

Before the Independent Hearing Panel

In the Matter of the Resource Management Act 1991 (**RMA**)

And

In the Matter of an application to the Central Otago District Council and Otago Regional Council for resource consent to establish and operate a gold mining activity at 1346 – 1536 Teviot Road, Millers Flat

Reference RC230325 (Central Otago District Council)
RM23.819 (Otago Regional Council)

**Right of Reply Statement of Anita Collie on behalf Hawkeswood Mining Limited
(Planning)**

Dated 23 July 2024

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Introduction

1. My full name is Anita Collie. I am Principal Planner at Town Planning Group, and I provide this statement in support of the right of reply in relation to the Hawkeswood Mining Limited (**HML**) proposal at Millers Flat.
2. This statement responds to planning matters raised by the Council updated s42A Reports dated 17 July 2024 and provides an updated set of proposed draft conditions and addresses other additional information relevant to the planning status of the application.
3. My qualifications and expertise statements are set out in my brief of evidence in-chief dated 29 April 2024. I also reaffirm that I have read and agree to and abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2023.

Scope of Supplementary Statement

4. This statement is provided as part of the Applicant's right of reply and will address the following:
 - a. Noise limit on dewatering pumps operating overnight.
 - b. Enhancement planting proposal.
 - c. Amendments to draft conditions.
 - d. Updated draft versions of the proposed conditions.
5. Given the alignment which now exists between Ms Ter Huurne, Ms Stirling and me on the appropriateness of the proposed activity, I do not comment on any remaining (very limited) areas of partial disagreement about assessment of objectives and policies. The differences of opinion, such as they are, are not material to the conclusion shared by all planners that consent should be granted.

Noise limit on dewatering pumps operating overnight

6. Ms Stirling recommends a condition be included imposing a noise limit on noise from the operation of dewatering pumps of 25 dBA L₁₀.¹ This matter has been addressed in evidence from Mr Hegley² and Mr Exeter³ and the nature of disagreement is clear. I have given careful consideration to the totality of evidence now advanced with respect to this issue, given there is continuing disagreement between the experts and Ms Stirling maintains a specific condition should be included.
7. The experts agree on the predicted noise levels and that these will be at a level that is well less than the permitted nighttime noise standards in the District Plan. Mr Exeter considers that an ongoing hum, if audible, may be annoying for proximate residents and recommends a noise limit such that dewatering pumps would essentially be inaudible at nearby dwellings to provide for people using outdoor living spaces in the evening. Mr Exeter has not raised any concern that dewatering pumps would be audible inside dwellings, nor that the dewatering pumps have potential to cause sleep disturbance for residents.
8. Mr Exeter's conclusion is also based on his uncertainty regarding the ambient noise monitoring undertaken by Hegley Acoustics. In his memorandum dated 15 April 2024, Mr Exeter notes the measured ambient noise levels are *"typical of an active rural environment"*⁴, and, while not disputed, he could not *"be confident that they represent the existing ambient sound environment at the nearest notional boundaries without understanding the controlling noise sources"*.⁵
9. Mr Exeter undertook a site visit and took noise measurements for 88 minutes on 8 May 2024⁶ and concluded that they were not consistent with Mr Hegley's

¹ Supplementary s42A report (17/7/24), paragraph 29.

² Hegley EiC (29/4/24), paragraphs 24 and 61 – 69 and Supplementary evidence (25/6/24) paragraphs 4 – 6.

³ Exeter Memo (15/4/24) section 4, page 4 and Supplementary Statement (15/7/24) section 3.2.

⁴ Exeter Memo (15/4/24), page 3.

⁵ Exeter Memo (15/4/24), page 4.

⁶ Exeter Memo (13/5/24), page 1.

measurements.⁷ Mr Hegley provided the Hearings Panel with a comparison during his verbal presentation at the hearing, advising that in his opinion, the two ambient noise data sets were consistent, though noting that Mr Exeter’s ambient noise measurements were not representative of the broader noise environment due to the short measurement timeframe⁸.

10. In his recent memorandum, Mr Exeter considers the “*ambient noise measurements are not representative of a calm rural environment*”⁹; which I understand to be a different proposition to his initial assessment of an active rural environment. Overall, I accept Mr Hegley’s ambient noise monitoring, because; it has been undertaken for a longer period than Mr Exeter’s measurements; there does not appear to be any material inconsistency between the two datasets; and there does not appear to be any logical reason to disregard Mr Hegley’s monitoring. While Mr Exeter expressed concerns about unexplained noises in Mr Hegley’s dataset, the consistency of the noise indicates that it is part of the receiving environment and so the precise definition of that noise is immaterial to the effects of this proposal.

11. The relevant provisions in relation to noise are briefly summarised – these form part of my analysis. Section 16 of the Resource Management Act requires noise to not exceed a reasonable level. Policy 4.4.8 of the District Plan requires that the effects of noise do not significantly adversely affect the amenity values of neighbouring properties. I do not consider that audibility of dewatering pumps outside at night to be at a level that is unreasonable or creates significant adverse effect. Objective 12.3.2 seeks to avoid, remedy or mitigate adverse effects of noise on the health and wellbeing of people. Policy 12.4.2 requires consideration of the specific characteristics and amenity values of the locality, the frequency and duration of noise and any special characteristics, when determining whether the adverse effects of noise reflect standards acceptable to the community. This directs a contextual approach, which I consider the ambient noise monitoring to inform.

⁷ Exeter Memo (13/5/24), page 2.

⁸ Refer to hearing video, day 1, time index 3:57:00 – 3:59:30 (approximately).

⁹ Exeter Supplementary Statement (15/7/24) section 3.1.

12. I also note that a large number of written approvals have been provided¹⁰, including from the closest dwellings to the site. The effects on these parties are to be disregarded.
13. Considering the above, in my view the limit recommended by Mr Exeter and Ms Stirling is unreasonably onerous. The noise from dewatering pumps will be inaudible inside dwellings (a matter agreed by the experts) and may potentially be audible outside nearby dwellings for a period of up to 6 months¹¹. I consider this level of effect to be acceptable in the context of the relevant statutory provisions.

Enhancement Planting Proposal

14. At the outset, I clarify with the Commissioners that the indigenous planting proposed by the Applicant is an enhancement proposal, and not an offset. Some parties have described the proposal as an offset and this is not correct. The terminology is important particularly in the context of the National Policy Statement for Indigenous Biodiversity (NPSIB). A biodiversity offset (in the context of the NPS-IB) includes a component of redress for more than minor residual adverse effects on indigenous biodiversity. That is not the case here. The evidence of Mr Chapman and Dr Wills confirm that indigenous biodiversity effects are low (in relation to lizard fauna)¹² or nil (in relation to flora)¹³. In an RMA context, I consider these effects are at a level which is minor at most. My view remains that there is no overall loss of indigenous biodiversity, the proposal is consistent with the NPS-IB, and no 'offset' is required in respect of effects of the activity on indigenous biodiversity.
15. Aukaha¹⁴ and the Supplementary CODC s42A report¹⁵ state that it would be appropriate to covenant the enhancement planting proposal. I agree and have

¹⁰ Collie Supplementary Statement (25/6/24), paragraph 7.

¹¹ Hegley EIC (29/4/24), paragraph 68.

¹² Chapman Supplementary Statement (25/6/24), paragraph 6.

¹³ Wills EIC (29/4/24), paragraph 62.

¹⁴ Aukaha memorandum (10/7/24), section 3, page 2.

¹⁵ Paragraphs 19 - 21.

included a condition to this effect in the updated proposed draft conditions appended to this statement (**Appendix [A]**).

16. Aukaha note that the Tima Burn Enhancement Planting Project is represented in consent conditions as one of three options and should be secured through conditions of consent.¹⁶ The reason for constructing the proposed condition in this manner is to provide secondary options to mitigate the risk of landowner approval for the enhancement planting project being withdrawn. The Applicant considers that this is an unlikely outcome, however, prefers to provide a secondary option in the proposed draft conditions. I have made suggested edits to the relevant condition (36) to clarify that the Tima Burn Enhancement Planting Project is a primary option, and the other options are secondary and only relevant in the event that landowner permission is withdrawn.

17. Aukaha¹⁷ states that consent conditions should enable opportunities for further restoration planting adjoining the Clutha / Mata-au or on the Applicant's land adjacent to the Clutha / Mata-au.¹⁸ The Supplementary s42A Report takes this a step further and recommends that the REMP should include provisions for additional enhancement planting opportunities along the Mata-au within the Applicant's land to further offset the effects of this activity.¹⁹ This is reflected in recommended amendments to the draft conditions which require a second area of planting adjoining the Clutha / Mata-au.²⁰

18. The Applicant does not propose to include an additional enhancement planting project as part of this resource consent application, though will continue to liaise with Aukaha in respect of future projects. Further, there is currently no detail available on planting area or species composition in any other location. I consider the Commissioners can only consider the proposed 3,000m² enhancement planting proposal as represented in the Rehabilitation and Enhancement Management Plan

¹⁶ Aukaha memorandum (10/7/24), section 3, page 2.

¹⁷ Aukaha memorandum (10/7/24), section 3, page 2.

¹⁸ Aukaha memorandum (10/7/24), section 3, page 2.

¹⁹ Paragraph 45.

²⁰ Supplementary s42 Report, condition 36.

and proposed conditions. For these reasons, the proposed draft conditions appended to this evidence do not require two planting areas.

Revised Draft Conditions

19. An updated set of proposed draft conditions (dated 22 July 2024) is provided for both the district and regional applications. These reflect matters discussed above.
20. There are also several other edits proposed in the version of draft conditions appended to the s42A Report drafted by Ms Stirling on behalf of CODC. Responses to these edits are detailed below. No comments are made on any changes to condition cross-referencing as these must necessarily be checked with each new version of conditions.

Condition Number ²¹	CODC S42A Report Proposed Amendment	Applicant's Response
7	Add new condition: <i>The volume of material extracted within the application area shall not exceed 11.9 million cubic metres.</i>	Not accepted. Reasons discussed in Collie EIC, paragraphs 180 - 181. The application was clear that the nominated earthworks volume was an estimate and that the scope of the activity could be defined by area, spatial extent and depth limitations. No evidence has been presented as to why this condition is necessary to mitigate effects or define the scope of the activity.
10	Amended condition 10 so that machinery maintenance is restricted to 0700 – 1900 Monday to Friday and 0700 – 1300	Not accepted. The application was made on the basis that machinery maintenance would be

²¹ From Stirling Supplementary s42A Report (17/7/24), Appendix 1

	Saturdays, with no machinery maintenance allowed outside these hours.	undertaken outside of core operational hours. No evidence has been presented to support this amendment.
13c	Amendment made to condition relating to recertification of a management plan which is unable to be certified by Council, to extend the timeframe for recertification of the second iteration of the management plan from 5 to 15 working days.	Not accepted. In the situation where Council is unable to certify a management plan, Council must provide detailed reasons with reference to the conditions of consent that the Council consider the Management Plan does not meet. Essentially this creates a checklist of amendments. The Council will not need to review the second version of the management plan in its entirety but can focus on areas where certification was refused for the previous version. The Applicant has already provided draft management plans at a reasonably advanced level of drafting. There has been no indication from Council that there are any fundamental problems with any of the draft management plans. The Applicant is concerned that timeframes may drag on if Council is afforded 15 working days to review a second or later iteration of the management plans.

36	Amendment proposed to condition to require two areas of ecological enhancement.	Not accepted for reasons discussed in paragraphs 17 to 18 of this evidence.
37	New condition added to require that the ecological enhancement planting is protected by covenant.	Partially accepted. The principle of the condition is accepted; however, an amended version is proposed. It is noted that this condition refers to Record of Title OT18B/927 which is outside the project area.
45	Add new condition: <i>Dewatering pumps on site must be designed and operated to generate noise levels no greater than 25 dBA L10 at any notional boundary not on the subject site.</i>	Not accepted for reasons discussed in paragraphs 6 to 13 of this evidence.
70	Notice period for Council to accept the bond amount increased from 10 to 15 working days.	Accepted. Amendment included in revised conditions.

21. I consider that the updated set of proposed draft conditions are appropriate.

Anita Collie

Dated 23 July 2024

Appendices

Appendix [A] – Revised Draft Conditions (22/7/24 version)