

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)

Summary Statement of Barry James MacDonell on behalf Hawkeswood Mining Limited

(Planning - Regional)

Dated 14 May 2024

Jeremy Brabant
Barrister
Foundry Chambers
Level 4, Vulcan Buildings
PO Box 1502, Shortland St
Auckland City
021 494 506
Email: jeremy@brabant.co.nz

Introduction

1. My full name is Barry James MacDonell. I am a resource management consultant / planner. I hold the qualifications and experience as set out in paragraphs 1 and 2 of my Evidence in Chief (**EiC**). I confirm that I have continued to comply with the Code of Conduct for expert witnesses in preparing this summary statement.
2. The focus of my EiC is on matters relating to regional consenting.

Summary

3. I have assessed the environmental effects of the proposal and concluded that the effects are minor, in most cases less than minor.
4. There are two areas where my opinion diverges with Ms Ter Huurne, namely effects on heritage values and cultural values:
 - a. With regard to heritage values, I have relied on the expert evidence of Ms Ross who has concluded that the mitigation proposed is appropriate in relation to the management of known archaeological sites and risk of discovery of unknown archaeological material. In my opinion effects on heritage values are in most cases avoided and where appropriate, managed.
 - b. With regard to cultural matters, the assessments provided as part of the application and evidence suite have been informed by the consultation undertaken by the applicant alongside consideration of the relevant statutory planning documents. In my opinion, cultural matters can appropriately managed.
5. The applicant has consulted comprehensively with potentially affected landowners, the wider community and iwi. Written approvals have been received from all but one of the potentially affected bore owners (Wendy Gunn). There is agreement that the proposed conditions of consent are appropriate to mitigate effects on other water users. Specifically, I note that

applicant agrees to recommended condition 15 of the discharge consent (as amended by Mr Heller) which requires the provision of an alternative water supply to any affected bore owner if contamination to potable drinking water is caused by the consent holder.

6. I have assessed the proposal against the objectives and policies of the NPS FM, the Operative and Proposed RPS, and other relevant policy documents, and conclude that the proposal is consistent with these planning instruments.

Matters Arising

7. I have reviewed the submitter evidence and respond to some of the matters raised in the evidence of Mr Tim Vial on behalf of Aukaha. While the submitter's concerns are not resolved, Mr Vial's evidence shows a narrowing of the issues in contention. I understand that Kā Rūnaka's concerns relate to the uncertainty of information provided in relation to the matters outlined at his paragraph 103. I note that Ms Collie will speak to these concerns from a district perspective, which I will not repeat.
8. The main thrust of the Aukaha submission and Mr Vial's evidence (relating to regional matters) is that the proposal does not protect the health and wellbeing of adjacent water bodies, namely the Clutha River /Mata Au and the Tima Burn, and that it is therefore contrary to the NPS FM and other planning instruments. Aukaha also consider there to be insufficient information (and therefore uncertainty) with respect to some components of the proposal, notably the mauri of the Clutha River / Mata Au.
9. In response to Mr Vial's concerns I note in summary, that:
 - The effects of the groundwater take on the values of Tima Burn have been appropriately addressed in evidence.
 - There will be no discharge to the Tima Burn.
 - No works will take place in the Tima Burn.
 - The proposal will have no effect on the Tima Burn ecosystem.

- No work will take place in the Clutha River / Mata Au.
 - It is extremely unlikely that there will be any depletion of flow in the Tima Burn, but if there is, augmentation is proposed which based on the technical evidence will ensure that any adverse effect is remedied.
 - Adverse effects on the water quality of either the Clutha River / Mata Au or the Tima Burn will be nil to minimal.
 - The applicant proposes a range of mitigation measures to further assist with avoiding and mitigating effects, including: set backs from the two surface waterbodies (for both works & discharge), staging, rehabilitation, native planting, monitoring of groundwater quality and quantity and surface water quality (Clutha River / Mata Au), and a mining methodology which uses no chemicals in gold recovery.
10. The applicant is also proposing a condition that implements its commitment to ongoing consultation with Iwi regarding archaeological works and plans for rehabilitation. This will ensure that engagement is ongoing and facilitate communication on cultural values and ways that any concerns may be addressed throughout the operation. This in my opinion is an appropriate method to deal with the uncertainty raised in Mr Vial's evidence.
11. Reference is made to Policy 7 of the NPS FM at paragraph 57 of Mr Vial's evidence. This policy seeks to avoid the loss of river values to the extent practicable. Mr Vial emphasises the term "avoid" in the policy whereas the policy clearly provides some leeway due to practical constraints, which is fitting in this case given the location of the gold resource. There is a functional need to locate the operation where the resource is located. In my opinion, the applicant has taken necessary steps to manage adverse effects where they cannot be practicably avoided. I defer to legal counsel with regard to the comments made on case law at his paragraph 58.
12. All of the above feeds back into demonstrating consistency with the NPS FM and other relevant planning instruments. These planning instruments generally, and the NPS FM in particular, refer to 'managing' effects and 'prioritising', the health and well being of water bodies. The word 'manage'

implies use, provided any adverse effects are appropriately addressed. As mentioned above, the gold resource is located in a finite quantity and in fixed location – that cannot be changed and in such circumstances, the policy directs the management of adverse effects.

13. Regarding the matters of uncertainty, Mr Vial lists these at his paragraph 103. The matter of unrecorded archaeological sites, and the restoration and rehabilitation of the site post mining have been addressed in evidence of Ms Ross and Dr Wills. With respect to the other issues, Mr Vial notes focus on groundwater quality from mining near the close landfill, and effects of the groundwater take on flows of the Tima Burn and consequential effects on this waterway. I retain my position that based on the applicant's expert evidence and proposed conditions of consent, any effects will be appropriately managed.
14. Potential effects on the Tima Burn have been assessed by two qualified and experienced scientists who have concluded that the Tima Burn will be unaffected. The effects will however be monitored and the flow augmented if found to be necessary, which is an appropriate method to adopt in my opinion to ensure that any uncertainty is managed and cultural values maintained.

Conditions

15. I am in general agreement with the draft conditions proposed with Ms Ter Huurne's s42A report, apart from some relatively minor amendments which I have set out in my EIC and that are contained in the evidence for the applicant.

Conclusions

16. I acknowledge the concerns expressed by Aukaha regarding effects on cultural values, however I note that the thorough technical assessment carried out by the applicant, the proposed mitigation and proposed consent conditions, along with the applicant's commitment to ongoing engagement with Iwi, will in my opinion adequately address Aukaha's concerns.

17. There will be significant economic and social benefits for the local community, and no adverse effects that are more than minor. I retain my view that the proposal is consistent with the relevant ORC objectives and policies and higher-order documents. In my opinion, there are no planning barriers preventing the grant of consent.



Barry MacDonell

Dated 14 May 2024