

CENTRAL OTAGO DISTRICT COUNCIL
S95A-F DECISION FOR RC230325
1346 – 1536 Teviot Road, Roxburgh

INTRODUCTION

BACKGROUND

Resource consent RC220350 was lodged on 13 October 2022, to establish and operate an alluvial gold mining operation in a Rural Resource Area at 1346 – 1536 Teviot Road, Millers Flat, Roxburgh. This application proposed an open mine area of 2 hectares, and a five-year duration. The application was publicly notified on 3 August 2023 following a section 95 decision determining that the effects of the proposal were likely to be more than minor and 609 submissions were received by the submission close date of 31 August 2023.

Subsequently, the application was placed on hold, pursuant to section 91B of the Resource Management Act (RMA) as requested by the applicant, whilst they made changes to the application. The changes as submitted to Council on 2 October 2023, proposed to extend the timeframe of the consent to 10 years and to extend the open mine area to approximately 10 hectares.

Upon review, the Council determined that these proposed changes were beyond the scope of the notified application (RC220350). This was due to significant increases in the intensity and scale of the activity than what were assessed and considered in the peer reviews and the notification determination. Consequently, the applicant has submitted a new application, which is considered by way of this assessment.

DESCRIPTION

The application seeks land use consent to establish and operate an alluvial gold mining operation in a Rural Resource Area at 1346 – 1536 Teviot Road, Millers Flat, Roxburgh. The subject site comprises 15 records of title as summarised in Table 1 of the Applicant's AEE, dated 25 October 2023, titled, *Application for Resource Consent to the Central Otago District Council: Hawkeswood Mining Limited, Land use consent to establish and operate a gold mining activity at 1346-1536 Teviot Road, Millers Flat*, and completed by Town Planning Group. A detailed description of the proposed development and the existing environment is outlined within Sections 2 and 3 of the Applicant's AEE, and this agreed description of the proposal is summarised below. In addition, the following documents provide further context regarding the specifics of the development and the site:

- The Applicant's AEE, titled, *Application for Resource Consent to the Central Otago District Council: Hawkeswood Mining Limited, Land use consent to establish and operate a gold mining activity at 1346-1536 Teviot Road, Millers Flat*, dated 25 October 2023, and completed by Anita Collie of Town Planning Group (NZ) Limited.
- The Mining Methodology Report, titled: *Mining Methodology* and completed by Hawkeswood Resources.
- The preliminary Site Investigation (PSI), titled: *Preliminary Site Investigation, 1484 Teviot Road, Millers Flat for Hawkeswood Civil Limited, June 2022*, and prepared by ECOtago Environmental Consultants Otago Ltd, dated 28 June 2021.
- The Transport Assessment Report, titled *Millers Flat Gold Mine Transport Assessment Report*, dated 25 October 2023 and prepared by Dave Smith of Abley.
- The Landscape Assessment titled, *Proposed Alluvial Gold Mine 1346 – 1536 Teviot Road, Millers Flat Landscape Effects Assessment Report*, dated 24 October 2023 and completed by Mike Moore.

- The Acoustic Assessment, titled *Proposed Alluvial Mining Millers Flat Assessment of Noise Effects*, dated 20 March 2023 and completed by Nevil Hegley of Hegley Acoustic Consultants.
- The Acoustic Assessment Addendum, titled *Proposed Alluvial Mining - Millers Flat*, dated 22 September 2023, and completed by Nevil Hegley of Hegley Acoustic Consultants.
- The Dust Management Plan, titled, *Hawkeswood Mining Limited: Dust Management Plan Millers Flat Gold Mine 1346-1536 Teviot Road* dated 25 October 2023 and prepared by Town Planning Group (NZ) Limited.
- The Dust Management Plan Review, titled *Dust Management Plan – Peer Review – Hawkeswood Mining Limited, Teviot*, dated 12 October 2023 and completed by Nigel Goodhue of Air Matters.
- The Vibration Report, titled, *Proposed Alluvial Mining, Millers Flat*, dated 11 November 2022 and completed by Nevil Hegley of Hegley Acoustic Consultants
- The Dust Peer Review, completed by Cameron Brown and Chris Bender of Pattle Delamore Partners Ltd, titled *Technical Review – RC220350 – Hawkeswood Mining Limited – Air Quality Assessment* and dated 15 December 2023.
- The Landscape Peer Review, titled *Landscape and Visual Effects Assessment - Peer Review Memo*, dated 13 December 2023 and completed by Jess McKenzie of Vivian Espie
- The response to the Further Information Request, titled, *Response to Further Information Request – RC 230325: Teviot Road Alluvial Gold Mining Operation*, dated 22 November 2023 and completed by Town Planning Group (NZ) Limited.



Figure 1 Showing “the extent of application site area generally indicated in red outline (CODC GIS)”. Source Applicant’s AEE.

- A 10-year term of consent is proposed and works onsite are expected to be undertaken in four stages as shown in Figure 2 below;

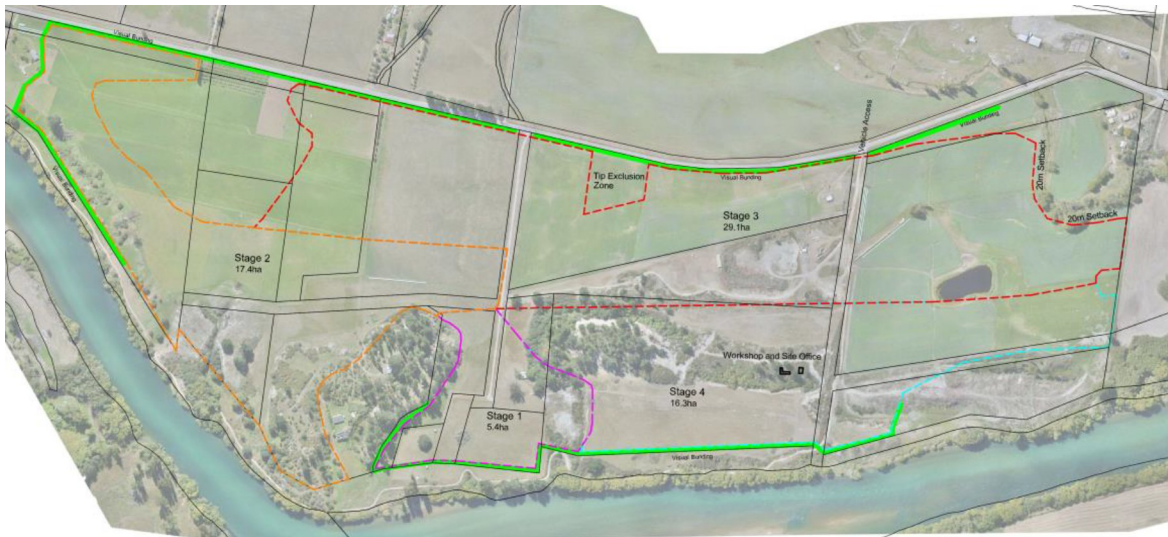


Figure 2 Proposed staging plan. Source: Application

- The total project area is 68 hectares with a maximum work area of 27 hectares which includes the following:

Table 1: Breakdown of the total work area

Active pit area (including roading and area being rehabilitated)	12 hectares
Stockpiles (temporary, not vegetated)	7 hectares
Settling Ponds and water discharge area	3 hectares
Workshop/ laydown (stabilised with a metallised surface)	3 hectares
Bunding (stabilised with vegetation)	2 hectares

- The total volume of earthworks is expected to be approximately 12 million cubic metres. This encompasses approximately 2.3 million cubic meters of gold-bearing wash, while the remaining 9.6 million cubic meters consists of overburden, as outlined in the Mining Methodology report by Hawkeswood Resources accompanying the application;
- Overburden will primarily be removed with excavators and dump trucks and stockpiled on-site in piles of up to 7 meters above ground level or used to form 4-metre-high bunds. While stockpiles may not be vegetated due to their temporary nature, the bunds will be vegetated with grass. Topsoil will be stockpiled separately for rehabilitation purposes and grassed to prevent erosion;
- The depth of excavation varies across the site, with the base of the gold bearing wash layer being located approximately 13m to 18m below existing ground level. The applicant expects to encounter groundwater and the mine pit will be partially dewatered to allow access to the resource;
- A floating dredge will be established within the active mine pit and will contain the Gold Recovery Plant (GRP). The further information response, states that the GRP is 35 metres in length, 15 metres in width and 9 metres in height. It is supported within the mine pit on a pontoon and moved by four hydraulic winches;



Figure 3: *The Gold Recovery Plant. Source: Further Information Response*

- Gold will be processed onsite within the GRP, with an estimated processing rate of around 180 cubic meters per hour as projected by the applicant. The recovery of gold will involve screening and gravity concentration methods. As areas are cleared of the gold-bearing wash, they will be backfilled with overburden from successive stages of the process;
- Works on site will operate Monday to Friday 7am – 7pm and Saturday 7am – 1pm with no work occurring on Sundays or public holidays;
- Up to 20 staff will be employed on the project, including machinery operators, administrators, mechanics and engineers;
- Drinking water will be sourced from an existing on-site private scheme and wastewater will be removed from the site;
- A number of temporary buildings including six 40-foot containers, a container shelter and a portacom are proposed to be established and maintained on the site for the duration of the project to provide a site office, a storage area and a machinery workshop area;
- Lighting fixtures are proposed around the processing area the site office area, and at the active work area within the mine pit. The application confirms that lights will be compliant with light spill standards in the District Plan and will be located away from dwellings and roads. The applicant proposes to use lighting specialists to measure and verify levels of onsite lighting;
- The Clutha Gold cycle trail which runs along the Clutha River, adjacent to the western side of the site is proposed to be diverted around the work site along Teviot Road. The total length of the diversion is approximately 1150 metres. The applicant has advised that the temporary cycle trail will be formed to the same standard as the existing cycle trail.



Figure 4: The blue dashed line indicates the section of the cycle trail that will be temporarily affected, the yellow shows the proposed diversion route. Source: Application.

- Rehabilitation will entail the removal of all bunds, plant, stockpiles, roadways and buildings and the land will be restored as closely as possible to the pre-existing contour with exception to a potential small terminal void, and grassed. The applicant has volunteered conditions to this effect. Rehabilitation will be undertaken progressively as overburden from the next stage is used to fill in the mine pit from the previous stage.

The applicant has already undertaken earthworks on the site for the purpose of establishing the internal accessways, bunding and establishing a test pit as shown in Figure 5. Earthworks that have been undertaken are included in the total earthwork's quantities proposed in the application. Earthworks within the test pit on Section 91 Block VIII Benger SD have totalled 5,118m³, exceeding the District Plan allowance by 2,118m³. Retrospective consent is sought for these works as part of this application.



Figure 5: Works already undertaken on the site. Source: Council compliance site visit photos taken on 15 May 2023.

WRITTEN APPROVALS

A number of written approvals have been provided with the application and further information response as stated below and shown in Figure 6:

- Andrew Hawkeswood on behalf of Jacks Ridge Limited being the owner of 1426A-E Teviot Road
- L A Crawford, being the owner of 1346 Teviot Road
- G Parker & M Hunter, being the owners of 1534 Teviot Road
- A T Parker being the owner of 1484 Teviot Road
- G.C. Campbell-Lloyd and G D Wilson, being the owners of 1406 Teviot Road
- G A and C M Liyanarachchi, being the owners of 1403 Teviot Road
- D MacDougal on behalf of Minzion Station Limited, being the owners of 9 Tima Burn Road, Millers Flat and 1536 Teviot Road, Millers Flat
- B. Tomkin, being the owner of 5386 Ettrick-Raes Junction Rd
- W S Reichel, being the owner of 5434 Ettrick-Raes Junction
- D A Kleeber, being the owner of 1353 Teviot Road, Millers Flat
- J W Asher, being the owner of 1333 Teviot Rd, Millers Flat
- Shanon & Shelley Garden on behalf of SS garden Holdings Limited, being the owners of 1535a Teviot Road.

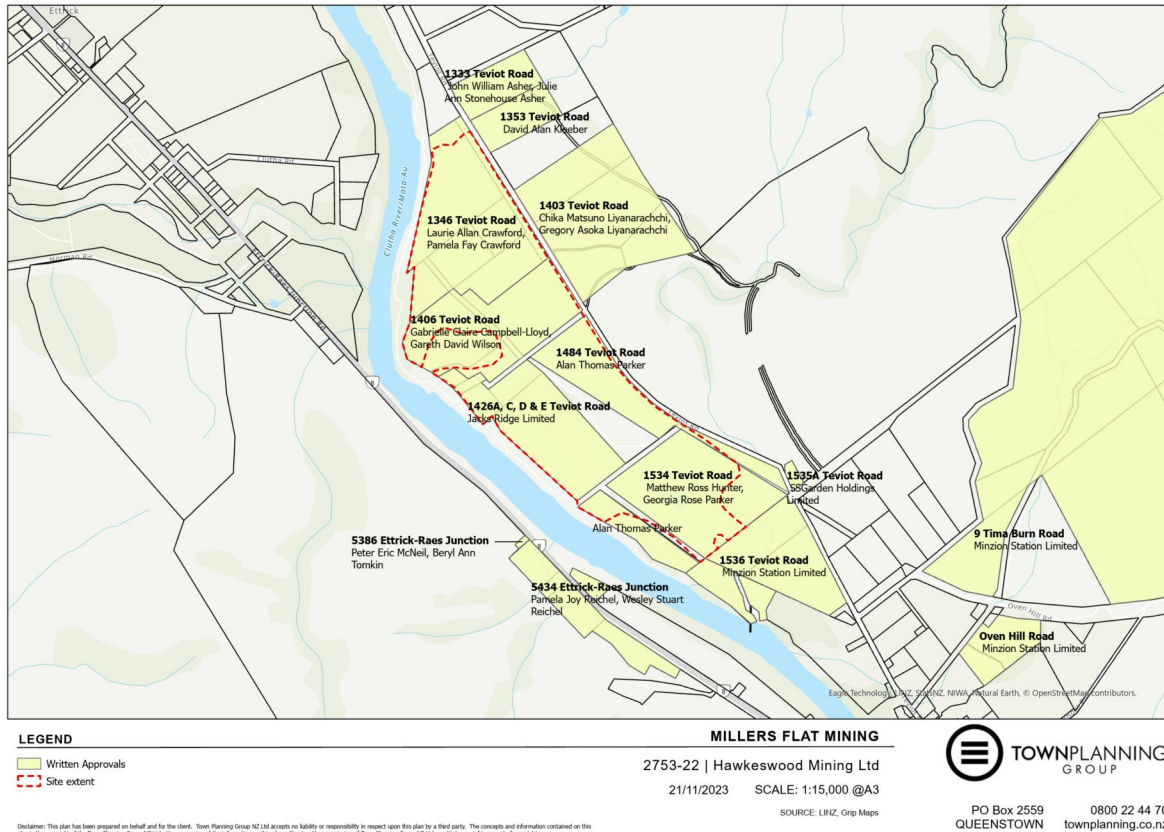


Figure 6: Map demonstrating the spatial location of properties where written approval has been provided. Source: Application.

PLANNING FRAMEWORK:

Central Otago District Plan

The relevant statutory provisions are set out in Section 4 of the Applicant’s AEE. The site is located in the Rural Resource Area and is subject to a number of annotations. It is partially located in a flood hazard area, adjacent to the Mata-Au River and Section 92 Block VIII Benger SD is designated for Greenwaste Refuse Management Purposes (D236) and Gravel Pit – Millers Flat Landfill (D75), with the requiring authority being Central Otago District Council.

The proposal requires resource consent for the following reasons in accordance with the Central Otago District Plan (District Plan):

- A restricted discretionary activity pursuant to Rule 4.7.3(iii) for breaching the colour and finish requirements for buildings. In this case, the workshop will not comply with the finish requirements of Standard 4.7.6D, as the container shelter is made of PVC, which is not on the list of compliant materials in 4.7.6D(a)(i).
- A restricted discretionary activity under Rule 4.7.3(i) for non-compliance with Standard 4.7.6F which requires storage areas and stockpiles to be screened from all public viewpoints and neighbouring properties. In this case the stockpiles may be visible from Teviot Road, the paper road to the north of the site, and the Clutha River (Mata-Au) at various stages of the proposed operation and from neighbouring properties.
- A discretionary activity pursuant to Rule 4.7.4(i) for more than three persons being involved in an activity of industrial or commercial in nature, resulting in a breach to Standard

4.7.6B(b)(i). In this case the application is proposing up to 20 persons to be employed on-site for the mining activity.

- A discretionary activity pursuant to Rule 4.7.4(i) as the proposed earthworks do not comply with the earthworks quantities as stipulated in Standard 4.7.6J(b) being a maximum of 2000m² and 3000m³ per site. In the case of this application, the total volume of earthworks is expected to be approximately 12 million cubic metres over fifteen parcels of land with a project area of 68 hectares.
- A restricted discretionary activity under Rule 4.7.3(vi) for the construction of tracks that don't comply with Rule 4.7.6J. The proposed tracks are to be established for limited vehicle access. It is anticipated that cut or fill batters on ramps within the mine pit may exceed 2m in height.
- A discretionary activity under Rule 4.7.4(ii) as the proposal will involve 60,000 litres of on-site diesel storage, which exceeds the permitted volume of 10,000 litres of a class 3c substance in the Rural Resource Area, listed in Schedule 19.14.
- A restricted discretionary activity pursuant to Rule 12.7.1 (iii) as the existing accesses to Teviot Road are not sealed.

For clarity, Rule 4.7.5 states that no buildings shall be established in an area identified as being subject to a flood hazard. In this case, the applicant is not proposing to breach this rule as all buildings will be established outside of flood hazard areas.

NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NES CS)

The application describes a known 2.4-hectare historic landfill on Sec 118 Blk VIII Bengel SD, located adjacent to Teviot Road. A report prepared by Environmental Consultants Otago (EC Otago) was provided with the application to identify the boundaries of the historic landfill, and to ensure soil disturbance near the historic landfill was avoided. In addition, a set of historic stockyards are also identified in the report by EC Otago, which have been excluded from the proposed mine area.

Based on the report by EC Otago, the project area avoids any potential HAIL sites, effectively the regulations of the NESCS do not apply as the site is not defined as a 'piece of land' captured under clause (5) of the NESCS.

OVERALL STATUS

Overall, the proposal is to be treated as a discretionary activity under the District Plan.

In addition to the above requirements for land use consent, the proposed alluvial gold mine also requires consents from the Otago Regional Council (ORC). ORC have received an application for the proposal. It is expected that the resource consent processes will be run jointly where practicable.

SECTION 95A NOTIFICATION

Step 1 – Mandatory public notification

Public notification has been requested. (s95A(3)(a)).

Public Notification is not required in terms of refusal to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the Act (s95A(3)(b)).

The application does not include exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Step 2 – Public notification precluded

Public notification is not precluded by any rule of national environmental standard (s95A(5)(a)).

The proposal is not a controlled activity or boundary activity as defined by section 87AAB and does not relate to a residential site. Public notification is not precluded.

The proposal is not a prescribed activity (95A(5)(b)(i-iv)).

Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a)).

A consent authority must publicly notify an application if it decides under s95D(8)(b) that the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(2)(a)). An assessment under s95D is not required as the applicant has requested public notification.

Step 4 – Public Notification in Special Circumstances

Public notification is required if:

- There are special circumstances that warrant the application being publicly notified (s95A(9)).

Current case law has defined ‘special circumstances’ as those “outside the common run of things which is exceptional, abnormal or unusual, but they may be less than extraordinary or unique.” Current case law outlines certain cases where the courts have considered special circumstances in relation to the public notification of resource consent applications. In particular, the court found that special circumstances are deemed to apply where there is likely to be high public interest in the proposal [Murray v Whakatane DC [(1997) NZRMA 433 (HC), Urban Auckland v Auckland Council [(2015) NZHC 1382, (2015) NZRMA 235].

I note that the applicant has requested public notification and I consider that a special circumstances assessment is not required in this instance.

OVERALL DECISION - S95A NOTIFICATION

Pursuant to 95A, public notification of this application is requested by the applicant.

EFFECTS ON PERSONS

Section 95B(1) requires a decision whether there are any affected persons (under s95E). The following steps set out in this section, in the order given, are used to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A. In this instance, public notification is required pursuant to s95A and assessment under Section 95B(1) is not required.

However, notice of the application is to be served on every prescribed person, as set out in clause 10(2) of the Resource Management (Forms, Fees and Procedure) Regulations 2003 as follows:

(2) The consent authority must serve that notice on—

- (a) every person who the consent authority decides is an affected person under section 95B of the Act in relation to the activity that is the subject of the application or review:*
- (b) every person, other than the applicant, who the consent authority knows is an owner or occupier of land to which the application or review relates:*
- (c) the regional council or territorial authority for the region or district to which the application or review relates:*
- (d) any other iwi authorities, local authorities, persons with a relevant statutory acknowledgement, persons, or bodies that the consent authority considers should have notice of the application or review:*
- (e) the Minister of Conservation, if the application or review relates to an activity in a coastal marine area or on land that adjoins a coastal marine area:*
- (f) the Minister of Fisheries, the Minister of Conservation, and the relevant Fish and Game Council, if an application relates to fish farming (as defined in the [Fisheries Act 1996](#)) other than in the coastal marine area:*
- (g) Heritage New Zealand Pouhere Taonga, if the application or review—*
 - (i) relates to land that is subject to a heritage order or a requirement for a heritage order or that is otherwise identified in the plan or proposed plan as having heritage value; or*
 - (ii) affects any historic place, historic area, wāhi tūpuna, wahi tapu, or wahi tapu area entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:*
- (h) a protected customary rights group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent or the review of consent conditions.*
- (ha) a customary marine title group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent for an accommodated activity:*
 - (i) Transpower New Zealand, if the application or review may affect the national grid.*

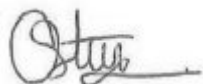
An assessment of the above persons has been undertaken and it is considered appropriate to serve notice on the following parties set out in the table below:

Party to be served	Reasons for service
Aukaha Limited	Cultural Values
Te Rūnanga O Ngai Tahu	Cultural Values
LINZ	Administrator of Crown Land
Department of Conservation	Riparian Habitat Management
Otago Fish and Game Council	Riparian Habitat Management
Heritage New Zealand	Heritage Values
Otago Regional Council	Relevant Authority
Clutha Gold Trail Charitable Trust	Administer of the Clutha Gold Cycle Trail
J. P. Clarke & K. L. Franklin (1334 Teviot Road)	Adjacent Site
G S & R M Pannett (1313 Teviot Road)	Adjacent Site
E R & N E Garden (1535 Teviot Road)	Adjacent Site
A L & J A Tong (1537 Teviot Rad)	Within close proximity
B M Hill (Sec 65 BLK VI Benger SD)	Adjacent Site (across the river)
S R & K S Norman (101 Moa Flat Road)	Adjacent Site (across the river)
D G Stephen and M Schend (5280 Ettrick-Raes Junction Road)	Adjacent Site (across the river)
N B & J V Barrett	Adjacent Site (across the river)
S L Vernon	Adjacent Site (across the river)

OVERALL NOTIFICATION DETERMINATION

The applicant requests this application be publicly notified and it will be heard as a joint hearing with both the Central Otago District Council and the Otago Regional Council. The Central Otago District Council will be the lead agency. Notification of the application will need to align with the Otago Regional Council.

Prepared by:



Olivia Stirling
Consultant Planner

Date: 8 January 2024

Reviewed by:



Oli Monthule-McIntosh
Consultant Planner

Date: 10 January 2024

Approved under Delegated Authority by:



Lee Webster

Date: 11 January 2024

Planning and Regulatory Services Manager