

Before the Fast-track Panel

Under: The Fast-track Approvals Act 2024
In the matter of: FTAA- 2605-1238 Barrytown Minerals Project

Statement of advice Murray Brass
Planning
Senior RM Planner
25 September 2026



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

Introduction

1. My full name is Murray John Brass.

Instruction

2. I am providing expert advice on behalf of DOC on the Barrytown Minerals Project – Fast-track application.

Qualification and Experience

3. I am employed by the Department of Conservation (DOC) in Dunedin as a Senior RMA Planner. I have worked for DOC since 2019.
4. Prior to this I have over twenty years' experience in resource management, including senior and management roles in both consenting and plan development. This includes eight years as a Consents Officer and Senior Consents Officer at the Taranaki then Otago Regional Councils, nine years as Planning and Environment Manager at the Clutha District Council, and four years as Resource Planner / Policy Advisor at the University of Otago.
5. My experience relevant to the current process includes:
 - (a) Seventeen years' experience of processing the full range of permits for district and regional councils, including as reporting officer for non-notified and notified applications, and as senior officer at hearings.
 - (b) Nine years' also managing the overall planning function for the Clutha District Council, including consent processing, plan changes, council processes, and monitoring and reporting.
 - (f) In my role with DOC, providing planning input into policy statement, plan and consent processes around the country, including preparation of submissions, appearance at council and Environment Court hearings, expert witness conferencing and mediation.
 - (g) I hold a Bachelor of Science degree (Geology) and a Diploma for Graduates (Ecology / Environment), both from the University of Otago.
6. I am a Full Member of the New Zealand Planning Institute.
7. I record that I undertook a site visit on 11 August 2026.

Code of conduct

8. Whilst it is acknowledged this is not an Environment Court Proceeding; I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in the preparation of this advice. Unless I state otherwise, this assessment 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 I express.
9. For the avoidance of doubt, in providing this evidence as an expert witness in accordance with the code, I acknowledge that I have an overriding duty to assist the Panel impartially and independently on matters within my area of expertise. The views expressed are my own expert views, and I do not speak as a representative of the either DOC or the Director-General of Conservation (DG).

Scope of advice and expert opinion

10. My expert advice will address the following matters:
 - a) Statutory framework;
 - b) Assessment of effects;
 - c) Relationship with consent for Wet Concentrator Plant; and
 - d) Proposed consent conditions.

Sources

11. In preparing this advice I have reviewed:
 - a) Barrytown Minerals project substantive application;
 - b) Section 51(2)(c) wildlife approval report;
 - c) Section 51(2)(d) archaeological authority report; and
 - d) Statements of advice on behalf of DOC from technical experts Dr Elizabeth Parlato (avifauna), Roland Payne (wetlands), Dr Richard Storey (stream ecology) and Jacqui Wairepo (lizards).

Statutory Framework

12. The statutory framework for this application has been addressed in the substantive application, in particular in sections 11 and 12 of the application, and

Appendices L4 (Ecological Effects Assessment), L11a (Statement of Evidence – N.Costley), N (Rules Assessment) and O (Planning Assessment).

13. I generally agree that the correct statutory provisions have been identified, so I do not repeat that assessment here. Where I have a difference of opinion about how those statutory provisions should be applied, I address that below.
14. I note that a number of additions and amendments have been made to national direction under the Resource Management Act 1991 (RMA) since the application was prepared¹. However, I do not consider that any of these affect the assessment of this application.
15. I also note that mediation is currently under way on appeals on the proposed Te Tai o Poutini Plan (TTPP). Some matters have now been resolved through consent orders and others are in process, but to my knowledge none of those would have a bearing on this application.

Assessment of effects

16. The application included assessments of effects on ecological and conservation values, and these have been reviewed by technical experts for DOC. I outline below key planning provisions I consider are relevant to assessing those effects, and other relevant matters for the Panel's consideration.
17. I note that updated ecological material was provided to DOC by the Applicant's consultant on 24 September 2026. However, this did not provide sufficient time for technical experts to review that material and update their reports in time for me to then update these comments. My comments, and the comments of technical experts I refer to, are therefore based on the documentation as included in the substantive application.

Lizards

18. The application includes an Ecological Effects Assessment and Lizard Management Plan (LMP), both prepared by ecoLogical Solutions Limited. The avifauna information in those documents has been reviewed for DOC by Ms Jacqui Wairepo.
19. Ms Wairepo identifies failings in the application documents, including likely mis-identification of lizard species and underestimation of the habitat values of the site.

¹ See <https://environment.govt.nz/news/rma-national-direction-updated/>

20. Ms Wairepo also has concerns about the proposed methods for capture and release of lizards.
21. Given the concerns raised by Ms Wairepo, I consider that effects on lizards are not yet adequately addressed, and the Panel should require the Applicant to provide the latest revision of the LMP before considering effects on lizards. I note that it would also be appropriate to give DOC an opportunity to respond to the updated material at that time.

Avifauna

22. The application includes an Ecological Effects Assessment and Avian Management Plan (AMP), both prepared by ecoLogical Solutions Limited. The avifauna information in those documents has been reviewed for DOC by Dr Elizabeth Parlato.
23. Dr Parlato considers that while some of the proposed measures are suitable to address effects on avifauna, additional measures are required. It appears that some of her concerns can be addressed by updated consent conditions - temporary loss of wetland habitat, and consultation with DOC in preparation of the Avian Management Plan (AMP). However, a number of concerns remain:
- a) The proposed mining activities have the potential to affect a wider range of protected avifauna than currently identified in the AMP;
 - b) Management of effects on breeding birds relies heavily on deterrence to prevent nesting within the area to be mined over the breeding season; the effectiveness of which is uncertain;
 - c) There is no protection proposed for nests of Threatened or At Risk species located where the mining activity will reach before the chicks fledge, or for any nests of Not Threatened native species; and
 - d) The AMP does not include targeted searching for grounded Westland petrel on nights where equipment repairs are required or there are other unforeseen events requiring light at night.
24. I consider that these are all relevant matters, and will need to be included in the Panel's overall assessment of adverse effects.
25. In particular, I note that the entire site is within the Coastal Environment (as mapped in the TTPP), so Policy 11 of the New Zealand Coastal Policy Statement (NZCPS) applies. This requires, *inter alia*, that all adverse effects on Threatened and At Risk species are to be avoided. While this Policy is not determinative in its own right for decision-making under the FTAA, the NZCPS is a relevant

matter to consider under s81(2)(b) and Schedule 5 cl17 of the FTAA. I consider that, unless it is inconsistent with the FTAA's purpose or the requirement for conditions to be "no more onerous than necessary" (s83), the conditions of consent should therefore seek to ensure that effects on Threatened and At Risk species are avoided.

26. The two key outstanding issues in this regard are impacts on nests in the path of the mine, and the risk of tāiko being disoriented by lighting and grounded.
27. At this stage, the Applicant is not proposing any measures to avoid nests if they are in the path of the mine. This means that if deterrent measures are not effective for Threatened or At Risk species (e.g. banded dotterel, oystercatchers, pipits), then there would be inevitable loss of their nests / hatchlings, and effects on NZCPS Policy 11(a) values.
28. For tāiko, given that some ground searching is now proposed, I would recommend that an addition be made to also trigger searching on nights when lighting is required for unforeseen circumstances. This would help ensure that if effects do occur, they can be detected and responded to.
29. Dr Parlato also recommends a range of other amendments and additions to the conditions, and I consider these would also be appropriate.

Wetlands

30. Wetlands were also assessed in the Ecological Effects Assessment. However, Mr Payne raises a number of concerns with the methodology used to classify wetlands and assess their values. He considers that the application significantly underestimates the total area of natural inland wetland.
31. He also considers that avifauna and fish values of wetlands were not adequately considered in the Ecological Effects Assessment. Mr Payne considers that the ecological values of the wetlands should be considered as 'high' or 'very high', and that they would meet the criteria for ecological significance in the West Coast Regional Policy Statement (WCRPS).
32. The combined effect, based on Mr Payne's review, is that both the extent and the values of wetlands on the site are greater than assessed in the application.
33. I consider that the key relevant planning provision in this regard is Policy 6 of the National Policy Statement for Freshwater Management (NPS-FM):

"There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted".

34. Policy 6 of the NPS-FM is given further definition by the subsequent addition (as required by NPS-FM 3.22) of Policy 6.3.6 in the West Coast Regional Land and Water Plan, which requires that the loss of river extent and values is avoided unless, in the case of regionally or nationally significant mineral extraction, there is a functional need for the activity in that location, and the effects of the activity are managed by applying the effects management hierarchy. It is not clear that the effects management hierarchy has been applied in this case, or that the proposed compensation meets the principles for compensation in the NPS-FM.
35. As the existing wetlands will inevitably be lost to mining, the proposed effects management approach is to construct replacement wetland habitat (as set out in the Rehabilitation Management Plan). However, as Mr Payne points out, the replacement habitat will not provide ecological benefits until some time after existing wetland habitat is lost, and the total area of wetland appears to be smaller than the total area to be lost. Mr Payne recommends that further work is required to ensure that the rehabilitation package is commensurate with the loss of wetland extent and values, and that conditions are modified to ensure that existing wetlands are retained while they can be and that the bond is adequate to cover the ecological rehabilitation.
36. I consider that those measures proposed by Mr Payne are appropriate – they would give effect to the NPS-FM, while still being consistent with the purpose and provisions of the FTAA.

Freshwater

37. The site contains a number of watercourses and artificial drains, which are described in the Ecological Effects Assessment and addressed by Dr Storer.
38. Significantly, three Threatened – Nationally Vulnerable fish species, and six At Risk fish species, were found to be present. Dr Storey consider that the presence of these species would rate the ecological value of the fish fauna as 'very high'. Given that, I consider that the following provisions of the WCRPS are particularly relevant:

Objective 7.2 "Protect significant indigenous vegetation and significant habitats of indigenous fauna."

Policy 7.2 "Activities shall be designed and undertaken in a way that does not cause:

... d) A reasonably measurable reduction in the local population of threatened taxa in the Department of Conservation Threat Classification Categories

1 – nationally critical, 2 – nationally endangered, and 3a – nationally vulnerable”.

39. My understanding is that a total of 3.83 kilometres of existing stream will be diverted and replaced with 4.35 kilometres of reconstructed stream.
40. Also relevant is Policy 7 of the NPS-FM:
- “The loss of river values and extent is avoided to the extent practicable”.*
41. Policy 7 of the NPS-FM is given further definition by the subsequent addition (as required by NPS-FM 3.24) of Policy 7.3.8A in the West Coast Regional Land and Water Plan, which requires that the loss of river extent and values is avoided unless there is a functional need for the activity in that location, and the effects of the activity are managed by applying the effects management hierarchy. It is not clear that the effects management hierarchy has been applied in this case.
42. As for Policy 11 of the NZCPS as discussed above, I consider that, unless it is inconsistent with the FTAA's purpose or the requirement for conditions to be “no more onerous than necessary” (s83), the conditions of consent should therefore seek to ensure that effects on Threatened and At Risk fish, and on river values and extent, species are avoided.
43. Dr Storer raises a number of concerns regarding effects on water quality and water quantity, and provides recommendations for addressing those effects – including revising discharge limits and threshold values, adding performance measures, and various amendments to conditions.
44. Given the freshwater values potentially affected, I support the recommendations made by Dr Storey, and consider that they would improve consistency with the WCRPS and NPS-FM.

Proposed consent conditions

45. Following lodgement of the substantive application, TCM has continued to engage with DOC, which has included discussion of consent conditions. This has resulted in agreement on a number of amendments to the proposed conditions. These are set out in Appendix F.
46. Those agreed amendments have reduced the matters that remain at issue. For the matters which are still unresolved, my assessment is as follows:

Condition 13.1 Avian Management

47. The proposed condition covers measures to deter bird breeding or nesting activity where this would be within the mine path, but does not address response

measures if breeding / nesting does occur. Similarly, the AMP does include measures to protect nests from disturbance where they can be left in situ but does not address circumstances where that is not possible.

48. TCM's response indicates that they will rely on surveys and deterrence measures, but that if nesting does occur, they will be unable to alter to manoeuvre the mine path to avoid the nests i.e. the nests will; be destroyed.
49. It appears that this potential for destruction of nests has not been assessed in the application. The Ecological Effects Assessment (section 9.2.2) assesses the effects of vegetation clearance in terms of loss of habitat and recognises that vegetation clearance can also result in direct mortality of nesting birds but does not assess the effects of that mortality.
50. I consider that, although the likelihood of mortality occurring may be low (provided that surveys and deterrence measures are effective), the effects could be significant if eggs or hatchlings of Threatened or At Risk species are killed.
51. I understand that this issue is also raised and to be addressed under the application for Wildlife Approval². I therefore do not make any conclusion at this stage but consider that the Panel should ensure that the resource consent conditions are consistent with the approach decided for the Wildlife Approval.

Condition 13.3 and 13.4 Westland petrel

52. TCM has proposed precautionary ground searches for Westland petrel / tāiko around the active mining area and roading, and specified response requirements if grounded tāiko are found. I support this addition as an appropriate response for an At Risk species.

Condition 16.15 Pest control

53. In consultation discussions with TCM, DOC raised concerns that there was no provision for predator control. TCM proposed an additional condition (16.15) to include predator control at the constructed wetland. I support this addition but note that it does not address predator control at the lizard release site.

Condition 7.6 Wetland protection

54. In consultation discussions with TCM, DOC also raised concern that existing wetlands should be protected until the restoration wetland is in place, to provide continuity of habitat for wetland species including crake and bittern.

² see DOC s51 report sections 6.9 and 6.10

55. In response, TCM proposed an additional condition (7.6), which would require that existing wetland areas outside the mining path be protected, as far as practicable, until the proposed wetland has been constructed.
56. I support this addition, subject to any changes in response to matters raised by Mr Payne regarding the extent of the restoration wetland and the coverage of restoration by the bond.

Conclusions

57. I consider that the further discussions with the Applicant and proposed amendments to conditions have narrowed the matters that remain unresolved.
58. The key unresolved issues in my opinion relate to:
- a) Management of lizards – subject to updated LMP;
 - b) Avoiding effects on Threatened and At Risk bird species (protection of nests, and measures if night lighting is required);
 - c) Avoiding loss of wetland extent and values, including through conditions relating to the timing and design of the wetland restoration;
 - d) Protecting freshwater values and extent, including through addressing concerns for water quality and quantity.
59. The late provision of updated ecological information means that some of these matters may also be resolved or narrowed, but I am unable to confirm this at this time. I remain available to update my comments once technical experts have been able to review that further information.



Murray Brass

DATED this 25th day of September 2026