Josh Mawer and Jon Williamson from Williamson Water & Land Advisory (WWLA), which is attached to MERW's Memorandum of Counsel dated 22 June 2026 as Attachment F.

Mr Mawer and Mr Williamson have provided further information to respond to the technical matters raised including indicating where effects are already proposed to be managed through proposed conditions.

I note that WRC consider the surface water modelling undertaken by WWLA to be valid and robust. WRC requests an increase to the dam low flow trigger to ensure residual flow in the Wainui Stream is maintained. Mr Mawer agrees that the trigger level can be raised to 9.45 m RL which is above the invert level of the weir. Proposed Condition 7 of AUTH142032.03.01 has been amended to reflect this change.

In response to a noted inconsistency by DOC regarding the 9.6 m RL trigger level for Lake Taharoa and the trigger level in the draft Lake Level and Water Management Plan, Mr Mawer advises that proposed Condition 10 of AUTH142035.05.01 contains an error and is supposed to align with the draft Lake Level and Water Management Plan. Condition 10 has been amended to state that the trigger level is 9.6 m RL for a continuous 30 day period (rather than being an instantaneous trigger).

¹² Te Nehenehenui, DOC, WRC.

¹³ Te Nehenehenui, DOC

¹⁴ WRC, DOC

¹⁵ WRC, NMKTH

I note that the “continuous 30 day period” was included in the conditions proposed by TIL at the conclusion of the 2024 RMA hearing and was included in the RMA Hearing Panel Decision conditions.

Mr Mawer and Mr Williamson conclude that “the comments received, and minor amendments proposed have not materially changed our view that the lake water balance assessment is suitable, or altered the conclusions of our assessment of effects. We also reiterate that both WRC and DOC’s reviewing hydrologists stated that the method and model utilised is considered appropriate.

We acknowledge that a degree of residual uncertainty exists, as is common with all environmental modelling assessments. In our opinion, the conditions proposed provide a robust contingency and appropriate environmental protection”.

Accordingly, no other changes to management plans or conditions have been recommended by Mr Mawer or Mr Williamson.

In response to the suggestion by Te Nehenehenui to notify WRC when Lake Taharoa levels drop to 9.0 m RL and 9.6 m RL, WRC have not asked to be notified and I see no requirement to do so. As specified in Condition 10 of AUTH142032.05.01, WRC will be provided a copy of the updated Lake Level and Water Management Plan, if any adverse effects have occurred and management responses have been implemented, and these will be described in the updated Management Plan. Regarding the query raised by DOC and in the Earthtech report about the relationship of the water take applications to the water allocation provisions of the Waikato Regional Plan, refer to section 3.6.1 of this report. The relevant sections of the Waikato Regional Plan under which the abstractions are sought are outlined in Table 5.3 of the Substantive Application.

3.2.7 Hydrogeology

Comments

Comments relating to hydrogeology effects were provided by WRC, Te Nehenehenui, NMKTH and DOC. There are also comments in the peer review prepared by Earthtech. The comments and peer review relate to the following matters:

- Groundwater modelling approach and methodology^[1];
 - Groundwater monitoring data;
 - Lake level as a fixed head boundary;
- Saline intrusion effects^[2];
- Stream depletion due to reduced baseflow^[3];
- Wetland effects^[4];
 - dewatering due to reduced groundwater levels for groundwater connected wetlands;
 - dewatering due to reduced stream inflows for surface water fed wetlands;
 - contamination via salinisation from groundwater; and
- Climate change^[5].

Response

These comments have been responded to by Jake Scherberg and Jon Williamson from Williamson Water & Land Advisory (WWLA), and their response is attached to MERW’s Memorandum of Counsel dated 22 June as Attachment G.

Mr Scherberg and Mr Williamson have provided further information to respond to the technical matters raised including indicating where effects are already proposed to be managed through proposed conditions and management plans.

Mr Scherberg and Mr Williamson conclude that the “comments and critiques received have not materially changed our view that our Hydrogeology Assessment is suitable, or altered the conclusions in our assessment of environmental effects. As WRC’s reviewing hydrologist noted, the numerical groundwater model is robust, utilises a comprehensive dataset of site-specific field investigations, and provides a reliable basis for assessing the proposed activity’s hydrogeological impacts.

We note that some changes to the proposed resource consent conditions and management plans have been recommended to define the water quality standards that apply to augmentation of the Mitiwai Stream or wetlands. These adjustments are not due to deficiencies or inaccuracies in our hydrogeological assessment, but are added to provide clarity and operational consistency for the exercising of the consents sought through this Application.

In our final view, the Hydrogeology Assessment, its underpinning numerical groundwater model, and the associated conditions and management plans remain highly appropriate and robust. They establish a scientifically sound, fit-for-purpose framework to safely manage, monitor, and mitigate the hydrogeological effects of the TIL Central and Southern Blocks mining project over the life of the consent”. The changes to the proposed conditions of consent referred to by Mr Scherberg and Mr Williamson in their conclusion as set out above have been incorporated into the amended propose conditions in Appendix A to this report. Those amendments are to Condition 2 of AUTH142035.14.01 and require that water used for flow augmentation shall be freshwater (i.e. with electrical conductivity below 1,000 uS/cm), and an equivalent requirement is added to the proposed new Condition 7 of AUTH142035.16.01 in relation to water used to augment wetlands.

^[1] WRC, DOC, Earthtech

^[2] WRC, DOC, Te Nehenehenui, Earthtech

^[3] WRC, DOC, Te Nehenehenui, NMKTH, Earthtech

^[4] WRC, DOC, Te Nehenehenui, NMKTH, Earthtech

^[5] DOC, Earthtech

3.2.8 Terrestrial ecology and wetlands

Comments

Comments relating to terrestrial ecology and wetlands were provided by WRC, Te Nehenehenui, NMKTH, Roy Wetini Whaanau Trust and DOC. Comments relate to the following matters:

WRC commented on the hydrological and ecological monitoring of wetlands including baseline monitoring, wetland buffers, the viability of the wetland offset site, pre-clearance bird nest monitoring and clearance of wetlands. WRC request fencing of the perimeter of all wetlands and buffers including the offset site.

Te Nehenehenui raised a concern regarding wetland hydrology, particularly in relation to water abstraction and reporting requirements.

NMKTH commented on the need for stock exclusion and buffer planting and are of the view that a 100 m buffer should be retained along the Mitiwai Stream and around wetlands. In their view the wetland offset package will not replace the ecological function of the existing wetlands. NMKTH request retention of the pine forest to maintain habitat for bats and other terrestrial fauna. NMKTH also cite clause 3.22 of the National Policy Statement for Freshwater Management (NPS-FM) and regulations 45 and 45D of the National Environmental Standard for Freshwater (NES-F) regarding

protection of wetlands. They state that in accordance with these provisions, wetlands are to be protected and loss or degradation is to be avoided except in limited circumstances; and that the NES-F prohibits specified activities within 100 m of natural inland wetland unless criteria are met. In their view, a 100 m setback from existing and restored wetland areas would better align with those protections.

Roy Wetini Whaanau Trust also requested retention of the pine plantation forest and planted buffers. They support stock exclusion from the consent area and seek a 100 m setback from Mitiwai Stream and all natural inland wetlands.

DOC raises concern regarding the loss of natural inland wetlands including impacts on invertebrates and vulnerable wetland bird species, sediment loads reaching wetlands, uncertainty regarding effects management, the model used to inform the offset approach and question the certainty of the offset approach.

Response

These comments have been responded to by Hannah Mueller (Phoenix Ecology) and Hamish Dean (SLR), and their response is attached to MERW's Memorandum of Counsel dated 22 June as Attachment H. Ms Mueller and Mr Dean have provided information to respond to the technical matters raised, including indicating where effects are already proposed to be managed through proposed conditions and management plans.

With respect to wetland monitoring, Ms Mueller and Mr Dean recommend that a representative sample of retained natural inland wetlands are the subject of baseline and 5 yearly monitoring in the same manner as the raupo and flax wetlands around the lake. The monitoring will be used to inform amendments to the water levels that trigger augmentation in the retained wetlands if declining wetland ecological health conditions are occurring. New conditions 5A and 5B of AUTH142035.16.01 have been proposed accordingly. Consequential amendments to the draft NIWBMP will be made by SLR.

With respect to the potential wetland offset site, Ms Mueller and Mr Dean highlight proposed Condition 4 of AUTH142035.16.01 as being specific and targeted with regard to the minimum 8.3 ha of new natural inland wetland to be established (required by Condition 3 of AUTH142035.16.1). Condition 4 requires the wetland habitat to be "designed, implemented, and maintained to achieve no net loss of wetland habitat and ecological function". They point out that should wetland monitoring show that there are greater effects on wetlands than anticipated, then the scale of the wetland offset site would need to be changed. They recommend additions are made to Condition 4 to specifically refer to the types of measures that could be implemented to maintain the new wetland habitat including additional planting, weed control and hydrological adaptations.

In response to a comment from WRC, Ms Mueller and Mr Dean recommend that condition 7 in the General Conditions related to Accidental Nest discovery protocols be extended to include wetland bird species. The proposed conditions have been amended accordingly.

In response to a comment from Te Nehenehenui regarding the timeframe for an ecologist to be engaged if the level of Lake Taharoa drops below 9.6 m RL, Ms Mueller and Mr Dean recommend that an amendment is made to proposed Condition 10(b) of AUTH142035.05.01 to require an ecologist to be engaged within 10 working days. The proposed conditions have been amended accordingly.

With regard to stock exclusion from buffer areas and/or the consent area as requested by NMKTH and Roy Wetini Whaanau Trust, Ms Mueller and Mr Dean support fencing of retained wetlands and stream buffers. Whilst I appreciate that fencing is a typical requirement to protect newly planted buffer areas, I understand from TIL that due to the changing sand dune environment at the mine, fencing is not a practical option as the fences collapse or become buried by sand. It therefore

becomes particularly impractical to continually repair and replace what will equate to several kilometres of fencing. This matter is addressed further in section 2.3 of this report. For these reasons, conditions requiring fencing of wetlands and streams (or the site itself) are not proposed, however AUTH142035.01.01 Condition 7 does require buffer areas to be planted and maintained. Fencing of the offset wetland is proposed and is provided for in the Natural Inland Wetland and Buffer Management Plan.

With regard to the risk of sediment reaching wetlands as raised by DOC, Ms Mueller and Mr Dean advise that a new condition is proposed which addresses this matter (Condition 7 on AUTH142035.16.01).

From a planning perspective, I note that with respect to the comments made by NMKTH regarding the NPS-FM as raised by NMKTH:

- Clause 3.22 provides some exceptions regarding the loss of natural inland wetlands and the activity is consistent with these exclusions. This is addressed in section 8.3.2 of the Substantive Assessment.
- Regarding regulations 45 and 45D of the NES-F, these clauses provide for works to wetlands as discretionary activities and are not prohibited.
- The relevant resource consents sought by TIL with respect to wetlands is outlined in section 5.1.1 of the Substantive Application.

3.2.9 Freshwater ecology

Comments

Comments relating to freshwater ecology were provided by WRC, DOC, NMKTH, Te Nehenehenui, Mirumiru Pā ki Marokopa – Marokopa Marae and Taharoa C. Comments relate to the following matters:

WRC have commented on the need for a smaller diameter screen mesh size on the water intake structure at the dam, and maintenance of baseflows in the Mitiwai and Wainui Streams. WRC also comment on the potential for saltwater intrusion into mining pits, resulting in saline influenced or brackish slurry water and the potential for saline water leaching into nearby streams or wetlands.

DOC raises concern about ecological risks from the introduction of contaminants associated with water abstraction and flow augmentation to Mitiwai Stream and other water bodies. DOC assert that the fish pass is failing to provide for fish passage due to low flows, structural corrosion, blockages, and inadequate maintenance. DOC support the installation of 1.5mm diameter screens on the water intake system.

NMKTH raise concerns relating to the long-term modification of lake levels and stream flows and the risk to wetlands and downstream hydrology, and the risk to water bodies and wetlands from discharges. They request a setback of 100 m from the Mitiwai Stream and wetlands. NMKTH comment on the overall protection of freshwater systems, noting the interconnectedness of the lakes, streams and wetlands, and stating the need to apply the Te Mana o te Wai hierarchy and for conditions that protect these systems.

Te Nehenehenui comment on hydrological changes to the Mitiwai Stream including disruption to migratory fish movement and risks to water quality from flow augmentation. Te Nehenehenui support a reduction in the water intake mesh screen to 1.5 mm diameter and a buffer of 100 m along the Mitiwai Stream.

Mirumiru Pā ki Marokopa – Marokopa Marae raises a concern relating to potential impacts on īnanga spawning habits within the Marokopa River should the Marokopa River mouth be altered as a result of mining. In relation to tuna (longfin and shortfin eel), they raise concern that sand bar

thinning, salinity intrusion, and changes to the tidal prism could interfere with tuna migration, both upstream and downstream.

Taharoa C provide support for the application including proposed protection and restoration of freshwater systems, the value of the fish pass and the inclusion of setbacks for Lake Taharoa, Wainui Stream and natural inland wetlands.

Response

These comments have been responded to in a response report by Keren Bennett from SLR, which is attached to MERW's Memorandum of Counsel dated 22 June as Attachment I.

Ms Bennett has provided information to respond to the technical matters raised, including indicating where effects are already proposed to be managed through proposed conditions and management plans, and highlighting that the monitoring of the fish pass undertaken since 2010 has demonstrated that the fish pass functions well. Ms Bennett supports retention of the 30 m wide buffer for streams and wetlands.

With respect to the water intake screen mesh diameter matter, Ms Bennett notes that the pump inlets are positioned to limit the potential for upstream migrating fish to be swept downstream, or into the pumps, upon exiting the pass, which helps to mitigate the potential adverse effects on upstream migrating fish. She also notes the practical limitations and operational challenges as indicated by TIL that limit the feasibility of meeting the Waikato Regional Plan standard¹⁶. Ms Bennett notes that if the intake screens are required to be retrofitted, in her view requiring the intake structure to be designed within 3 months and installed within 12 months of the commencement of the consent as proposed by WRC is unreasonably short. She suggests that a timeframe of 12 months for the design and a further 12 months from WRC design certification would be more appropriate to allow a thorough investigation of options. Ms Bennett agrees that saline water should not be discharged to streams and wetlands, however she notes that based on modelling undertaken by WWLA no streams or wetlands are at direct risk of saline intrusion when mining occurs below the water table, and that the amended salinity related conditions recommended by Mr Scherberg and Mr Williamson (refer to section 3.2.7 of this report) will provide further assurance that the risk to the Mitiwai Stream and to wetlands from saline intrusion from augmentation water is avoided.

Ms Bennet concludes that *"having reviewed the comments received from the various invited parties, my view is that the majority of the matters raised do not alter the findings of the Freshwater Ecology Assessment (Appendix L of the Application). In some instances, I disagree with the conclusions drawn by submitters, particularly where they suggest that effects on freshwater ecology have been underestimated or insufficiently addressed. The assessment undertaken was comprehensive, draws on extensive field data and established methodologies, and appropriately identifies and evaluates the potential freshwater ecological effects associated with the Project.*

Where I do agree with elements of the feedback provided, these largely relate to refinements or clarifications. In most cases, the matters raised are already appropriately addressed through the proposed consent conditions and management frameworks, including measures relating to flow management, fish passage, water quality controls, riparian buffers and monitoring requirements.

As such, a number of targeted refinements to conditions and management plans have been recommended in response to comments. These include:

¹⁶ Rule 3.2.4.5 a. i. which requires a mesh aperture size of 1.5 mm diameter at locations less than 100 m above mean sea level. The Waikato Regional Plan states this standard must be met where referred to in relevant permitted activity rules. As the dam is a controlled activity under Rule 3.6.4.10, Rule 3.2.4.5 a. i. does not directly apply. Screening of intake structures is a matter of control, therefore WRC have flexibility in the application of this rule.

- *extending the potential period for flow augmentation in the Mitiwai Stream to better capture seasonal low flow conditions (Condition 2 of AUTH142035.14.01);*
- *minor adjustments to trigger levels and associated provisions within the Lake Level and Water Management Plan to ensure consistency and clarity (LL&WMP, Appendix EE); and*
- *incorporation of additional or clarified water quality parameters (e.g. electrical conductivity thresholds) to explicitly confirm the use of freshwater for augmentation (Conditions 2 and 3 of AUTH142035.14.01 and new Condition 7 of AUTH142035.16.01).*

Importantly, these refinements are not considered the result of deficiencies in the underlying ecological assessment. Rather, they are proposed to improve clarity, ensure consistency across the suite of Application documents, respond to evolving condition drafting, or provide additional specificity to already identified mitigation and management measures.

In conclusion, it remains my opinion that the Freshwater Ecology Assessment is sound, fit-for-purpose, and based on a robust evidential foundation. The identified potential effects remain appropriately characterised, and the proposed mitigation, management and monitoring measures are suitable to avoid, remedy or mitigate those effects to an acceptable level. The proposed conditions of consent and associated management plans collectively provide a comprehensive and appropriate framework to manage potential adverse effects on freshwater ecosystems”.

The changes to the proposed conditions of consent referred to by Ms Bennet in her conclusion as set out above have been incorporated into the amended proposed conditions in Appendix O to the MERW legal memorandum.

With respect to the Te Mana o te Wai hierarchy, I note that this has been assessed in section 8.3.2 of the Substantive Application noting that whilst this objective remains in the NPS-FM, as of 2024¹⁷ individual resource consent decisions do not have to demonstrate how the hierarchy is met.

3.2.10 Marine ecology

Comments

Comments relating to marine ecology were provided by WRC, Te Nehenehenui and NMKTH.

WRC raises concern about the reliance on modelling and the benthic effects assessment being based on a one-off survey of coastal sediments in the Marine Ecological Impact Assessment (Marine EclA) attached as Appendix V to the Substantive Application.

Te Nehenehenui is concerned the proposed conditions contain few numerical limits for discharges, and the management of discharge effects is largely dependent on management plans. They request the addition of independent monitoring regimes and increased reporting conditions.

NMKTH raise concerns regarding cumulative effects on the Coastal Marine Area (CMA), kaimoana values, habitat integrity, and the need to consider effects on a ki uta ki tai basis.

Mirumiru Pā ki Marokopa – Marokopa Marae have commented about the potential for vanadium and titanomagnetite bioaccumulation in the food chain.

Response

These comments have been responded to by Dr Pete Wilson from SLR. His response is attached to MERW’s Memorandum of Counsel dated 22 June as Attachment D.

With respect to WRC’s comments, Dr Wilson remains of the view the sampling undertaken to inform the Marine Ecological Impact Assessment “provides a sufficient basis for assessing the current state

¹⁷ RMA section 104(2F)

of the seabed and the ecological implications of the existing discharge regime and has not shown conditions that are near ecological thresholds or that would warrant concern... that the effects of the dewatering discharge on the marine receiving environment are low... I do not consider that the measured sediment differences, interpreted in the context of the wider west-coast sediment regime and benthic results, warrant ongoing marine monitoring”.

With respect to the comments from Te Nehenehenui, Dr Wilson refers to a number of conditions that specify volume limits and testing requirements for discharges to the CMA. He is of the view that these conditions are sufficient, and no further amendments are required.

Dr Wilson confirms the scope of the Marine Ecological Impact Assessment was limited to the marine ecological effects of the proposed coastal marine area discharges and structures, including effects on sediments, benthic fauna, fisheries, shellfish, and habitat and did not assess cultural effects or customary harvest values directly, although those matters may be informed by the assessment of marine ecological effects.

He remains of the view that adverse effects on shellfish resulting from the proposed CMA discharges will be ‘very low’ at most. Specifically with regards to vanadium accumulation associated with titanomagnetite, Dr Wilson concludes that “the available evidence and assessed exposure pathways do not indicate that adverse effects on shellfish from vanadium accumulation are expected”.

The use of management plans is commented on in section 3.2.2 of this report.

3.2.11 Marine mammals

Comments

Comments relating to marine mammals were provided by Te Nehenehenui and Mirumiru Pā ki Marokopa – Marokopa Marae. Both parties are concerned about the impact of ship-loading on the Māui dolphin, in particular from ship noise generation.

Te Nehenehenui query whether resource consent is required under Rule NOISE-R4 of the Proposed Waikato Regional Coastal Plan, and reference Policy 11(a) of the NZCPS and the need to avoid adverse effects on threatened species. Te Nehenehenui request that several conditions be included on the consent:

- A marine mammal sighting recording programme and annual reporting of sightings to DOC.
- Mandatory marine mammal observers.
- Vessel strike incident reporting.
- A marine mammal monitoring programme.
- Underwater noise monitoring.

Mirumiru Pā ki Marokopa – Marokopa Marae also request a Māui dolphin specific

monitoring and adaptive management plan be developed with DOC and mana whenua. They assert that any activity likely to affect a Māui dolphin requires Wildlife Act authorisation.

Response

These comments have been responded to in a response report by Deanna Clement from the Cawthron Institute, which is attached to MERW’s Memorandum of Counsel dated 22 June as Attachment E. With respect to concerns regarding Māui dolphins, Ms Clement is satisfied that proposed conditions 7 and 8 of AUTH142035.12.1 and the proposed EMP including the 13.3 Control Measures and 13.4 Monitoring and Reporting are sufficient, and that with the imposition of these

conditions and EMP the overall risk to marine mammals including the Māui dolphin will be nil to less than minor.

Policy 11(a) of the NZCPS is assessed in section 8.3.4 of the Substantive Application. The TIL applications are consistent with this Policy given the extremely low levels of potential adverse impacts identified in the supporting technical assessments.

With respect to Rule NOISE-R4 of the Proposed Waikato Regional Coastal Plan¹⁸, I confirm that a resource consent under this rule is not required. This is because that Rule is restricted to underwater noise produced from impact and vibratory piling and marine seismic survey¹⁹, neither of which TIL have a need to undertake as part of normal operations. Should TIL need to undertake any impact or vibratory piling in the CMA in the future they will need to obtain any necessary consents at that time to authorise the activity.

Regarding the Wildlife Act authorisation comment with respect to Māui dolphins, a response to this matter is set out in MERW's Memorandum of Counsel dated 22 June. A Wildlife Act authorisation is not required with respect to Māui dolphins.

3.2.12 Coastal processes

Comments

Mirumiru Pā ki Marokopa – Marokopa Marae have commented on coastal processes as broadly outlined below:

- A request for an independent sediment budget of the West Coast littoral cell.
- A request that independent annual monitoring of beach profiles is undertaken.
- A request that independent verification of alongshore transport modelling is undertaken.
- A request that effects to the updrift coast at Marokopa are assessed.
- A request that a cumulative sediment deficit is modelled for Marokopa to Kawhia.
- A request that Marokopa River mouth is monitored with triggers for adaptive management.

Response

These comments have been responded to by Dr Eddie Beetham from Tonkin & Taylor Ltd. His response report is attached to MERW's Memorandum of Counsel dated 22 June as Attachment C. To conclude, Dr Beetham states:

The comments of the Invited Party raise valid concerns about the natural flow of sediment on the West Coast of Waikato and shows a good understanding of coastal processes. While I generally agree that more research and monitoring is good to support understanding of the environment, the monitoring requested by the Invited Party is not necessary or appropriate as conditions associated with TIL's consents. TIL source land-based sand for export that does not influence the natural littoral cell. TIL activities that do operate in the CMA (e.g. plume and marine structures) have been assessed

¹⁸ This rule is not under appeal and is therefore deemed operative.

¹⁹ I note that the scope of Rule NOISE-R4 is further narrowed in the Taharoa area given that seismic survey is banned within the West Coast Marine Mammal Sanctuary (within which the Port of Taharoa is located) by the Hector and Maui's Dolphin Threat Management Plan promulgated under the Marine Mammals Protection Act 1978.

in my previous report provided with the Substantive Application Report to have negligible effect on coastal processes and landforms.

3.2.13 Noise

Comment

The Roy Wetini Whaanau Trust have raised concern about the noise effects from mining, particularly in relation to mining of the ridgeline near their property. They assert that the cumulative noise effects have not been assessed, and the proposed mitigation measures will not mitigate noise effects. A 200 m setback from the external boundaries is requested which would require retention of the remainder of the ridgeline.

Response

The noise related comments have been responded to by Darran Humpheson from Tonkin & Taylor Ltd, which is attached MERW's Memorandum of Counsel dated 22 June as Attachment K. Mr Humpheson confirms:

- The application proposes a specific methodology for mining the ridge with ridge mining restricted to 7 am to 7 pm until operations progress below the ridgeline and are subject to compliance monitoring. Standard 24-hour operations would recommence after noise monitoring has confirmed compliance.
- Cumulative effects are controlled through the ridge mining scenario and with the recommended controls, the potential for cumulative noise effects is expected to be low.
- The noise modelling for the Central and Southern Blocks was undertaken on the assumption that the ridge had already been mined, and that operations within the remaining mining areas can be undertaken in compliance with the permitted noise levels in the PWDP.
- With respect to the requested 200 m setback, from an acoustics perspective, a fixed boundary setback is not necessarily the most effective noise control as noise effects depend on a number of factors. The proposed noise management measures, which are provided for in the EMP, are assessed as the appropriate acoustic response to the identified risk of mining of the ridge.

Finally, and as set out earlier in this report, noise is a land use amenity matter that is not within the function of the Waikato Regional Council/Waikato Regional Plan to control. There is no ability for the Fast Track Panel to impose conditions related to noise on the consents sought under the Waikato Regional Plan.

In respect of mining of the ridgeline, referred to by the Roy Wetini Whaanau Trust, it should be noted that, consistent with the key issues table included in the Substantive Application Report, mining is currently underway in this area and is expected to be completed prior to the determination of this application or soon afterwards.

The Roy Wetini Whaanau Trust's comments relating to setbacks and the ability for TIL to undertake mining in this area under TIL's existing resource consents are addressed in section 3.1.2 of this report.

3.2.14 Light emissions

Comment

Concerns regarding light emissions from the mine site to the Wetini property have been raised by the Roy Wetini Whaanau Trust. They ask that the Panel requests confirmation of compliance with relevant rules for the emission of artificial light.

Response

The control of light emissions is a land use/amenity matter addressed by the Waitomo District Plan. Rule LIGHT-S1 of the Proposed Waitomo District Plan is not therefore applicable to assessment of the applications made by TIL through this process²⁰. No resource consent is sought under the Waitomo District Plan as the activity relies on existing use rights as set out in sections 3.1.1 and 3.1.2 of this report.

There is therefore no ability for conditions controlling light emissions to be placed on the resource consents sought by TIL through this process.

The mine operates 24 hours a day, 7 days a week and utilises portable, directional lighting whilst working at night. Night lighting for workers is required for health and safety purposes. Notwithstanding that there is no requirement to comply with the lighting standard introduced through the Proposed Waitomo District Plan, it is expected that lighting can be directed to comply with Rule Light-S1, which stipulates a maximum of 10 lux (horizontal and vertical) measured at the notional boundary of sensitive activities within the general rural zone.

3.2.15 Archaeology

Comments

Comments relating to archaeological effects were provided by Taharoa C, NMKTH and Te Nehenehenui. HNZPT also responded to state that as they have recommended a grant of the Archaeological Authority and as there is an agreed set of conditions (as set out in their section 51 report), they have no further comment.

Taharoa C comment that they have had input into the Archaeological Authority Application (Appendix X to the Substantive Application) including the Archaeology Report and provision of a Māori cultural values report. They state the continuation of the accidental discovery protocols via the Archaeological Management Plan and regular mining plan updates maintain the integrity of the relationship between TIL and Taharoa C which will ensure that the significant cultural values associated with the Taharoa C Block are recognised and provided for, and the adverse effects of ongoing mining excavation activity on those values are mitigated and appropriately managed. Taharoa C also note that they were provided with an opportunity to review and provide input into updates the Archaeological Authority conditions and TIL's "Taharoa Mine Site Health and Safety – Environmental Procedure: Discovery of Human Remains and/or Items of Cultural Significance.

NMKTH comment with respect to mandated authority to speak on behalf of the whenua, moana, wai, hau and the people of Taharoa, and state their representatives were not suitably involved in the archaeological investigations or preparation of the application. They assert that mana whenua interests and values have not been appropriately recognised and understood, that the substantive application does not sufficiently address archaeological effects and that the requirements of the RMA have not been fulfilled. They also seek that all archaeological processes, authority conditions, and management frameworks include clear mechanisms for transparency and reporting to mana whenua, being the mandated marae representatives. With respect to conditions, NMKTH seek that the consent conditions imposed by the 2024 hearing panel be upheld or replicated in the Archaeological Authority or Archaeological Management Plan and they have provided a number of tracked changes to the Archaeological Authority conditions.

²⁰ This rule is not under appeal and is therefore deemed operative.

Te Nehenhenui acknowledges and defers to the knowledge and guardianship of mana whenua, NMKTH and Taharoa C Block representatives as kaitiaki of the area but note there is unresolved disagreement with mana whenua regarding process and representation.

Response

These comments have been responded to by Glen Farley from Clough and Associates Ltd. His response report is attached to MERW's Memorandum of Counsel dated 22 June as Attachment L.

Mr Farley has provided information to respond to the matters raised and states that the majority of the comments made by NMKTH have already been addressed in Appendix A to the Archaeological Authority Application (which forms Appendix X to the Substantive Application). This is because they were provided to TIL prior to filing the Application.

Mr Farley acknowledges that there is a difference in view between NMKTH and TIL / Taharoa C. He notes that:

“As set out in Appendix A to the Archaeological Authority Application, TIL has a long-established relationship with Taharoa C, as the Māori landowner, and its nominated kaumātua regarding archaeological discoveries, koiwi management, and implementation of tikanga associated with archaeological finds. These arrangements are set out in the Archaeological Management Plan and associated discovery protocols and continue to operate as the primary framework for on-site engagement. Both TIL and Taharoa C have indicated a desire for these arrangements to continue”.

This has been provided for in the Archaeological Management Plan and the conditions which are attached to Heritage New Zealand Pouhere Taonga's section 51 report – which have been agreed to by TIL and Taharoa C.

The proposed conditions of consent (AUTH142035.01.01 Conditions 2 and 6) require a map showing the location of urupa and other waahi tapu sites including a 20 m buffer from cultural reserve sites. Mining cannot be undertaken in these areas.

3.2.16 Site rehabilitation

Comments

Comments regarding site rehabilitation were provided by Te Nehenhenui, NMKTH and the Roy Wetini Whaanau Trust raising concerns about the lack of site rehabilitation and effects such as dust resulting from exposed surfaces. These parties request certainty with respect to rehabilitation conditions. Te Nehenhenui indicate support for independent auditing and monitoring of rehabilitation requirements. Roy Wetini Whaanau Trust support stock exclusion from the consent area at all times to aid rehabilitation. NMKTH request that site closure includes mine infrastructure serving Taharoa Village.

WRC has requested a range of information about TIL's historical and current rehabilitation practices in connection with dust management at the site. WRC has also recommended a condition requiring stock to be excluded from wetlands, riparian margins and the wahi tapu sites.

Mirumiru Pā ki Marokopa – Marokopa Marae have commented that that the dune form should be reinstated at the rehabilitation stage to reinstate wind shadow, being the sheltered zone behind a dune.

Response

As outlined in section 4.18 of the Substantive Application, rehabilitation requirements need to be flexible to take into account the phases of mining and to respond to the environmental conditions of the mine site, operational logistics and ecological factors.

When mining is complete within a given area the area is stabilised. Stabilisation involves compaction and surface stabilisation, to minimise the discharge of dust. AUTH142035.01.01 Condition 9 establishes a priority stabilisation area on the boundary with the Wetini and Kana properties where stabilisation is required within three months of mining operations being completed.

Final rehabilitation will occur once mining within a given area is exhausted.

Schedule 1 Condition 20 requires TIL to prepare a Site Rehabilitation Plan, the objective of which is to set out the rehabilitation goals, targets and success criteria to be followed in order to achieve the future landforms and groundcovers detailed within the Conceptual Site Closure Plan (Condition 21). The Site Rehabilitation Plan will set out a timeline for the interim rehabilitation (including stabilisation using appropriate grasses) of the areas within 200 m of the consent area boundary once mining has been completed.

The Conceptual Site Closure Plan (Schedule 1 Condition 21) will detail the future landforms and the nature and extent of groundcover following the conclusion of all mining activities. This plan will be prepared with input from a suitably qualified and experienced landscape architect, who will advise on future landforms and groundcovers across the site.

In terms of landforms and groundcover at closure, discussions and evidence at and subsequent to the 2024 RMA hearing indicates that TIL and Taharoa C (and potentially NMKTH) are aligned that the site should be contoured to reflect the original rolling and sparsely vegetated dune environment of the area prior to the mine being established, which had some planted corridors along the margins of the streams and in some lower lying areas. For context, Figure 1 below shows the site as it was in 1958 prior to the mine starting, which is the general end state I understand that at least TIL and Taharoa C jointly support.



Figure 1: Taharoa C Block (Central/Southern areas) in 1958 before the establishment of the Mine and Export Facilities

The Site Rehabilitation Plan and the Conceptual Site Closure Plan (as part of the Environmental Management Plan) is to be submitted to WRC for review and approval by the WRC, acting in a technical certification capacity, within twelve months of the commencement date of the consents. This provides assurance that these plans will be independently reviewed. WRC are also responsible for ensuring conditions of consent are complied with.

In respect of comments regarding a deficit of rehabilitation, WRC have recorded in correspondence²¹ with the Roy Wetini Whaanu Trust that “...WRC monitoring staff have confirmed that all of the outstanding rehabilitation has been completed and in place as of mid 2025..”

Stock exclusion at the mine site is discussed in section 3.2.8 of this report.

Consideration of the inclusion of infrastructure provisions for Taharoa Village within the Concept Site Closure Plan was considered as part of the hearing of the TIL RMA applications in 2024 and was addressed in the RMA Hearing Panels Decision Report²² dated 21 November 2024. Ultimately the RMA Hearing Panel concluded that they did “not have the power to impose a condition with respect to planning for the closure of the village”. Nothing has changed in this regard.

²¹ Letter from Ana-Maria D’Aubert (Manager Regional Consents) to Roy Wetini Whanau Trust, dated 26 February 2026

²² See paragraphs 536-538

Mr Curtis and Mr Brown from PDP provide additional comment on rehabilitation matters in their response report dated 18 June 2026, in response to Mr Stacey's comments on behalf of WRC on air quality matters. See also Section 3.2.4 of this report in respect of air quality effects.

3.2.17 Cumulative effects (general)

Comments

The Roy Wetini Whaanau Trust comment that the cumulative effects of mining in Pit 1 on the Northern Block, as well as mining occurring on the Central and Southern Blocks should be assessed from a cumulative effects perspective. They assert that a change of conditions consent granted by WRC increased the Pit 1 mining area from 5 ha to 23 ha, and this needs to be taken into account.

NMKTH comment that the potential and actual adverse effects of the application cannot be assessed or managed in isolation and must be addressed through a precautionary, cumulative, and ki uta ki tai approach. NMKTH consider that the lakes, streams, wetlands, groundwater systems, and the CMA are interconnected on a ki uta ki tai basis. NMKTH also comment that the activities occurring across the Central and Southern Blocks, Pit 1, the Northern Block, the Eastern Block, and the Te Mania Extension form part of an ongoing and continuous mining presence within Taharoa.

Waikato-Tainui concur with NMKTH that the application must be assessed on a cumulative, ki uta ki tai basis, including the effects of existing and past activities within the Taharoa environment. Waikato-Tainui considers that as currently framed, the application risks resulting in cumulative and ongoing adverse effects within the Taharoa area.

Response

A small area of mining (approximately 5 ha of active extraction area), known as 'Pit 1', was consented on a non-notified basis on the Northern Block in December 2024, and mining in Pit 1 is currently being undertaken. In 2025 a change to conditions application under section 127 of the RMA was granted by WRC on a non-notified basis that allowed no more than 5 ha of open mining area to be established within the wider Pit 1 mining activity area at any one time. This did not increase the active extraction area beyond 5 ha. The section 127 change did not authorise an effective 23 ha of active mining area as claimed in the comments from the Roy Wetini Whaanau Trust.

The comments from NMKTH and Waikato-Tainui regarding a cumulative, ki uta ki tai basis for assessment, conflate the functions of the District and Regional Plans. The presence of the mine as a regionally significant land use activity is authorised by the very recent Proposed Waitomo District Plan, which provides for mining on the entirety of the Taharoa C Block as a Permitted Activity within the Rural Production Zone. The Permitted Activity status of mining on the Taharoa C Block has been constant in the relevant District Schemes and Plans since the early 1970s, including the Operative Waitomo District Plan. As a result, whether or not mining on the site is an appropriate land use in Taharoa from a planning perspective is not a matter that the Expert Panel can or needs to consider.

The scope of the Panel's consideration is related to assessing the impacts of the specific activities that TIL have sought consent for under the Regional Plan(s) and the Regional Coastal Plan(s), the Heritage New Zealand/Pouhere Taonga Act, and the Wildlife Act.

While not explicitly expressed on a ki uta ki tai basis, the inter-connectedness of the geo-hydrology, surface water, and ecological features in the area has been recognised and assessed through the technical assessments undertaken by WWLA and SLR. These assessments have led to conditions that recognise the impacts that one activity could have on another part of the environment, for example, conditions requiring the health of the lake margin wetlands to be monitored and action taken if water takes are occurring when Lake Taharoa is below a specific level.

The extent of activities that are relevant to the assessment of the Applications is constrained by the scope and extent of the Application. In this case, the Application is limited to the Southern and Central Blocks on the Taharoa C Block and the part of the CMA adjoining it that contains the export infrastructure and activities.

It is correct that when considering cumulative effects, the effects of the Application need to be considered in light of the effects of existing consented activities.

Activities being undertaken in the Northern Block ('Pit 1') and on the Te Mania and Eastern Blocks (adjoining but separate sites from the Taharoa C Block) were granted their own separate resource consents, and have been, and are being, undertaken in accordance with those consents. The effects of the Application, cumulatively with the effects of these activities is a relevant consideration.

However, the activities for which resource consent is currently sought on the Central and Southern Blocks, and in the CMA, were ongoing at the time the Eastern Block, Te Mania and Pit 1 consents were granted. Cumulative effects were not an issue pertaining to the granting of those consents, and nothing has changed that would lead me to believe that cumulative effects are an issue now.

I also understand that the extraction of sand on the Eastern Block has finished and that rehabilitation and planting in the Eastern Block has been implemented in accordance with the wishes of the landowner (noting that the Eastern Block is under different ownership to the Taharoa C Block). The Te Mania mining area is small and likely to be completed and rehabilitated within 2-3 years. As such, I understand that the Eastern Block will be vacant of any noticeable mining or re-instatement activity within the next 1-2 years, and the Te Mania Block soon thereafter. Therefore, any cumulative effects consideration should take into account the very short residual timeframes left for activity on the Eastern and Te Mania blocks.

3.3 Cultural considerations and effects

Comments

A number of parties²³ have provided comments on the cultural effects of granting consents to allow for ongoing operation of the mine and export facilities.

Response

The NZCPS seeks to recognise the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources in the coastal environment. In that regard I the establishment of the mine and export facilities in the early 1970s was a result of a conscious decision made by tangata whenua to partner with the Crown to access the mineral resource for the long term good of tangata whenua.

Rangatiratanga was exercised in making that decision, and kaitiakitanga has historically been exercised in the operation of the mine to date, and will continue to be, as set out in the comments from Taharoa C who hold mana motuhake over the site. In my view, seeking new consents to continue the operation of the mine into the future, subject to conditions that address the range of potential adverse effects, is a continuation of the rangatiratanga and self-determination exercised by the Māori landowners over their land and resources.

There are various opportunities for mana whenua to exercise kaitiakitanga in relation to ongoing operation of the site and this is reflected in the proposed consent conditions. Taharoa C cite those in their response to comments on the Application, which is attached to MERW's Memorandum of Counsel dated 22 June 2026 as Attachment N. This includes (but is not limited to) consultation on the development of the Environmental Management Plan for the site including incorporation of matauranga Māori and cultural health indicators, a requirement that the Conceptual Site Closure

²³ Roy Wetini Whaanau Trust, NMKTH, Te Nehenenui, Waikato-Tainui

Plan includes measures to protect existing Māori reserves and ensure access for customary cultural practices is not prevented in the long term, and a requirement for the consent holder to review and update the existing Wainui Stream Enhancement Plan to improve indigenous biodiversity values in the lower Wainui Stream in consultation with the Key Stakeholders.

This project is unique, in my experience, in that the site has always been and is still owned by Māori – some 2,200 shareholders, many of whom whakapapa to the local Marae and hapū. These Marae and hapū hold mana whenua.

It is clear however that there are differing views amongst Taharoa C and other hapū members and groups on the Application, including the appropriate degree of involvement and oversight that hapū members and groups who are not Taharoa C shareholders or not employed by TIL should have in the activities carried out at the mine.

This is recognised by the comment²⁴ from Waikato-Tainui that “recognises that there are differing views within the wider iwi context regarding the extent to which broader community, cultural, and intergenerational aspirations associated with the original engagement with mining activity are currently being realised”.

There is also a desire from parties for more meaningful interaction between TIL and Māori groups outside of Taharoa C such as the runanga and marae(s).

There is a balance to be found amongst the various views of tangata whenua. However, it needs to be recognised that the site on which the Mine is located is Māori land, and the landowners hold mana motuhake (this translates to autonomy, self-determination, self-governance, and independence).

There is a limit to how far consent conditions can and should go in influencing relationships, and the proposed conditions attached to this report respond appropriately to the Taharoa circumstances.

One of the ways that the NZCPS provisions seek for tangata whenua to be involved in the management of the coastal environment is through incorporating mātauranga Māori into sustainable management practices – in this case the vehicle for that is the current consent proceedings and the conditions to apply to the consents if granted.

In my view the proposed conditions of consent, while not expressed specifically in mātauranga terms, cannot be said to be absent of mātauranga Māori considerations and in addressing the characteristics of the coastal environment that are of special value to tangata whenua. For example, the ability for taonga fish species to move upstream and downstream from Lake Taharoa to the sea is clearly a major focus of the conditions as well as the physical works that have been constructed on the site and are required to be retained and maintained to assist with fish passage.

These considerations have always existed and were a significant focus of the RMA consenting process for the site in the mid-2000's, which lead to the construction of the current fish pass which has and will, especially with addition of the proposed conditions of consent requiring flow augmentation, continue to be effective in allowing for the passage of a variety of taonga fish species.

Likewise, the health of the raupo and flax wetlands around Lake Taharoa as an indicator of the overall health of the lake itself has been recognised through consent conditions requiring ongoing monitoring of the wetlands and the requirement for management measures to be undertaken if the wetlands are showing signs of declining health.

The opportunity for more specific mātauranga measures to be introduced to the monitoring of the effects of the ongoing mining activities is specifically provided for through the proposed conditions

²⁴ Paragraph 14

of consent requiring consultation with the ruunanga, marae and hapū groups in the preparation of the environmental management plan(s) that will govern activity at the site.

Cumulative Cultural Effects

NMKTH have commented that the duration of the mining and export activity at the site has now become too long for the cultural effects to be tolerable, especially for a grant of consent for an extended duration. However, Taharoa C through the exercise of mana motuhake over the site have determined, by way of the mining lease, that the mining and export activity is appropriate use of the land and the CMA adjacent to it through until expiry of the lease in 2062 (assuming that the right to renew in 2042 is taken up).

There have been no agreements entered into or formal indications given from successive mine operators or Taharoa C (in exercising mana motuhake) that the mine and export facilities would cease before the end of the lease. Taharoa C comment on the current substantive application as follows:

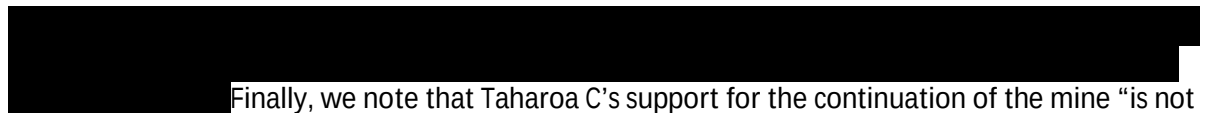
“The Mine has formed part of the historical and current use of the land and is expected to remain part of its foreseeable future use. For more than 50 years, the Mine has enabled Taharoa C to build an economic base to support its people. It has delivered enduring socio-economic benefits to the Taharoa community, including significant income for shareholders of Taharoa C and local employment opportunities”.

The “expectation to stop” point has been a relevant factor in other consent processes where the duration of cultural effects has been an issue such as the Waste Management New Zealand cleanfill at Tirohia near Paeroa. In that case, as part of resolving historic appeals tangata whenua were given a clear indication from previous operators of the site that activity would stop once the existing landfill at the site reached capacity. The application by Waste Management New Zealand to extend landfill activity at the site through creation of a new landfill area was ultimately found to generate unacceptable cultural effects given the undertakings provided to tangata whenua by previous landfill operators. There has been no such representation in this case – the underlying lease for the land can continue until 2062.

Benefits to Māori

Comments have been received suggesting that the benefits of the mining and export activity to Māori, including employment, have declined over time.

In its comments on the application Taharoa C noted that the mine “has formed part of the historical and current use of the land and is expected to remain part of its foreseeable future use. For more than 50 years, the Mine has enabled Taharoa C to build an economic base to support its people. It has delivered enduring socio-economic benefits to the Taharoa community, including significant income for shareholders of Taharoa C and local employment opportunities”.



Finally, we note that Taharoa C’s support for the continuation of the mine “is not based on commercial considerations alone, but also on its enduring connection with the whenua and its commitment to the wellbeing of the Taharoa community. If the Mine’s consents were declined, or issued subject to conditions that did not support the continued and economically sustainable operation of the Mine, this would have a significant negative economic impact on the Taharoa community”.

Consents already granted

Cultural effects are relevant to this substantive application because the FTAA requires assessment of a substantive application under sections 5, 6, and 7 of the RMA. The majority of the activities for

which consent is sought have already been granted consent under the RMA via the 2024 hearing process subject to conditions that address cultural effects, most of which TIL has carried through to the proposed conditions on the substantive application under the FTAA. Given the only new activities for which resource consent is specifically sought are limited to mining interaction with groundwater, wetland disturbance, and plantation forestry harvesting, the cultural conditions already proposed remain relevant and appropriate.

Cultural Financial Contributions/Funding

NMKTH have commented seeking conditions that require a marae lead committee (or equivalent) and “the establishment of an annual, ring-fenced fund for capacity building and the practical expression of kaitiakitanga such as restoration projects within the Tahaaroa rohe, jointly administered by NMKTH and the Consent Holder, with regular reporting to the consent authority”.

These requests were considered during the RMA hearing in 2024 and were not imposed as conditions by the RMA Hearing Panel. The RMA Hearing Panel noted in their decision (page 100, paragraph d) that they were “unable to impose a condition requiring the Applicant to fund engagement with Mana Whenua”. The RMA Hearing Panel was also “mindful that without ‘buy in’ from the Applicant and support from all parties such conditions will be unlikely to result in successful outcomes”.

Nothing has changed in this regard. TIL supports the conditions proposed which variously provide for mana whenua involvement in the development of management plans, annual meetings, and making key environmental information publicly available via a website.

3.4 Conditions

3.4.1 Bond condition

The Roy Wetini Whaanau Trust have commented on the appropriateness of the proposed bond condition. MERW have addressed this matter in their legal memorandum.

3.4.2 Amended conditions

An amended set of proposed conditions stemming from the technical responses to comments is attached to MERW’s Memorandum of Counsel dated 22 June 2026 in Appendix O. The proposed conditions are annotated to explain the source of and rationale for each amendment.

A high-level summary of the more notable amendments is as follows:

- New and amended air quality conditions to apply to the Land Disturbance consent that specify timeframes within which work in the Priority Stabilisation Area must be completed and stabilisation undertaken, specify locations and type of PM₁₀ monitoring (and impose a numerical limit at Taharoa school/kura), and allow for a transition from TSP monitoring to PM₁₀ monitoring at other locations to allow appropriate PM₁₀ triggers and responses to be developed.
- A new condition has been proposed that sets parameters for water to be used to augment wetlands (to use the same parameters as for the water to augment the Mitiwai).
- Amendments to specify that the water to be used to augment flows in the Mitiwai and in natural inland wetlands be freshwater with an electrical conductivity (the measure for salinity) limit.
- Ecological health monitoring required of a representative sample of retained natural inland wetlands in order to inform any revisions needed to water level augmentation trigger levels.

3.5 Resource consent term and lapse

3.5.1 Term

Comments

As set out in Section 8 (page 18) of their section 53 Comment Report, WRC support the grant of consent for 35 years subject to appropriate conditions being imposed.

NMKTH, Roy Wetini Whaanau Trust, Te Nehenehenui and Mirumiru Pā ki Marokopa – Marokopa Marae have proposed shorter consent terms (varying from 7 years to 20-25 years).

Taharoa C support a 35 year consent duration to ensure that the significant socio-economic effects of the mining and export activity can continue through to the early 2060's, broadly in line with the term of the mining lease for the site.

Response

TIL has requested the maximum term of 35 years for all of the necessary resource consents for the ongoing operation of the mine and export facilities.

This matter is addressed in the Substantive Application report in Section 8.4.3.

TIL has satisfactorily addressed all of the matters in Policy 6 in section 1.2.4 of the Waikato Regional Policy Statement ²⁵ (which indicate when the duration of consent applied for is appropriate to grant).

The comments from invited parties seeking a shorter term are not justifiable when regard is had to all relevant matters set out in Section 8.4.3 of the Substantive Application Report, including the policy direction of the Waikato Regional Plan, the significant value of investment at the mine, the commitment to managing the environmental effects of the mine as codified in the proposed resource consent conditions, and the significant socio-economic benefits that the mine generates.

TIL's mining lease at the site runs until 2062 and the available ironsand resource is ample to sustain production for at least another 35 years. A shorter consent term would not allow TIL to plan for the future and make long-term investment decisions and would undermine TIL's ability to enter into long term contracts with suppliers and customers, who prefer such long-term commitments. A 35-year term will also allow TIL the flexibility to navigate changing market and shipping conditions in the future without the encumbrance of a shorter term consent. A shorter-term consent will also reduce the significant social and economic benefits and support the continued operation of the mine provides to tangata whenua and the community and would give rise to considerable future uncertainty for the community in terms of job and housing security.

The proposed section 128 review conditions enable WRC to initiate a review of the consent conditions on an annual basis in relation to a wide range of matters. These review conditions act as a safety net or backstop over a longer term for the consents should relevant RMA policy documents, the environment or the compliance performance of the consent holder change.

In their comments on the Application, WRC state that a term of 35 years is consistent with the approach that WRC has taken and other councils have taken to other large-scale capital-intensive activities. They provide a list of nine projects as examples. I agree that granting the consents sought by TIL for the 35 year term sought would be consistent with the approach taken by WRC to those other capital-intensive activities.

²⁵ Policy 6 sets out a "presumption for the duration applied for" ...

3.5.2 Lapse

Comment

Te Nehenehenui request a lapse period of five years for the discharge of mining process water and water containing contaminants to ground as a result of incidental discharges from iron sand mining and forestry harvesting and a consent condition requiring the applicant to alert WRC when the consent is given effect to.

Response

The lapse period sought for those consents (coincidental with the duration of the consent) simply reflects a pragmatic response to the fact that the activity is intermittent and specifying a “start date” for when the first instance of the activity occurs and might again occur in the future is artificial. This approach has been adopted in other consents granted by WRC with which I have been involved, most notably the renewed consents granted to Contact Energy for the “Geofutures” project on the Wairakei-Tauhara geothermal field.

3.6 Other matters raised

3.6.1 Water Allocation/Minimum Flow Policies – Waikato Regional Plan

In his Peer Review comments, Mr Kelsey (Earthtech) has queried the relationship of the resource consent applications to the water allocation policies of the Waikato Regional Plan. The Department of Conservation has also made similar comment.

This matter was traversed as part of TIL’s RMA application proceedings in 2024, and no inconsistency was found between the application and the relevant Waikato Regional Plan provisions.

This was confirmed in section 12.4 of the WRC section 42A report²⁶ for the TIL RMA applications, which for completeness I set out in full below (note that the email referenced below contains references to the potential notification of the RMA applications which was a consideration at the time the analysis was prepared):

Water Allocation

Section 3.3 of the WRP sets out the manner in which water is to be allocated in the Waikato Region. It includes Primary Allocable Flows and Secondary Allocable Flows (set out in Table 3-5) whereby a percentage of Q5 is able to be allocated.

²⁶ Dated 30 November 2023, prepared by Mr Mark Chrisp, who has also authored the WRC section 54 report to the current Substantive Application

Policy 11, clause s), in Section 3.3.3 of the WRP requires that, when assessing a resource consent application for a surface water take, the decision maker:

“shall have particular regard to ... The need to ensure that water bodies are not over-allocated (having regard to the current allocation limits of the water body as indicated by Table 3-5 and to the provisions of Policy 6, Policy 9 and Method 3.3.4.10.k)”.

In relation to the allocation regime in the WRP, Mr Cameron King has advised that the Q5 relating to the Wainui Stream catchment is 95 l/s. Following the direction of the WRP, this results in the following:

- Primary Allocable Flow is 4.75 l/s (5% of 95 l/s);
- Secondary Allocable Flow is 23.75 l/s (25% of 95 l/s);
- Combined Primary and Secondary Allocable Flow is 28.5 l/s.

The application by TIL to take water from the Wainui Stream is for up to 75,000 m³/day which equates to 868 l/s. At face value, that amounts to an ‘overallocation’ by several orders of magnitude and therefore contrary to the outcome sought in clause s) of Policy 11.

I sought comment and analysis from TIL in relation to this matter. Mr Eccles (by way of an email dated 22 May 2023) advised as follows⁴:

“In that regard, the particular circumstances of the (renewed) water takes sought by TIL need to be recognised and afforded appropriate weight by WRC in considering allocation matters. The water is taken from an impounded section of the Wainui Stream, with the impoundment created by the dam that has existed since 1972. In that regard, this is not a “run of the river” situation where stream flows are entirely controlled by natural factors such as rainfall, infiltration and evaporation. This situation is more akin to a water harvesting situation, although the harvesting in this case does not conform exactly to the WRP definition of water harvesting which is predicated on water being taken in a run of the river situation during time of high stream flow. In saying that, the existing dam and its associated fish pass is designed to continually pass a minimum flow of water for both operational and ecological purposes which (taken from the final design report for the dam) would appear to exceed the allocable flow of the Wainui Stream. This requirement is combined with the proposed conditions on the water takes that continues the requirement to maintain the level of Lake Taharoa above RL8.53m, which is the minimum lake level required to ensure that sufficient flow is available in the Wainui Stream upstream of the dam while water is being taken for ship loading purposes.”

Without derogating from my view expressed above, given that WRC appear to be considering whether or not to publicly notify the overall suite of applications based on the calculated water allocation matter, there are in my view two limbs that need to be considered as follows:

(i) Competing demands for the water in the Wainui Stream

One of the matters to be considered in regards to allocation is access to the resource for other users (ie would the takes sought by TIL lock other potential abstractors out of being able to access the water resource). In

this case there are no other consented water takes on the Wainui Stream, and there is no credible chance of any other takes being sought by any other party in the future. This is because the full length of the Wainui Stream is contained within the 300+ha Taharoa C Block, which is owned by the Taharoa C Incorporation. Taharoa C Incorporation in turn is a majority owner of Taharoa Ironsands Ltd, the applicant for the replacement consents sought. All of this means that there are no other existing take holders, or applicants for water take, that might be adversely affected by the take sought by TIL. I note that the water supply for Taharoa Village comes from a groundwater take on the edge of the village, the consent for which is also held by TIL.

(ii) *Actual and Potential Adverse Effects of the takes*

The actual and potential adverse effects of the water takes sought by TIL have been assessed in the technical reports that form part of the application as being minor. The assessment of effects does not change when a policy driven and somewhat artificial WRP water allocation lens is placed on the water takes sought. Thus the threshold for public notification (adverse effects more than minor) is not met. No additional persons other than those already identified as being affected for the purposes of limited notification are entrained by a consideration of allocation – those already identified parties including hapu, iwi (both Ngati Maniapoto and Waikato-Tainui), the Lakes Trustees, the Department of Conservation, and landowners and occupiers adjoining the Taharoa C Block.”

Lastly, should WRC (inappropriately) seek to factor WRP water allocation policy matters that into the notification assessment, WRC should give due weight to the advice provided by its own Senior Water Advisor Mr King that “it is pretty difficult if not impossible to say that there is ‘over-allocation’ or that the catchment is ‘over-allocated’ “in terms of the NPS-FM”. While the initial advice from Mr King also highlighted the WRP policies that seek to limit the grant of consent where allocable flows are sought to be exceeded, WRC should also give equal weight to the WRP water allocation policy provisions that provide support for the takes sought, in particular clauses 3.3.1f), 3.3.2f), 3.3.1 Policy 1 l), 3.3.1 Policy 11 i), k), o), and Policy 15a)v).”

I concur with the analysis provided by Mr Eccles above.

The relevant WRP provisions referred to above have not been changed or superseded between the date of the WRC section 42A report and the present day. The water takes sought by TIL through the current Substantive Application under the Fast Track process match those sought (and approved) through the RMA process. Accordingly, the above analysis can continue to be relied upon to address Mr Kelsey’s query and the comment from the Department of Conservation.

4 Concluding statement

Having considered the comments received from the invited parties and the attached technical responses, I remain of the opinion that the Application should be approved, subject to the amended conditions proposed in this report.

The responses provided demonstrate that the key issues raised by the invited parties have either been addressed through existing assessments, further technical clarification, or refinements to the proposed conditions. In many cases, the matters raised relate to effects that have already been extensively considered by TIL’s technical consenting team, through the RMA consenting process and their assessments / reporting for the substantive application.

The evidence before the Expert Panel confirms that the environmental effects of the mining and export activities can be appropriately avoided, remedied, mitigated or offset through the proposed

conditions and management plans. The conditions proposed strike an appropriate balance between managing environmental effects and ensuring that the requirements are no more onerous than necessary to address those effects. The Taharoa mining and export operation is a long-established activity of significant regional and national importance. It provides substantial economic, social, and community benefits, including employment, export earnings, royalty payments, and ongoing support for the Taharoa community and landowners. These benefits will continue to accrue over the life of the project, while the environmental effects will remain subject to the controls, limits, and adaptive management measures proposed.



In my view the adverse effects of the proposed activities are not disproportionate to the extremely significant benefits that will be derived from the continuation of the mining operation. The environmental effects have been comprehensively assessed and will be appropriately managed through the proposed conditions. Any residual adverse effects, when considered in the context of the proposed safeguards and management regime, are not out of proportion to the significant economic, social, and community benefits that the mine will continue to provide at the national, regional and local level.

For these reasons, and having regard to the purpose and decision-making framework of the FTAA, I consider that the application satisfies the relevant statutory tests and that approval of the applications and associated authorisations subject to the proposed conditions is appropriate.

5 Applicability

I understand and agree that this report will be used by the Fast-track Expert Panel appointed by the Environmental Protection Agency in undertaking its regulatory functions in connection with Central and Southern Block Mining Project [FTAA-2512-1153].

Tonkin & Taylor Ltd

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