

In the matter of an application for approvals under the Fast Track Approvals Act 2024

By **Tāiko Critical Minerals Limited**

Applicant

Legal considerations on behalf of Tāiko Critical Minerals Limited

24 April 2026

Applicant's solicitor:

Alex Booker

Anderson Lloyd

Floor 2, The Regent Building, 33 Cathedral Square, Christchurch 8011

PO Box 13831, Christchurch 8141

DX Box WX10009 Christchurch

p + 64 3 379 0037

alex.booker@al.nz

**anderson
lloyd.**

Introduction

- 1 These legal considerations are provided on behalf of Tāiko Critical Minerals Limited (**Tāiko** or **Applicant**) for its substantive application for approvals under the Fast-Track Approvals Act 2024 (**FTAA**) to undertake mineral sands mining on the Southern Block of the Barrytown Flats (**Application, Project**).
- 2 The Applicant has provided detailed information in the Application and supporting attachments. The considerations below are high-level and introduce key considerations to assist the Panel.

Approvals required

- 3 The Applicant is seeking all necessary approvals required for the Project under the FTAA. This includes:
 - (a) all necessary resource consents that would otherwise be applied for under the Resource Management Act 1991 (**RMA**). Overall, resource consent is sought for the Project as a discretionary activity;
 - (b) a wildlife permit that would otherwise be applied for under the Wildlife Act 1953 (**Wildlife Act**); and
 - (c) an archaeological authority that would otherwise be applied for under the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**).
- 4 The Project includes a standard freshwater fisheries activity¹, but is assessed as not requiring an approval or a dispensation that would otherwise be applied for under Regulations 42 or 43² of the Freshwater Fisheries Regulation in respect of a complex freshwater fisheries activity³.
- 5 This memorandum addresses:
 - (a) Scope of the Application and staging of the Barrytown Minerals Project;
 - (b) Legal framework for Listed Projects for the Approvals required;
 - (c) How existing resource consents held by the Applicant fit with the Project;

¹ Section 13(4)(y)(vi) FTAA.

² Relating to impeding the passage of fish in a constructed culvert or ford, or a dam or diversion structure proposed to be built.

³ Also confirmed in the Statement of Evidence of Richard Montgomerie, Appendix L4B, at para 23.

- (d) The important policy and environmental context applying to the Project;
- (e) Whether the modified creek diversions are to be considered as a reclamation of a bed of a river;
- (f) The functional need of the activity to be located in the area proposed for disturbance;
- (g) Temporary occupation of paper road;
- (h) Management plans under the RMA; and
- (i) Conclusion.

Scope of the Application

The Application is a stage of the Barrytown Minerals Project

- 6 The Application relates solely to the Barrytown Minerals Project in Schedule 2 of the FTAA⁴, and is for a specified stage. The Applicant applied on 31 March 2026 under section 37A FTAA for a determination that it could lodge a separate substantive application for a specified stage of its Schedule 2 Project (**Project**) and received a positive determination on 15 April 2026⁵. Copies of the Application and Determination are in **Appendix B** of the Application.
- 7 The Minister for Infrastructure was satisfied that the Southern Block meets the criteria in section 22 of the FTAA. In particular, relying on the sane economic assessment and supporting evidence included in this application, the Project was found to:
 - (a) deliver significant regional and national benefits, including alignment with the Minerals Strategy for New Zealand to 2040, substantial economic benefits (including GDP, export revenue, employment, and royalties), and support for the long-term development of New Zealand's mineral resources;
 - (b) be capable of being processed more efficiently and cost-effectively under the fast-track regime than under standard consenting processes, due to streamlined timeframes and the appointment of a single panel; and

⁴ Section 46(2)(b) FTAA.

⁵ Note the letter incorrectly records the date as 15 April 2025.

- (c) not materially impact the efficient operation of the fast-track system, as the project is not novel or significantly different to the type of project a panel might typically consider through existing approval pathways.

Legal framework – Listed Projects

- 8 The Panel must assess the Application using the current version of the Fast-Track Approvals Act 2024. This includes the amendments incorporated as part of the Fast-track Approvals Amendment Act 2025 which are now all in force.
- 9 The FTAA sets out the legal framework for a listed project, and the required information has been included in the Application. A short summary of key considerations is set out below.

Resource consents

- 10 Under section 81(3) of the FTAA, the Panel needs to make a resource consent decision in accordance with the process set out in clauses 17 to 22 of Schedule 5 to the FTAA. Clause 17 is the key decision-making clause. The Parts of the RMA referred to in clause 17(1)(b) of Schedule 5 which direct decision making on an application for a discretionary activity resource consent are:
 - (a) Sections 5, 6 and 7.
 - (b) Sections 104 and 104B which set out the decision-making framework for discretionary activity consent applications, noting that section 83 FTAA sets out when the Panel must or may decline approvals.
 - (c) Sections 105 and 107 which relate to consent applications for discharge permits.
 - (d) Sections 108 to 108AA which set the framework for conditions of consent. Noting that the discretion to impose conditions is limited by the directive in section 83 FTAA which states that conditions must be no more onerous than necessary.
- 11 These matters are addressed in the Application and attachments.

Standard Freshwater Fisheries Activity

- 12 Tāiko is carrying out activities that meet the definition of a standard Freshwater Fisheries Activity in the FTAA. This requires additional information to be provided in accordance with Schedule 5 to the FTAA (refer

clauses 4A and 9). This information has been addressed in the Application and attachments.

- 13 Section 19 FTAA sets the framework with respect to any additional conditions the Panel may impose with respect to these activities.

Wildlife Approval

- 14 In accordance with section 81(3) of the FTAA the Panel needs to make a wildlife approval decision in accordance with the process set out in clauses 5-6 of Schedule 7 to the FTAA. The Panel may impose any conditions under clause 6 of Schedule 7 FTAA.
- 15 The Application and supporting Wildlife Act Authorisation Technical Report⁶ contains all the necessary information and requirements prescribed by the FTAA⁷.
- 16 As set out in the Application:
- (a) The Project will result in significant regional and national benefits and is consistent with the purpose of the FTAA⁸.
 - (b) The primary purpose of the Wildlife Approval is for protection of wildlife from mortality or physical injury associated with vegetation clearance and other mining activities, consistent with the purpose of the Wildlife Act.

Archaeological authority

- 17 The Project area was extensively dredged and modified in the 1930s and 1940s and then humped and hollowed for farming purposes throughout the 1980s. These areas may contain redeposited archaeological material not in situ. Outside the historically dredged area, the subsurface remains intact and may contain artefacts.
- 18 The activity of removing topsoil and overburden and mining the sand, means that any potential, unrecorded archaeological sites within the mine disturbance area will be destroyed. An archaeological authority is therefore sought to modify or destroy any archaeological sites (if any), whether recorded or not⁹, in accordance with the HNZPTA.

⁶ Application, Appendix L12.

⁷ FTAA, schedule 7, clause 2.

⁸ Application, Part 1, Section 4.

⁹ There are two recorded archaeological sites within the Southern Block but no evidence of these recorded sites was able to be located by the Project archaeologists.

- 19 In accordance with section 81(3) of the FTAA, the Panel needs to make an archaeological authority decision in accordance with the process set out in clauses 4 and 5 of Schedule 8. The Panel may impose any conditions under clause 5 of schedule 8 FTAA. These matters are addressed in the Application and attachments.
- 20 As set out in the Application:
- (a) The Project will result in significant regional and national benefits and is consistent with the purpose of the FTAA¹⁰.
 - (b) An archaeological assessment of the Southern Block has been carried out (see Appendix L9 of the Application). The Project has been assessed against the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**) and, with the proposed conditions, is consistent with the HNZPTA purpose to promote identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage, and associated principles.
 - (c) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga was considered. Te Rūnanga o Ngāti Waewae was provided a copy of the archeological assessment and did not consider a separate Māori values assessment was necessary in this instance. Ngāti Waewae was satisfied that the Project proposed an Accidental Discovery Protocol which provides an appropriate and practical mechanism to manage such discoveries consistent with tikanga Māori¹¹.
 - (d) Specific consent has been provided in relation to any conditions of consent imposed by an archeological authority (as well as the other approvals) by all landowners in their letters of support at Appendix J2 of the Application.

Obligations relating to Treaty Settlements and recognised customary rights

- 21 The Panel must consider whether granting the approvals would comply with section 7 FTAA¹². There are no live section 7 issues¹³. Ngāti Waewae's (and Te Rūnanga Ngāi Tahu) relationship with te taiao (the environment) and their role as Kaitiaki is acknowledged. This relationship has been

¹⁰ Application, Part 1, Section 4.

¹¹ Refer letter dated 7 April 2026, Appendix F.

¹² Section 82 FTAA.

¹³ Application, Section 3.12.

meaningfully considered through engaging with mana whenua, and their technical experts, for a period of six years. Ngāti Waewae is in support of the Project. Ngāi Tahu also supports the resourced, direct engagement with Ngāti Waewae and the project adopting conditions that are codesigned with Rūnanga to protect Ngāi Tahu values¹⁴.

Weighing and assessment criteria (for all approvals)

- 22 The Panel must take into account (i.e. there is an obligation to consider it) matters listed in the Schedules as set out above, giving the greatest weight to the purpose of the FTAA. In terms of weighing those other factors against the purpose, the approach of the expert panels in *Waihi North*¹⁵, *Bledisloe North Wharf*¹⁶ and *Waitaha*¹⁷ should be applied. That is each matter should be assessed individually uninfluenced by the purpose of the FTAA, before standing back and conducting an overall balancing where the purpose of the FTAA is to be given the greatest weight.
- 23 As noted earlier, the Project is part of a listed project and has received a determination from the Minister of Infrastructure that it will deliver significant regional and national benefits. The purpose of the FTAA is to facilitate the delivery of development projects with such benefits.

Existing resource consents held form part of the existing environment

- 24 The Application seeks authorisations for mining activities on the Southern Block. The first stage of the Barrytown Minerals Project is already authorised and is ready to proceed. Tāiko holds resource consents for mining of a block north of the Application site (the **Central Block**), a separate wet concentrator plant (for initial processing) (**WCP**); and a mineral separation plant (**MSP**) at Rapahoe (for secondary processing of heavy mineral concentrate). The resource consents for these activities are in **Appendix H** of the Application.
- 25 Unimplemented resource consents do not automatically form part of the existing environment – they are subject to the 'likelihood test' outlined in *Queenstown Lakes District Council v Hawthorn Estate Limited (Hawthorn)*. Whether an unimplemented resource consent is considered part of the environment depends on the likelihood of that resource consent being implemented¹⁸. The Environment Court has since found that "likely" means

¹⁴ Application, Appendix F (refer to letters from Ngāti Waewae, and Te Rūnanga o Ngāi Tahu).

¹⁵ *Waihi North Decision*, 18 December 2025, Part G, at [4].

¹⁶ *Bledisloe North Wharf and Fergusson North Berth Extension Decision*, 21 August 2025, at [121].

¹⁷ *Waitaha Decision*, 17 April 2026, at [155].

¹⁸ *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] 12 ELRNZ 299, at [84].

"more likely than not"¹⁹. The Application confirms the consented activities will proceed for the Barrytown Minerals Project²⁰ and as such they form part of the existing environment from which to assess effects.

- 26 The Project is designed to ensure compliance with the existing consents held for the WCP and MSP will be achieved, including:
- (a) The WCP Consent for the Southern Block area includes lighting and capacity restrictions, staff transportation and heavy vehicle restrictions (movement limits, number limits and restrictions during school hours) and a Transport Management Plan – see LU3473/25, LU3489/25, conditions 74-81).
 - (b) While pre-mining construction works and post-mining final rehabilitation may occur concurrently between stages, mining activity will not occur concurrently with the Central Block (Application proposed condition 1.1). While a WCP was also consented on the Central Block, only one WCP may operate at any one time (RC-2025-0170-01, Condition 1).
 - (c) A new water take (Canoe Creek) has been applied for in this Application (for the Southern Block WCP) but will not be taken concurrently with the 12-year water take consent granted for the Central Block WCP, reflecting that these blocks will be mined separately (WCRC-2023-0046) (Proposed condition 29.8).
- 27 Where appropriate, proposed conditions of consent are consistent with the existing resource consents²¹, bearing in mind that the Central Block was for a different mining technique (i.e. dry mining) and included important wetlands and habitats for birds outside of the mining footprint (but within the application site), which is not applicable to the Southern Block.²²

¹⁹ *Burgess v Selwyn District Council* [2014] NZEnvC 11, [74] and [79]; affirmed in *Otway Oasis Society Inc v Waikato Regional Council* [2020] NZEnvC 169 at [15].

²⁰ Application Sections 1.11 and 6.11.

²¹ Application Section 6.123.

²² Application, Appendix F – Ecological Solutions Memorandum (Response to feedback from consultation with the Department of Conservation).

Project policy context

- 28 Relevant policy statements and plans are fully assessed in the Application²³. The policy and site context is important for the Project and key aspects are highlighted briefly to assist the Panel.
- 29 The Barrytown Flats, located approximately 9km south of the Punakaiki Township and 36km north of Greymouth to the West of State Highway 6, contain a world class deposit with a unique mineral suite that produces two core product streams, ilmenite and garnet, and two by-product streams, zircon and gold. These minerals have rising international demand as countries move to a low emission carbon economy and produce more renewable energy²⁴.
- 30 Mining is an important industry for the Grey District and the wider West Coast region. It accounts for 3.7% of the Grey District GDP in 2025, and 7.9% of the West Coast region GDP in 2025, compared with 0.7% for the national economy²⁵.
- 31 Nationally, the potential opportunity for the West Coast to deliver economic benefits and position New Zealand as a sustainable producer of in-demand minerals has been recognised. A Minerals Strategy for New Zealand to 2040 was delivered last year²⁶, along with a critical minerals list²⁷ which includes minerals sought to be recovered as part of this project: ilmenite, garnet and gold. The Strategy contains a vision for a responsible and sustainable minerals sector and seeks to *double* the value of New Zealand mineral exports to \$3 Billion over the next 10 years, including by realising new and critical mineral opportunities. West Coast is explicitly recognised in the Strategy for extracting gold and heavy mineral sands (titanium, garnet, zircon).
- 32 Growth from mineral resources is also a local vision. Te Whanaketanga Te Tai Poutini West Coast 2050 Strategy (a collective community commitment supported by all local authorities and mana whenua) identifies the competitive advantage the region has in the mining sector and in natural resources which can be utilised to support the regenerative economic future, while protecting the environment for future generations²⁸.

²³ Application, Appendix O.

²⁴ Application Section 3.2.

²⁵ Application, Appendix L1, paragraph 9.

²⁶ A Minerals Strategy for New Zealand to 2040, see [here](#).

²⁷ A Critical Minerals List for New Zealand, January 2025, see [here](#).

²⁸ Te Whanaketanga Te Tai Poutini West Coast 2050 Strategy, page 14, see [here](#).

33 The West Coast Regional Policy Statement (**WCRPS**), a second generation statement:

- (a) identifies that the West Coast is rich in its level of remaining indigenous biological diversity – having 84% of its land under the control of the Department of Conservation (**DOC**). In a national context, this is one quarter of all protected land in Aotearoa. In addition, there is roughly 40,647 km of streams and rivers in the region, of which 33,094 km (81%) are in DOC managed lands. This is 10% of the total length of rivers in Aotearoa²⁹.
- (b) seeks to protect the coastal environment and indigenous biological diversity *and* provide for appropriate development to enable people and communities to maintain or enhance their economic, social and cultural wellbeing³⁰. The WCRPS states that minerals like ilmenite and garnet will be used in future to provide for people's economic wellbeing and development³¹. New activities near land with "significant mineral resources" are sought to be managed to preserve the ability to use these resources³².
- (c) seeks to protect the natural character of the regions wetlands, lakes and rivers and their margins from inappropriate use and development *and* provide for appropriate use and development to enable people and communities to maintain or enhance their economic, social and cultural wellbeing³³.
- (d) seeks to protect the regions outstanding natural features and outstanding natural landscapes from inappropriate use and development *and* provide for appropriate use and development on, in or adjacent to the outstanding natural features and outstanding natural landscapes to enable people and communities to maintain or enhance their economic, social and cultural wellbeing³⁴.

34 At a local level, the Project is on highly modified farmland, and zoned rural where mining is expressly anticipated to occur in both the Grey District Plan (**GDP**) and the Te Tai o Poutini Plan (**TTPP**). The decisions version of the

²⁹WCRPS, page 25, see [here](#).

³⁰ Objective 9.1 and 9.2, Chapter 9 Coastal Environment WCRPS.

³¹ Background to the issues, Chapter 9 Coastal Environment WCRPS.

³² WCRPS, p56 - **Significant mineral resource**, for the purpose of Chapter 5 Use and Development of Resources Policy 2(b)(i), means the monetary value of the mineral resource is significant to the local community, and employment is created in extracting the resource, based on the latest information available about the resource at the time.

³³ Objective 7A.1 and 7A.2, Chapter 7A Natural Character.

³⁴ Objective 7B.1 and 7B.2, Chapter 7B Natural Features and landscapes.

TTPP (under appeal³⁵), which is the combined District Plan for the West Coast covering Buller, Grey and Westland districts, was notified on 10 October 2025 and now has legal effect. 36 appeals have been lodged, with all aspects of the TTPP relevant to the Project essentially being subject to appeals. Mineral Extraction is provided for in the TTPP strategic directions with an overarching objective of providing for "the use and development of the West Coast Mineral resources while *managing* effects on the environment³⁶.

- 35 The other relevant and important policy context is within the New Zealand Coastal Policy Statement (**NZCPS**), National Policy Statement for Indigenous Biodiversity (**NPS-IB**), National Policy Statement for Freshwater Management 2020 (**NPS-FM**) and WCRPS which seek avoidance of effects on threatened and at risk indigenous species³⁷; avoidance of loss of extent and values of natural inland wetlands and rivers except where there is a functional need for the activity in that location (for rivers)³⁸, and functional and operational need (for natural inland wetlands)³⁹; and the effects of the activity are managed by applying the effects management hierarchy⁴⁰.
- 36 The Project falls within the (conservatively assessed) coastal environment in the TTPP⁴¹. The NZCPS requires the adoption of a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown or little understood, but potentially significantly adverse⁴². The proposed conditions of consent supported by management plans reflect a precautionary approach particularly in relation to ecology and water quality.
- 37 The mining method has been implemented to maintain the hydrological functioning of the waterbodies surrounding the site and mining activities, and areas with the highest environmental value are avoided⁴³. Temporary waterway diversions will preserve the natural water flow in creeks and creeks will be re-established with at least the same extent and values, and in a more naturalised form after mining.

³⁵ 36 appeals have been lodged.

³⁶ Refer MIN-P1, TTPP.

³⁷ Policy 11 NZCPS.

³⁸ Clause 3.24(1) NPS-FM.

³⁹ Clause 3.22(1)(e) NPS-FM.

⁴⁰ Clause 3.22(1)(e) and Clause 3.24(1) NPS-FM. This also applies under Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**), reg 45D(6) and reg 57(2).

⁴¹ As can be seen in the Application (Section 5.9) the Coastal Environment has been assessed as including all of the rural land on the Barrytown Flats, SH6 and the vegetated hillside area of the Paparua ranges.

⁴² Policy 3, NZCPS. Precautionary approach confirmed in EclA, Appendix L4, p137.

⁴³ Statement of Evidence P Federici - Mine Planning at para 8 and 11.

- 38 With respect to the effects on terrestrial and aquatic ecology and wetlands, the species and habitats present, the specific location, nature and duration of the proposed activities and the actions proposed to avoid, minimise and remedy any effects, the short-term effects of the Project have been assessed as negligible, i.e., a barely distinguishable change which would have an negligible effect on the known population or range of the species and habitats present. In the medium to long term, the effects of the Project have been assessed as positive as there is a substantial increase in the extent and value of wetland, shrubland and forest habitats within the Project site, and the riparian vegetation will better connect the habitats than the pre-mining condition⁴⁴.
- 39 The EclA⁴⁵ and Planner⁴⁶ has assessed the proposed mining activities against the NPS-FM policies and confirmed the Project is consistent. The EclA confirms the Project has appropriately applied the effects management hierarchy and that the overall level of residual effects is such that offsetting and/or compensation are not required⁴⁷.
- 40 The NPS-IB commenced in August 2023, with its overarching objective to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss after commencement. The NPS-IB is directive in that certain effects on Significant Natural Areas (**SNA**) must be avoided⁴⁸ – noting there are exceptions to that requirement,⁴⁹ and that any other adverse effects on an SNA must be managed through the effects management hierarchy.⁵⁰ The mining disturbance area has been assessed as containing no SNA under the NPS-IB⁵¹, but it does have an adjoining SNA area (i.e PUN-049)⁵². The NPS-IB also, relevantly, directs that any significant adverse effects on indigenous biodiversity outside of an SNA must be managed by applying the effects management hierarchy,⁵³ with all other adverse effects on indigenous biodiversity managed to give effect to

⁴⁴ Application, Appendix L4, xv.

⁴⁵ Application, Appendix L4, xv.

⁴⁶ Application, Appendix L4, xv, Statement of Evidence N Costley at para 25, Appendix L11A.

⁴⁷ Application, Appendix L4, xv.

⁴⁸ Clause 3.10(2), NPS-IB.

⁴⁹ Clause 3.11, NPS-IB.

⁵⁰ Clause 3.10(3), NPS-IB.

⁵¹ For an area to be considered an SNA in the NPS-IB, by definition, the local authority must have incorporated it into a plan.

⁵² Application, Appendix L4, p11.

⁵³ Clause 3.16(1), NPS-IB.

the objectives and policies of the NPS-IB.⁵⁴ The EclA⁵⁵ and Planner⁵⁶ has assessed the proposed mining activities against the NPS-IB policies and confirmed the Project is consistent and that the overall level of residual effects is such that offsetting and/or compensation are not required⁵⁷.

Modified creek diversions to be considered as a reclamation of a bed of a river

- 41 Modified creeks within the mining disturbance area will be diverted during mining. The five diverted creeks (Northern Creek, Central Creek, Clarke Creek, Wasabi Creek and Southern Creek) will be re-established once extraction is complete along with more natural, meandering paths, instead of their straight and rectified channels, to enhance ecological and hydrological values while maintaining current catchment drainage patterns and ensuring no loss of extent⁵⁸.
- 42 While in practice this is referred to as a diversion, resource consents for reclamation of the bed of a river are sought pursuant to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**), given:
 - (a) Reclamation has the meaning given by the National Planning Standards 2019 (**NPS**) (noting divert or diversion is not defined in the NES-F or NPS);
 - (b) The definition of reclamation in the NPS catches the positioning of material on any part of a bed of a river, and this will likely occur in part in the reconstruction of the creeks when forming the meandering paths⁵⁹; and
 - (c) The NES-F requires a resource consent to be obtained as a discretionary activity for any reclamation of the bed of any river⁶⁰.
- 43 A resource consent application under the NES-F is required to demonstrate there is a functional need for the reclamation of the river bed in that location

⁵⁴ Clause 3.16(2), NPS-IB.

⁵⁵ Application, Appendix L4, p18.

⁵⁶ Application, Appendix L4, p18, Statement of Evidence N Costley at para 22(c), Appendix L11A.

⁵⁷ Application, Appendix L4, p18.

⁵⁸ Application, Sections 3.7, 5.23, 6.92.

⁵⁹ National Planning Standards 2019 (**NPS**), p. 62. Reclamation is defined as: the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area, and: (a) includes the construction of any causeway; but (b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land.

⁶⁰ NES-F, Regulation 57.

and that the effects management hierarchy has been applied. This is set out in the Application in detail⁶¹, with matters that may be of interest to the Panel with respect to functional need also set out below.

Functional need

- 44 The Project has a functional need to operate in a manner that removes any natural inland wetlands and moves any modified creeks within the mining platform on the dairy farm.
- 45 The mine planner explains:
- (a) The mining methodology has been designed to maintain the hydrological functioning of surrounding waterbodies, which has necessitated the use of a dredge with a closed loop mining methodology. This means that water is largely contained within the mining process whereby it travels between the mine pond and WCP by slurry pump⁶².
 - (b) The operation of the dredging system requires long smooth runs. The process has the dredge and pond moving forward in a linear way with pre-stripping and progressive rehabilitation⁶³. Turning corners, particularly sharply, is time consuming and more complex than moving straight forward. Turning the system is necessary at the end of each run, and this is minimised through longer north to south strips across the site. It necessitates a large width of area to move through and can only occur in the locations which are proposed on the Application Site⁶⁴.
 - (c) There is resource required to be recovered for the Project in the areas identified as natural inland wetlands⁶⁵, and creeks⁶⁶.
 - (d) Given the nature of the mineralised resource (width and depth), and the limited manoeuvrability of dredge mining, mining will need to proceed across creeks and wetland areas to recover the mineralisation below⁶⁷.

⁶¹ Application, from Section 11.69.

⁶² Statement of Evidence P Federici - Mine Planning, Appendix L2, para 11.

⁶³ Statement of Evidence P Federici - Mine Planning, Appendix L2, para 11.

⁶⁴ Statement of Evidence P Federici - Mine Planning, Appendix L2, para 12.

⁶⁵ Statement of Evidence P Federici - Mine Planning, Appendix L2, para 10.

⁶⁶ Statement of Evidence P Federici - Mine Planning, Appendix L2, para 9.

⁶⁷ Statement of Evidence P Federici - Mine Planning, Appendix L2, para 13.

- 46 The application of Regulation 45D NES-F (relating to whether or not a mining operation has a functional need to locate in or near a natural inland wetland) has been tested through two publicly notified consent hearings on the West Coast. In the *Independent Commissioners' decision on the application by TiGa Minerals and Metals Limited to mine at Barrytown (TiGa Decision)*⁶⁸ (i.e. the Central Block, or the first stage of the Barrytown Minerals Project), and in an unrelated *Project Mananui* decision⁶⁹ which was a similar dredge operation, but was located in proximity to a significant cultural wetland and significant ecological reserve. Copies of these decisions are linked in the footnotes.
- 47 In both cases, the Independent Panel was satisfied there was a functional need for the mineral sand mine to operate.
- 48 In *Project Mananui*, the Panel stated at paragraph [213] that:
- The proposal has a functional need to operate in a manner that removes the natural inland wetlands within the mining platform, as it is impossible for it to do otherwise and operate a mining system of the type designed to achieve avoidance of effects on adjoining ecosystems such as Tūwharewhare and Mahināpua Reserve. Due to the system's design and operational characteristics, it is impossible to navigate around the many wet areas in paddocks. Further, the minerals are located within the sand substrate of the farm.
- 49 While these decisions are not binding on the Panel, they are relevant as similar sand mining activities have been considered consistent with the relevant regulations and policies in the West Coast context. For completeness, it is noted that the NPS-FM and NES-F has since been amended to also except mining activities with an "operational" need (not just a functional need) to be in or near wetlands.
- 50 The reasoning in the Commissioner Decision provided for natural inland wetlands above equally applies to the functional need considerations for reclamation of rivers under the NES-F (i.e. the diversion and reinstatement of existing creeks).

⁶⁸ *Independent Commissioners' decision on application by TiGa Minerals and Metals Limited to mine at Barrytown*, Grey District Council LU3154-23, West Coast Regional Council RC-2023-0046, 29 April 2024. See [here](#).

⁶⁹ *Westland Mineral Sands v West Coast Regional Council and Westland District Council* (18 July 2025). See [here](#).

Temporary occupation of legal road

- 51 There are three legal roads which are located within the Application area and impacted by the Project. These can be clearly seen on the Site and Adjacent Landowners and Occupiers map at Appendix I3 of the Application:
- (a) To the North of allotment number 1 in the Application Area. In this area, a pipe (6-8 inches in diameter) will be used to convey water to the WCP from the Canoe Creek water take. While the pipe is proposed to cross the paper road it will not impede any public access in this area, and should access be impeded, the pipe can be buried⁷⁰.
 - (b) Within the Mining Disturbance Area cutting through allotment numbers 12 and 13 and within the Mining Disturbance Area in allotment number 16⁷¹. These paper roads are not formed and are located entirely within the current working farm and present physically as pastoral and vegetated land, containing creeks and farm tracks. The Project will only temporarily restrict legal access at the time these (currently unused) paper roads are being mined and alternative public access around the void will be provided by the Applicant.
- 52 The Applicant has agreed the outcomes to be achieved with GDC and is in the process of formalising a licence to temporarily occupy these areas.
- 53 There has been a recent Court of Appeal decision in *Ours Not Mines Ltd v Hauraki District Council*⁷² which provides clarity on the scope and limits of council powers to grant licences over unformed or “paper” roads. The limitations of the Council to grant licences discussed in that decision, such as the public right to pass and repass, remains the paramount consideration and can be achieved with this Project. Permanent restoration aspects (i.e. constructed wetlands) will not occur within the paper road areas.

Management Plans under the RMA

- 54 Proposed conditions of consent for all approvals are located at Appendix P of the Application.
- 55 Draft management plans have also been provided, which will be required to be certified by the relevant consent authority (post FTAA approvals being obtained) as part of the resource consent conditions, and complied with by the Wildlife Authority conditions.

⁷⁰ Application, Sections 6.69 and 6.136.

⁷¹ Application, Section 6.136.

⁷² *Ours Not Mines Ltd v Hauraki District Council* [2026] NZCA 138.

- 56 The conditions relevant to management plans are consistent with previous consent conditions granted by the consent authorities and case law. A management plan should serve the purpose of the RMA, and typically describe the methods and procedures to achieve the conditions of a consent:⁷³
- (a) consent conditions will usually provide they be developed by a suitably qualified expert;
 - (b) the consent authority (i.e. one consent authority) is to certify that the methods in the plan will achieve the outcomes stated in the conditions;
 - (c) the consent authority must require the consent holder to conduct their activities in accordance with the management plan; and
 - (d) conditions may provide that the management plan will be periodically reviewed.
- 57 In addition, relevant case law principles remain relevant. A resource consent condition must be for a resource management purpose, fairly and reasonably relate to the development authorised by the resource consent and not be unreasonable.

Conclusion

- 58 The Applicant has its roots in a joint venture between New Zealand investors and intends to work collaboratively with and deliver economic benefits and employment opportunities to the West Coast community (and Aotearoa) with minimised environmental impact. The Project has been assessed as delivering significant regional and national benefits. It is respectfully submitted that the purpose of the FTAA will be met by the granting of the approvals.
- 59 The Applicant's commitment to the environment is clear⁷⁴. The Application has been designed with the surrounding environment and cultural considerations in mind, and with a view for long-term environmental restoration⁷⁵. The Panel has before them a well-considered and comprehensively assessed Project which will appropriately avoid, minimise and remedy effects during mining. There has been considerable attention given to mine planning by hydrologists, water quality experts and ecologists on how to appropriately avoid, or minimise, adverse effects on ecologically

⁷³ *Selwyn Quarries Limited v Canterbury Regional Council* [2019] NZEnvC 153, at [44].

⁷⁴ Application, Section 2.7-2.11.

⁷⁵ Application, Section 2.8.

sensitive areas while also enabling a mining operation. It is respectfully submitted the purposes of the RMA, Wildlife Act 1953, HNZPTA will be met by the granting of the approvals.

- 60 From the earliest stages of the Barrytown Minerals Project meaningful engagement has been undertaken with Te Rūnanga o Ngāti Waewae, residents, landowners, environmental groups and other relevant stakeholders⁷⁶. The Applicant wishes to acknowledge the constructive and meaningful contribution given by the community and mana whenua in this process to date.

Alex Booker
Counsel for Tāiko Critical Minerals Limited

24 April 2026

⁷⁶ Application, Appendix F.