

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)

Evidence of Anita Collie on behalf Hawkeswood Mining Limited

Planning

Dated 29 April 2024

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Introduction

1. My full name is Anita Clare Collie.
2. I have sixteen years' experience in the field of resource management planning. I hold a Bachelor of Science in Environmental Science (University of Western Australia). I am an Associate member of the New Zealand Planning Institute (NZPI).
3. I am currently employed as a Principal Planner at Town Planning Group and have held that position since 2021. Prior to that, I was a Senior Planner with Town Planning Group since 2017. In this role I am responsible for preparing and overseeing a range of consent proposals for the company's clients, including private development and government agencies, and providing expert planning evidence. I have worked on several development proposals in Central Otago District and am familiar with the provisions of the District Plan, particularly those relating to rural areas.
4. My previous work experience includes working as a planning consultant, in industry applying for and implementing resource consents, and as a Council processing planner.
5. I was instructed by Hawkeswood Mining Limited (the "**Applicant**") to provide planning evidence in relation to their application for resource consent from Central Otago District Council ("**CODC**") RM230325. Planning evidence in relation to application RM23.819 from Otago Regional Council ("**ORC**") is provided by Mr MacDonell, however we have liaised so as to minimise any duplication of planning evidence.
6. I am familiar with the area to which the application for resource consent relates. I have visited the site and surrounds in April 2022, and will do so again after submitting this evidence and before the hearing.
7. In preparing this evidence, I have reviewed the following documents:
 - a. Application for resource consent to CODC;

- b. CODC S42A report and supporting information; and
 - c. Submissions on consent RM230325.
8. Although this is not a hearing before the Environment Court, I record 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. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

9. My evidence will address the following:
- a. the nature of the proposal;
 - b. the relevant rules and activity status of the proposal;
 - c. the site and existing environment;
 - d. the effects on the environment;
 - e. matters raised by submitters to the Application;
 - f. proposed conditions of consent;
 - g. the evaluation of the activity against the relevant statutory planning instruments; and
 - h. the s42A report.

Overview and Executive Summary

10. Resource consent is sought to establish a gold mining activity, at 1346-1536 Teviot Road, Millers Flat (the "**application site**"). A ten-year duration is sought.

11. Subsequent to notification and having considered the submissions received, the Applicant has provided additional information to address matters of clarification identified by submissions. The Applicant has engaged with various submitters in refining its proposal prior to hearing.
12. The site is located within the Rural Resource Area under the Central Otago District Plan ("**District Plan**"). Resource consent is required for a Discretionary Activity.
13. In my evaluation of the proposal, I have found that:
 - a. In regard to cultural effects, there is a degree of uncertainty in the overall assessment of these particularly as relates to the draft wāhi tūpuna area identified in submissions.
 - b. The Applicant has actively sought engagement with manawhenua. Ongoing engagement on key matters of cultural concern is appropriate to ensure cultural values are appropriately protected.
 - c. All other environmental effects of the proposal are appropriately mitigated and are acceptable.
 - d. The proposal is consistent with the relevant statutory documents.
 - e. The application meets the necessary tests for approval and can be granted subject to the proposed conditions included in my **Appendix [B]**.

Nature of the Proposal

14. The proposal is outlined in full the AEE. Further information was provided on 22 November 2023 in response to a request from CODC, and on 5 April 2024 in response to matters of clarification identified by submissions.
15. Subsequent to notification and having considered the submissions received, the Applicant has provided additional information to address matters of clarification identified by submissions. This was circulated to the parties on 5 April 2024 and comprised:

- a. Updated site plans and an associated site plan description;
 - b. Updated written approvals package for ease of reference;
 - c. Soil contamination testing report for the historic stockyards;
 - d. Archaeological report; and
 - e. Biodiversity and ecological summary.
16. Subsequent to receiving the s42A report, two minor edits have been made to the site plans to address matters raised in the s42A report:
- a. Addition of bunds along the western boundary of Stage 2 in locations as informed by Mr Moore.
 - b. Amendment of site vehicle access location for Stages 3 and 4.
17. The version of site plans attached to Mr Johnstone's evidence are the current version (dated 22/4/2024) and I have referred to this version in preparing this evidence.
18. In summary, the proposal is to undertake an alluvial gold mining activity, including:
- a. Removal and stockpiling of overburden;
 - b. On-site processing of gold bearing wash utilising water and gravity separation methods;
 - c. Replacement of tailings and overburden in the mine pit;
 - d. Ancillary activities, such as staff facilities, a workshop, storage area, settlement ponds, vehicle access within and to/from the site, and parking areas; and
 - e. Rehabilitation of the site.
19. A test pit, haul roads, vehicle storage area, site office and storage container have been established on site. In response to a query from CODC, I

undertook a planning evaluation in May 2023, based on survey information provided to me by the Applicant, and determined that:

- a. Tracks / haul roads which facilitate vehicle movement within the sites are subject to Rule 4.7.6J(a), which imposes no limit on the volume or area of earthworks.
 - b. Earthworks for the test pit are subject to Rule 4.7.6J.(b), which limits earthworks volume to 2,000m² or 3,000m³ per site.
 - c. Earthworks within the test pit on Section 91 Block VIII Benger SD totalled 5,118m³, exceeding the District Plan allowance by 2,118m³.
20. The 5,118m³ of earthworks to construct the test pit requires resource consent. The application scope includes retrospective consent for earthworks to form the test pit.
21. Since reviewing the s42A report, the Applicant has concerns that the number of conditions proposed will require additional staffing. To this end, the Applicant is proposing to amend the application to increase the number of people allowed on site to 30, noting that the original 20 persons did not include temporary site visitors (such as delivery drivers) or any staffing contingency. I consider this amendment to be within the scope of the application as notified, as the amendment does not change the nature of the alluvial gold mining project, nor the scale of the project as represented by the mine area, processing rate and duration. No associated effects of this amendment of any significance are anticipated, with acoustic effects being unchanged and additional traffic movements being minimal.
22. Should the panel take a different view and consider that amending the number of staff changes the scope of the application to a degree that renotification is required, the Applicant will retain the limit of 20 staff proposed in the application.
23. The duration of consent requested is 10 years.

Rules and Activity Status

24. The proposal is a Discretionary Activity overall, with resource consent required under the following rules:
- a. Restricted Discretionary Activity under Rule 4.7.3(iii) – 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).
 - b. Restricted Discretionary Activity under Rule 4.7.3(i) – storage areas and stockpiles may be visible from public viewpoints and so will not comply with Standard 4.7.6F.
 - c. Restricted Discretionary Activity under Rule 4.7.3(vi) – temporary tracks internal to the site may not comply with Standard 4.7.6J.
 - d. Discretionary Activity under Rule 4.7.4(i) – the proposed operation will involve more than three persons (30 staff proposed) and will not comply with Standard 4.7.6B(b)(i) and (ii).
 - e. Discretionary Activity under Rule 4.7.4(i) – the proposal will involve up to 12 million cubic metres of earthworks, exceeding the permitted volumes in Standard 4.7.6J(b).
 - f. Discretionary Activity under Rule 4.7.4(ii) – the proposal involves 60,000 litres of on-site diesel storage, which exceeds the permitted volume listed in Schedule 19.14.
 - g. Restricted Discretionary Activity under Rule 12.7.1 (iii) – the existing accesses to Teviot Road are not sealed.
25. Ms Stirling considers that the activity is ‘temporary’¹ in accordance with the District Plan definition, noting the definition includes “*activities undertaken pursuant to a prospecting or exploration permit in terms of the*

¹ S42A report [39]

Crown Minerals Act 1991." On this basis, she concludes the resource consent is not required for the diesel storage. I note that mining requires a mining permit under the Crown Minerals Act, as distinct from a prospecting or exploration permit. I do not consider mining to meet the District Plan definition of a 'temporary activity'. Resource consent is required for the diesel storage.

26. Ms Stirling concludes at [43] that resource consent is not required under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS). My view is that the stockyards are not excluded under clause 5(9) of the regulation as a DSI does not exist, albeit a PSI and soil sampling confirming that contamination is at or below background concentrations does exist. I consider that there remains a technical requirement for resource consent pursuant to clause 11 of the NESCS.

The Site and Existing Environment

27. The location of the activity is detailed in section 2.1 of the AEE. Ms Stirling identifies 3 landparcels which she considers should also be included in the site extent as they are shown in site extent shown in the application.² I agree.
28. The site and surrounding environment are described in section 2 of the AEE, the Landscape Effects Assessment Report and Graphic Supplement,³ and Mr Moore's evidence. I agree with these descriptions, except as noted above in relation to the 3 additional landparcels.
29. Works undertaken on site which require and are not authorised by resource consent, do not form part of the existing environment for planning assessment purposes. The test pit does not form part of the existing environment; it clearly requires resource consent. While the haul

² S42A report [11]

³ AEE Attachment [L]

roads can be constructed without resource consent, it seems artificial to separate them from the activity which they facilitate, therefore I have not taken the approach in my assessment of considering these to form part of the 'existing environment'.

30. Ambient noise monitoring has been undertaken by Mr Hegley⁴, which shows ambient noise to generally be between 40 and 55 dBA L₁₀, with occasional periods as high as approximately 55-65 dBA L₁₀ and some periods as low as approximately 35-40 dBA L₁₀.⁵ I consider the ambient noise monitoring to be demonstrative of the noise characteristics of the existing environment.

Assessment of Effects

31. This section of my evidence evaluates what I consider to be the key effects of concern:
- a. Permitted baseline
 - b. Visual amenity and landscape character
 - c. Archaeological and Heritage Values
 - d. Noise
 - e. Dust
 - f. Vibration
 - g. Rural Character
 - h. Land Stability
 - i. Waterbodies

⁴ N. Hegley evidence, paragraph 26 – 29.

⁵ J. Exeter Memo 15 April 2024, page 3.

- j. Contaminated land
- k. Transport
- l. Flood Hazard
- m. Public Access
- n. Biodiversity
- o. Climate Change
- p. Hazardous Substance Storage
- q. Cultural Values
- r. Duration
- s. Positive effects.

32. I will address each of the matters referred to above in turn, however I firstly summarise the written approvals provided.

Written approvals

33. Written approvals have been provided by 23 parties. These are listed in **Appendix [A]** to my evidence and shown graphically in **Figure 1** below, which is a replication of the map circulated on 5 April 2024, updated to account for written approvals also provided recently by:

- a. P. Harris and G. Sligo, owners and occupiers of 23 Oven Hill Road, Millers Flat, on 28 April 2024; and
- b. J. Ecksmann, owner and occupier of 5474 Ettrick-Raes Junction Road, Millers Flat, on 29 April 2024.

34. In addition to those parties shown graphically, written approval has also been provided by the Clutha Gold Cycle Trust on 24 April 2024.

35. A copy of these recently provided written approvals is attached to my evidence within **Appendix [A]**.



Figure 1 Spatial representation of parties who have provided written approval to the application.

36. Effects on these parties must be disregarded in accordance with section 104(3)(a)(ii) of the RMA.

Permitted baseline

37. Section 104(2) of the RMA allows the decision maker to disregard an adverse effect of an activity on the environment if a national environmental standard or the relevant plan permits an activity with that effect. In this section, I only discuss the permitted baseline in respect of noise, as I consider other permitted activities to be immaterial or not of assistance in terms of a substantive decision.
38. Ms Stirling does not consider the permitted baseline in respect of noise to be relevant on the basis that the scale of earthworks is so much greater than permitted earthworks, therefore earthworks could not be undertaken continuously as a permitted activity for the proposed duration of consent.⁶

⁶ S42A report [53] – [59]

39. I agree with comments in the s42A report that the district plan is effects based,⁷ therefore, it follows that it is the effects of noise that should be considered, informed by the scale, type, and duration etc. of noise, not the nature of the activity which generates the noise. Non-compliance with other standards in the District Plan are not determinative as to whether to apply a permitted baseline or not.
40. I consider that the noise limits specified in Rule 4.7.6E do inform a relevant and realistic permitted baseline, as they apply in respect of all activities in the rural environment, not solely to earthworks. The site is currently a working farm and up until recently, the Council's green waste landfill facility⁸ has also operated out of part of the site. I have considered permitted activities that could reasonably be expected to operate on the site in the context of a farming activity, such as harvesting, cultivation of paddocks with farm machinery, moving stock, baling, etc. I do agree that these individual activities may be intermittent or seasonal, however, realistically I consider there to be a number of permitted activities which may operate together or at different times of year which would generate noise. These noise levels would vary over time in terms of location and intensity, however that is also an expected characteristic of noise arising from the proposed activity, given the moving mine cell methodology.
41. The District Plan noise limits set a maximum level for noise, with no restriction on duration. Where this proposal differs from the permitted baseline is that activities which could be done as a permitted activity, may occur at up to those levels of noise for days or weeks, rather than months, albeit potentially at higher noise levels than modelled for this proposal given noise mitigation measures (e.g. bunds) would not realistically be constructed for a permitted activity.

⁷ S42A report [58]

⁸ For clarity, this is operated under a resource consent.

Visual amenity and landscape character

42. Mr Moore provided a Landscape Assessment Report with Graphic Supplement that was included with the application.⁹ The report was subsequently reviewed by Ms McKenzie on behalf of the Council and in response to her review, additional site plans were created to provide additional certainty on the timing of mitigation measures in relation to the proposed activity. There has been some subsequent correspondence, however in my assessment below I refer to the most recent information, being the evidence of Mr Moore, the memorandum from Ms McKenzie dated 3 April 2024, and the site plans dated 22/4/2024.

43. In regard to effects from public spaces, Mr Moore concludes:

“Overall, my updated assessment finds that from the viewpoints surrounding the site, effects of the proposed activity (whilst operational) on the landscape values will vary over the life of the project and will fall within the following ranges:

- *Teviot Road: Adverse / Low (minor) – Adverse / Moderate (more than minor).*
- *State Highway 8: Adverse / Low – Adverse / Low-moderate (minor).*
- *Oven Hill Road: Adverse / Low-moderate (minor) – Adverse / Moderate (more than minor).*
- *Clutha Gold Trail: Adverse / Low-moderate (minor) – Adverse / Moderate-high (more than minor).¹⁰”*

⁹ The Graphic Supplement was submitted with the application, but whether due to size of the file or some other reason, it appears to have been missed by some parties, including the Council’s peer reviewer (initially) and some submitters. The Council peer reviewer was provided with a copy directly once it was realised that she had not seen it. It was missing from the Council website, and this was corrected on 18/4/2024.

¹⁰ M. Moore evidence, paragraph 17.

44. After rehabilitation, effects on visual amenity and landscape character range from very low to positive.¹¹

45. Ms McKenzie concludes that:

“We consider that adverse effects on views and visual aspects can be adequately mitigated, if the plan set is accompanied by suitable conditions and additional details ensuring mitigation along the Clutha River boundary for Stage Two are provided.”¹²

46. Additional bunding along the western boundary of Stage 2 has been provided in the most recent version of the site plans to address Ms McKenzie’s comments. The precise location of this bunding was specified by Mr Moore following his site visit on 17 April 2024.

47. Mr Moore and Ms McKenzie agree that minimising bund height to 3m is desirable, except where necessary to mitigate noise effects.¹³ I have reflected this in recommended conditions (**Appendix [B]**).

48. I propose the following condition to provide certainty that the timing of the construction of bunds will be appropriate to mitigate visual effects of the activity.

Bunding shall be established in accordance with the site plans dated (22/4/2024). The consent holder shall ensure that prior to the commencement of mining in each stage or sub-stage, bunding is established in the locations shown on the specific sheet numbers referenced in the table below. Bunds may be disestablished in accordance with the staging noted on the site plans (dated 22/4/2024).

¹¹ M. Moore evidence, paragraph 18.

¹² J. McKenzie memo 3 April 2024, paragraph 4.

¹³ M. Moore evidence, paragraph 30.

<i>Mining Stage</i>	<i>Sheet number showing locations of bunds required for the stage</i>
1	2
2	3
3	4
3B	5
4	6
<i>4, after reinstatement of the cycle trail to the existing alignment</i>	8

49. Mr Moore in his evidence specifically addresses views from nearby private properties. He concludes the effects to be:

- a. On 1334 Teviot Road: low-moderate (minor) during stage 2 and 3A, and very low (less than minor) at other times.¹⁴
- b. On 67 Clutha Road: low (minor) during stage 2, and very low (less than minor) at other times.¹⁵

50. I have reviewed Ms Stirling's conclusions in regard to this effect.¹⁶ She raises concerns as detailed below and I provide comment on the same:

- a. Uncertainty in regard to effects on owners and occupiers of private properties. Mr Moore has provided an expert assessment¹⁷

¹⁴ M. Moore evidence, paragraph 23.

¹⁵ M. Moore evidence, paragraph 25.

¹⁶ S42A report [75]

¹⁷ M. Moore evidence, paragraph 21 - 25

following a site visit to these private properties and I accept his opinion. I do not consider there to be any remaining uncertainty.

- b. Lack of remediation planting to enhance rural amenity values. With reference to District Plan Objective 4.3.3 and Policy 4.4.2, I do not consider it essential to 'enhance' rural amenity values. In my opinion, on this site 'enhancement' is not required by the District Plan. Notwithstanding this, the Applicant is open to enhancement planting and has been engaged in consultation to determine the most appropriate location for this. I refer to the evidence of Mr Wills¹⁸, Mr Moore¹⁹ and Mr Johnstone²⁰ where this matter is addressed further.
- c. Concern that there is reliance on the duration of the consent as a mitigation measure. I consider the duration of the effect to be a relevant matter, alongside scale, nature, intensity and frequency of an effect.²¹ The staged nature of the proposal and progressive rehabilitation are also important in this regard. There is no discounting of any effect because it is temporary. Rather the duration of consent and staging of the works assists in defining the duration and overall magnitude of the effect.
- d. Concern that effects will be substantial over a 10-year duration of consent. There is no basis in the landscape expert assessments to draw this conclusion. I consider that Mr Moore's assessment of effects on visual amenity values to be comprehensive and well-reasoned, and I accept his assessment. I do not agree that effects will be substantial once mitigated by bunding, and I also note that the effects are variable as the activity moves around the site. The

¹⁸ B. Wills evidence, from paragraph 45.

¹⁹ M. Moore evidence, from paragraph 32.

²⁰ S. Johnstone evidence, paragraph 27.

²¹ Section 3 RMA

magnitude of effect is addressed in detail in Mr Moore's evidence, Appendix A: Updated Assessment of Visual Effects.

- e. Confidence that effects will be acceptable post-cessation of the activity. I consider this can be dealt with through conditions requiring progressive rehabilitation and a maximum area of mining at any one time. Both are mitigation measures proposed in the AEE and I have incorporated these matters into recommended conditions (**Appendix [B]**).

- 51. In summary, I consider that based on the advice of Mr Moore, review of Ms McKenzie, site plans and conditions proposed, that the adverse effects on visual amenity and landscape character are adequately mitigated and are acceptable.

Noise

- 52. Mr Hegley provided an Acoustic Assessment Report which formed part of the application, and evidence on the effects of noise. The report was reviewed by Mr Exeter on behalf of the Council. There has been some subsequent correspondence, however in my assessment below I refer to the most recent information, being the evidence of Mr Hegley and the memorandum from Mr Exeter dated 15 April 2024.
- 53. Mr Hegley modelled the noise effects of the proposal at seven locations internal to the site, selected for proximity to surrounding residences.²² Noise is modelled with all machinery at the ground surface, and it is recognised that this is a noisiest scenario because, for most of the time, the machinery will be below ground level which will further mitigate noise levels. All noise levels are no greater than 50dBA L₁₀, noting the District Plan daytime noise limit is 55dBA L₁₀. I note that noise levels at each receiver vary considerably, depending on the location of mining activity within the

²² N. Hegley evidence, paragraph 22 and Table 1.

site. Mr Exeter agrees that the activity can comply with the daytime noise limit.²³

54. Several submitters are very concerned about noise levels, and Mr Hegley addresses specific submissions in detail in his evidence. A common theme is that parties are concerned that the modelled noise levels occur at the highest modelled value for each recipient for the 10-year duration of the consent. This is not the case; the mining activity moves around the site and so the noise levels are variable, notwithstanding the highest noise level scenario has been identified in the assessment. Mr Hegley has provided Table 1 of his evidence to demonstrate the changing noise levels at nearby receivers as the mining moves through different parts of the site at ground level. Further, the approximate duration of the highest noise levels has been estimated to be 2 – 3 months, and the duration of noise levels that are above 45dBA L₁₀ (a level that will allow undisturbed sleep at nighttime and is similar to the ambient noise levels in the existing environment) is 4 – 6 months.²⁴
55. Special audible characteristics are managed by a condition of consent preventing the use of tonal reversing alarms and are accounted for in Mr Hegley's assessment.²⁵
56. Dewatering pumps operating overnight have been assessed at 29dBA L₁₀ during stage 1 and no greater than 21dBA L₁₀ during all other stages.²⁶ This is well below the District Plan nighttime noise limit of 40dBA L₁₀. Mr Exeter recommends a condition restricting dewatering pump noise to 25dBA L₁₀ at the notional boundary. Mr Hegley clarifies that this gives an internal noise level of 10 dBA L₁₀, which is not reasonable in the context of the District Plan nighttime noise levels and the ambient noise environment.²⁷ I

²³ J. Exeter memo, 15 April 2024, page 2.

²⁴ N. Hegley evidence, paragraph 67.

²⁵ N. Hegley evidence, paragraph 33.

²⁶ N. Hegley evidence, paragraph 24 – 25.

²⁷ N. Hegley evidence, paragraph 60 - 65.

accept Mr Hegley's assessment and consider that the proposed condition restricting dewatering pump noise overnight is not reasonable.

57. Mr Hegley provides an assessment of noise levels arising from the use of a water cart at night for dust control.²⁸ The noise level will be up to 34dBA L₁₀ at the closest point to a dwelling, and less than that for positions elsewhere within the site. The nature of use of a water cart is to move it around the site, and so noise levels would be variable. The frequency of use at night is estimated at 10%, and it is noted that the estimated peak noise from the use of the water cart would occur when mining activity is occurring close to each dwelling. At other times it would be lower.
58. I have noted above that there is a relevant permitted baseline in respect of noise, and this relates to the level of noise permitted by the District Plan. For clarity, the permitted baseline is not fundamental to my conclusions in respect of noise effects.
59. I consider that the overnight noise arising from dewatering pumps and the occasional use of a water cart are acceptable, noting that they are well below the District Plan nighttime noise standards and that effects from the water cart are occasional.
60. I also consider that the daytime noise levels are acceptable, noting that:
 - a. The levels are all at least 5dBA L₁₀ below the standards set in the District Plan (and based on the advice provided by Mr Hegley that this is a clearly noticeable difference²⁹).
 - b. The levels of noise at each dwelling are expected to be below ambient noise levels except for approximately 4-6 months per dwelling where the noise levels are above the ambient noise, but still well below the District Plan standards.

²⁸ N. Hegley evidence, paragraph 58.

²⁹ N. Hegley evidence, paragraph 65.

- c. The noise mitigation measures proposed by the Applicant appropriately address both reduction of noise levels and mitigation of special audible characteristics.

Dust

61. A Dust Management Plan (“DMP”) was provided as part of the application, as well as a peer review by Mr Nigel Goodhue. Mr Goodhue has also provided an assessment of effects on air quality as part of the application to ORC and evidence on the effects of the proposal on air quality. PDP also provided a technical review of the DMP on behalf of both CODC and ORC.
62. Mr Goodhue has reviewed the dust management plan and agrees that the controls proposed therein are adequate to mitigate and avoid potential adverse effects relating to dust emissions from the site.³⁰ He concludes that subject to the implementation of the proposed mitigation, *“the effects of nuisance and health-related dust will be less than minor on the receiving environment.”*³¹
63. The PDP review was generally supportive of the DMP, while noting a few minor edits. These suggested changes have been incorporated and an updated version is appended to this evidence (**Appendix [C]**).
64. I consider the effects of dust are acceptable.

Vibration

65. Mr Hegley has undertaken a vibration assessment, which has been reviewed by Mr Exeter. Both experts agree that the appropriate standard is DIN 4150-3 and the Applicant’s proposal is well within the applicable limits. Mr Hegley concludes that vibration levels will be within a reasonable level at all times. Mr Exeter concludes that any vibration felt by the occupants of the nearest dwelling (1334 Teviot Road) would be just

³⁰ N. Goodhue evidence, paragraph 43.

³¹ N. Goodhue evidence, paragraph 47.

noticeable and would only occur when plant is operated at the closest point to the dwelling.³²

66. I consider the vibration effects are acceptable.

Rural Character

67. The District Plan recognises the Rural Resource Area as an area with a district environmental character, where activities may locate that are reliant on the rural resource.³³ I note that mining is an activity specifically addressed in the Rural Resource Area. “Rural area” is defined in the District Plan as any place that is not urban, and so I consider rural character to involve a wider range of activities and effects beyond pastoral land use activities.

68. Ms Stirling uses the term “Industrial” to describe the proposal,³⁴ attributing the term to Mr Moore. I consider this to be overstating the case. Mr Moore uses the term “semi-industrial” in his report and evidence, this is in relation to an unmitigated operation. Visual mitigation bunds are proposed to address this effect. Other effects typically associated with industrial activities such as odour, high levels of heavy vehicle movements, dust and noise do not arise in respect of this application or are suitably mitigated.

69. In relation to effects on users of the cycle trail, I consider these persons to be transitory and affected to a lesser degree than any local resident. Based on my conclusions in the preceding sections, I consider the effects on these persons will be acceptable. Further, I note that the Applicant has the written approval of the Clutha Gold Cycle Trust.

70. Effects on rural character are informed by the above section on visual amenity, landscape character, noise, dust, and vibration. I have concluded

³² AEE Attachment [N], Hegley Acoustics letter dated 11 November 2022 and Styles Group Memorandum dated 15 April 2024.

³³ District Plan section 4.1

³⁴ S42A Report [109]

that all these effects are acceptable, provided the effects are mitigated in accordance with the recommended conditions in **Appendix [B]**. I consider these conditions to be essential to mitigate overall effects on rural character.

71. Overall, I consider effects on rural character to be acceptable.

Archaeological and Heritage Values

72. Ms Victoria Ross has undertaken an Archaeological Assessment for the application site area. An application for an archaeological authority has been lodged with Heritage New Zealand Pouhere Taonga (**NZHPT**). At the time of writing this evidence, the application was still in process. The District Plan does not identify any heritage values on the site that would not otherwise be considered 'archaeology'.

73. Existing archaeological sites are identified in Ms Ross's report, as well as wider potential for archaeology associated with manawhenua activity. There are no currently known Māori archaeological sites within the project area. Existing, known archaeological sites that will be affected relate to gold mining and domestic occupation of the site. Ms Ross's report identifies appropriate mitigation including:

- a. Archaeological monitoring of topsoil stripping in nominated areas where the potential for archaeological material is high.³⁵
- b. Topsoil stripping in the areas where archaeological monitoring is required is to be done with an excavator (not a bulldozer), and any archaeological features will be monitored by the archaeologist as they are exposed.³⁶

³⁵ V. Ross evidence, paragraph 22.

³⁶ V. Ross evidence, paragraph 24.

- c. Test trenching near the Tima Burn to identify any earlier Māori archaeological remains.³⁷
- d. On-call monitoring of all other areas of the site.³⁸

74. I note Ms Ross identifies that an invitation could be issued to manawhenua to attend the site for the test trenching. The Applicant agrees to this, and I have included it as a recommended condition of consent.

75. Based on Ms Ross's expertise, I consider effects on archaeological values to be appropriately mitigated and acceptable.

76. I do not recommend an accidental discovery protocol condition is included on the CODC land use consent. This has the potential to conflict with requirements imposed through the archaeological authority and I consider the archaeological authority to be the most appropriate mechanism to control effects on archaeological values. Instead, I recommend that the conditions on the archaeological authority are either duplicated onto the resource consent, or an advice note is applied which refers to the Archaeological Authority.

Land Stability

77. The Applicant initially proposed to address land stability by managing earthworks to minimise risk and seeking geotechnical expertise for the detailed design of the mine pit.³⁹

78. Subsequent to notification, the Applicant engaged Mr Colin Macdiarmid, Principal Geotechnical Engineer at GeoSolve Limited, to provide a slope stability analysis of temporary mine batters parallel to Teviot Road, on the

³⁷ V. Ross evidence, paragraph 25.

³⁸ V. Ross evidence, paragraph 28.

³⁹ AEE, section 5.5.4

basis that this is the most important risk to manage in relation to potential off-site effects. Mr Macdiarmid concludes that:

“Overall batter angles of 45 degrees are suitable for the temporary batter slopes adjacent to Teviot Road for the proposed 7.5 m offset from the crest of the batters to the road reserve.”⁴⁰

79. Mr Macdiarmid considers that an adaptive approach is suitable, given the opportunity to observe batter slope performance in other parts of the site prior to mining near Teviot Road. To this end, I propose the following condition to ensure adverse effects on land stability are appropriately managed.

Batter angles of the mine pit adjacent to Teviot Road shall be no steeper than 45 degrees unless specifically advised by a suitably qualified geotechnical expert. This advice shall be in writing and a copy provided to Central Otago District Council.

80. I consider the effects on land stability are acceptable.

Waterbodies

81. Mr MacDonell will provide planning evidence in respect of effects of the proposal on water quality and quantity.
82. I note that the proposal is set back from the Clutha River / Mata-au and the Tima Burn by at least 20m. I consider this distance appropriate in respect of effects from the use of land for the proposed activity.

Contaminated land

83. Mr Keogh provided a Preliminary Site Investigation and Sampling Summary Report - 1484 and 1534 Teviot Road Report, which addressed testing undertaken on the site of the former stockyards.

⁴⁰ C. Macdiarmid evidence, paragraph 19.

84. Mr Keogh concludes that:

- a. In relation to the site of the former stockyards, *“The results of sampling and analysis indicate that contaminant concentrations at all sampling locations are consistent with the predicted background levels.”*⁴¹; and
- b. In relation to the site of the former landfill, Mr Keogh identified a mining perimeter, and concludes *“it is highly unlikely that the soils outside the mining perimeter present a risk to human health or the environment in their current state or during the proposed mining works, based on the preliminary sampling undertaken.”*⁴²

85. On the basis of Mr Keogh’s advice, I consider that the former landfill on Section 118 Block VIII Bengier SD has been appropriately excluded from the project area and any soil contamination associated with former stockyards on Part Section 96 Block VIII Bengier SD is not above background levels. I conclude that no conditions in respect of contaminated land are necessary as the site plans clearly excludes the former landfill from the project area.

86. I conclude that the adverse effects of potentially contaminated land are acceptable.

Transport

87. Mr Copland provided a Transport Assessment Report which formed part of the application, and evidence on transport effects.

88. Mr Copland has updated his assessment based on the higher staffing numbers and concluded that the activity can be undertaken without adverse safety effects and can be supported from a transport perspective.⁴³

⁴¹ C. Keogh evidence, paragraph 10a.

⁴² C. Keogh evidence, paragraph 8.

⁴³ L. Copland evidence, paragraph, 16 and 20.

89. In regard to the cycle trail, Mr Copland recommends the cycle trail diversion is constructed with a right angle crossing of the site southern vehicle access, and that any upgrades to vehicle accesses are designed with consideration for the cycle trail.⁴⁴ Mr Copland notes that this can be managed at the detailed design stage.
90. Mr Haanen on behalf of CODC recommends that the vehicle accesses are upgraded to the standard in Figure 12.3 of the District Plan. Mr Copland has done an analysis of the access types and concluded that an access constructed in accordance with 'Diagram D' in Appendix 5B of the NZTA Planning Policy Manual is suitable for the site and would provide an appropriate transport design outcome.⁴⁵ Abley have created a concept drawing to demonstrate that this can feasibly be accommodated on the site. I have included Mr Copland's recommendations into my recommended conditions (**Appendix [B]**).
91. I consider the transport effects of the proposal are acceptable.

Flood Hazard

92. Part of the site is located within a flood hazard overlay on the District Plan maps. Mr Williman has provided a Flood Hazard Assessment Report which formed part of the application, and evidence on flood hazard effects.
93. Mr Williman concludes that the mine pit will have an effect of attenuation of floodwaters, and therefore reduce risk of flooding to other properties. Any adverse effects of flooding are internal to the site and relate to potential damage to the batter slopes and inundation of the mine pit. Mr Williman considers that the risk to staff is very low.⁴⁶
94. Ms Stirling and Kā Rūnaka seek further clarification of the effects of events that are larger than the assessed 1 in 100 year ARI storm event. Mr

⁴⁴ L. Copland evidence, paragraph 26.

⁴⁵ L. Copland evidence, paragraph 62.

⁴⁶ N. Williman evidence, paragraphs 7-8.

Williman has addressed this in his evidence, concluding that the nature of the effect is the same, i.e., floodwaters are attenuated and flood risk to other properties is slightly reduced.⁴⁷

95. Ms Stirling proposes a condition that restricts the duration of excavation within the flood hazard overlay to 6 months. Mr Williman clarifies that the timeframe of 6 months has been used for statistical calculations of risk and is not a recommended limit.⁴⁸

96. I accept Mr Williman's evidence and in relation to flood hazard effects, my conclusions are:

- a. The proposal does not create any adverse effects on the wider environment in relation to flood hazard.
- b. The potential for flooding of the mine pit is very low, in the order of 0.5%.
- c. Potential effects on workers safety should be managed through the Applicant's health and safety responsibilities and documentation.
- d. Potential effects of flooding the mine pit on the stability of the mine pit walls are internal to the site and can be appropriately managed by the Applicant's Emergency Response Plan.

97. Overall, I consider the effects of flood hazard to be acceptable.

Public Access

98. Public access is affected by the proposal in respect of two paper roads, and to the Clutha River / Mata-au by way of the southern paper road. **Figure 2** is a property map, replicated from the AEE section 5.11.1, which identifies the paper roads within the application site area. Each paper road will be

⁴⁷ N. William evidence, paragraph 9.

⁴⁸ N. William evidence, paragraph 15.

unavailable to the general public for part of the consent duration, though not at the same time.

99. Public access to the Tima Burn is unaffected by the proposal.

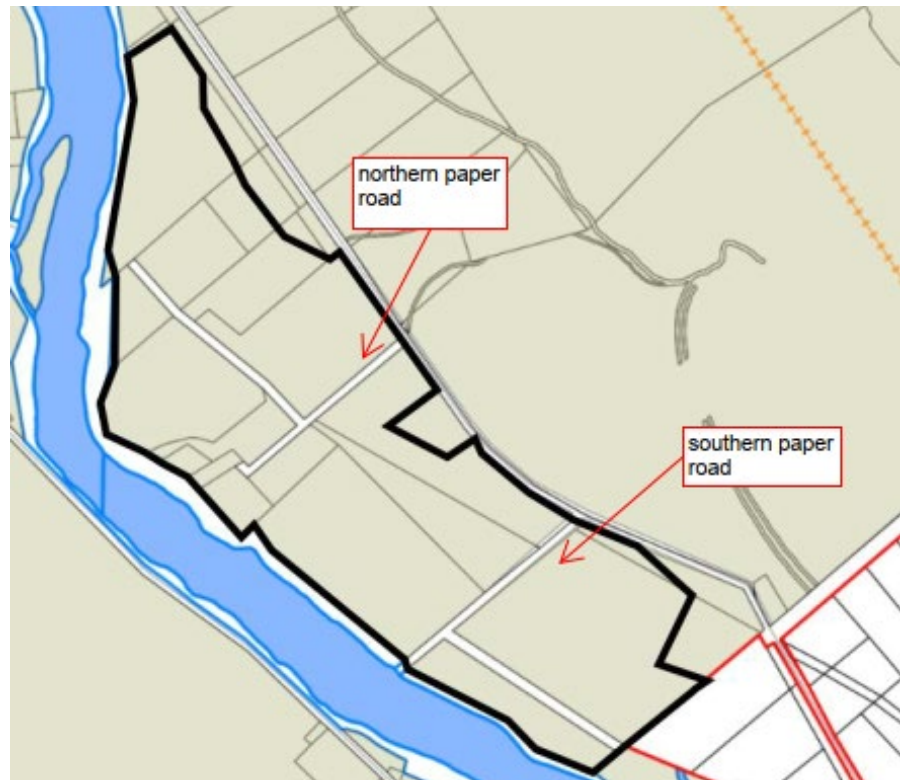


Figure 2 Site outline showing property boundaries and paper road locations.

100. The northern paper road does not provide access to any public space; it only provides access to private properties, all of whom have provided written approval. It does not connect through to the Clutha River / Mata-au marginal strip.

101. The southern paper road provides access to private properties, and the Clutha River / Mata-Au. The owners of the properties accessed from this paper road have also provided written approval to the application. The southern paper road forms part of the Clutha Gold cycle trail (the **cycle trail**) and is identified as fishing access and provides for public access to the Clutha River / Mata-au.

102. Public access to the mine site will be prevented for health and safety reasons, therefore, when the mine crosses the southern paper road, public access to the cycle trail and the Clutha River / Mata-au will be affected.

103. The Applicant proposes to stage the works so that when the southern paper road is affected by mining, a temporary public access point is opened utilising the northern paper road and some land owned by the Applicant. This is represented on the site plans (ref) as a temporary diversion of the cycle trail. This 'diversion' will provide shared access to the Clutha River / Mata-au, in the same manner that the southern paper road currently does.
104. The Applicant has undertaken consultation with the Clutha Gold Charitable Trust (**the Trust**) (who are responsible for the operation of the cycle trail) and has come to a private agreement with the Trust for the diversion and remediation of the cycle trail. The Trust have provided their written approval to the project.
105. The following conditions are proposed to implement the Applicant's proposed mitigation measures:

The consent holder shall ensure that mining work does not prevent public access to the Clutha River / Mata-Au across the site. Prior to restricting public access to the Clutha River / Mata-Au via the paper road adjacent to 1534 Teviot Road, Millers Flat, the consent holder will provide an alternative public access route to the Clutha River / Mata-Au within 1km and constructed to a similar standard. Signage shall be erected explaining the duration of closure and location of the alternative access.

The consent holder shall ensure that mining work does not prevent public access to the Clutha Gold cycle trail. The cycle trail may be temporarily diverted to enable ongoing public use and access.

106. I consider that the proposed conditions provide for a similar level of public access in a nearby and reasonably convenient location, and appropriately mitigate adverse effects on public access to the river and on users of the cycle trail.

Biodiversity

107. A submitter raised concerns about indigenous biodiversity.⁴⁹ The Applicant subsequently engaged Mr Barrie Wills to assess indigenous flora and Mr Simon Chapman to specifically assess lizards and skinks.

108. Dr Wills has walked over the site and concluded that vegetation on the site consists of agricultural monocultures with indigenous biodiversity virtually completely lacking, and only existing to a minor degree on historical dredge tailings.⁵⁰

109. Dr Wills has suggested, given the site will be progressively returned to a productive pastoral and/or agricultural ecosystem, that there is opportunity to provide for indigenous vegetation planting along the adjacent Clutha / Mata-au marginal strip alongside the cycle trail, thereby improving the riparian border.⁵¹ Mr Moore agrees such planting would be positive from a landscape perspective.⁵² Mr Johnstone's evidence confirms the Applicant's commitment to this work and details early consultation already underway.⁵³

110. Mr Chapman found 4 lizards / skinks on his site visit and concludes that the site lizard values are low, the project is highly unlikely to have a significant adverse effect at the local population level for the species present,⁵⁴ and the site does not provide significant habitat for indigenous herpetofauna.⁵⁵ Mr Chapman considers the provision for indigenous planting along the Clutha River / Mata-au likely to be of benefit local lizard populations.⁵⁶

⁴⁹ Submitter 172, paragraph 11.1.2.

⁵⁰ B. Wills evidence, paragraph 29.

⁵¹ B. Wills evidence, paragraph 45.

⁵² M. Moore evidence, paragraph 34.

⁵³ S. Johnstone evidence, paragraph 27.

⁵⁴ S. Chapman evidence, paragraph 19.

⁵⁵ S. Chapman evidence, paragraph 28.

⁵⁶ S. Chapman evidence, paragraph 21.

111. On the basis of Dr Wills' and Mr Chapman's evidence, I conclude that effects on biodiversity are acceptable.

Greenhouse Gas Emissions

112. A submitter has raised concerns about greenhouse gas emissions from the project.⁵⁷ Mr Goodhue has addressed this in detail in his evidence and concludes:

*Based on the absence of guidance, and that the fossil fuel-burning equipment meets the permitted activity provisions of the Regional Plan, it is not considered necessary to assess the greenhouse effects of the proposed activity.*⁵⁸

113. While this application is for a mining activity, it is not in relation to a combustible or greenhouse gas generating material (such as coal). The activity will involve vehicles and machinery, however there are no relevant planning controls on emissions from these sources. The Applicant has proposed to electrify operations wherever possible, including the GRP and pumps in Stages 2 – 4, and emissions from machinery will be offset to a degree by reduced emissions from agricultural activities. I have not given the quantity of emissions any weight however as there is no data to identify what these may be.

114. I conclude that any greenhouse gas emissions from the project are acceptable in the context of the relevant planning documents.

Hazardous Substance Storage

115. Up to 60,000 litres of diesel storage will occur on site to fuel the machinery. Diesel will be stored on the site in a containment facility compliant with Health and Safety at Work (Hazardous Substances) Regulations 2017 (the

⁵⁷ Submitter 172, paragraph 11.1.3.

⁵⁸ N. Goodhue evidence, paragraph 74.

HS Regulations), including in a double skinned tank that has an appropriately sized secondary containment (bund) area.

116. I consider the effects of hazardous substance storage to be appropriately managed by the HS Regulations. I support a condition of consent requiring that the Applicant identify all requirements in relation to the HS Regulations relevant to the quantity of diesel stored on site in their Health and Safety Management Plan, hold on site the relevant documentation and have any relevant documentation available to Council on request.

117. Ms Stirling requests a map demonstrating the location of the tank.⁵⁹ I suggest this could be addressed by a condition of consent, to confirm that the tank is not located within a flood hazard area or within 50 metres of a surface waterbody.

Cultural Values

118. Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (**Kā Rūnaka**) and Te Rūnanga o Ngāi Tahu have submitted on the application in opposition.⁶⁰ I acknowledge the relationship of Kā Rūnaka and Te Rūnanga o Ngāi Tahu with the Mata-au, and their advice on cultural values and interests in the catchment.

119. To minimise duplication of planning evidence I do not address effects on cultural values relating specifically to water quality or quantity. I refer to the evidence of Mr MacDonell in these matters. I address comments in these submissions specifically on the Regional Policy Statement, Central Otago District Plan objectives and policies and Iwi Management Plan below. This section of my evidence is concerned with effects on cultural values within the scope of the land use consent.

⁵⁹ S42A report [140]

⁶⁰ Submitter 167 - Te Rūnanga o Ngāi Tahu and Submitter 171 - Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga

120. Te Rūnanga o Ngāi Tahu identify that the “*Mata-au (Clutha River) is a wāhi taoka (treasured resource) for Kāi Tahu whānui*” and that they are “*concerned that the mauri of sacred waterbodies will be adversely affected by the application(s)*”.⁶¹ There is a Statutory Acknowledgement in respect of the Mata-au (Clutha River).⁶²

121. Kā Rūnaka identify that the Mata-au and Tima Burn are part of an integrated ancestral landscape (wāhi tūpuna), and potential effects on the values of the ancestral landscape is of concern.⁶³ Significant wāhi tūpuna areas and their associated cultural values have been identified in draft mapping, identified as *Proposed Central Otago District Plan Wāhi Tūpuna Mapping, Area 3*.⁶⁴ I understand that this information is available to CODC in draft format⁶⁵ and Aukaha, but is not available to the general public.⁶⁶ It would assist if Kā Rūnaka could clarify to what degree this information is expected to undergo further revision, and how this information relates to the site (i.e., the scale of the wāhi tūpuna area, the specific values associated with the site and how these may be affected by the proposal).

122. Kā Rūnaka note that “*mining, earthworks, groundwater takes, and the discharge of contaminants are a threat to the values of this wāhi tūpuna landscape and the relationship of Kāi Tahu with the Mata-au.*”⁶⁷ The Applicant has undertaken to mitigate the effects of these activities, to protect the values of the Mata-au. I refer to the evidence of Mr MacDonell and Mr Heller in regard to measures proposed to mitigate effects on water quantity and quality, and to paragraphs 51, 60, 64, 74, 81 and 107 of my

⁶¹ Submission 167, 4.1

⁶² Ngāi Tahu Claims Settlement Act 1998

⁶³ Submission 171, 4.9 - 4.11

⁶⁴ Submission 171, 5.6

⁶⁵ S42A report [155]

⁶⁶ Draft wāhi tūpuna mapping and associated description of values rested from Aukaha on 13/3/2024, 26/3/2024, 8/4/2024 and 17/4/2024 (no response received) and from CODC on 1/3/24 and 16/4/24 (CODC declined to provide the information on the basis that it was internal not theirs to share).

⁶⁷ Submission 171, 6.3

evidence in regard to effects on landscape character, noise, dust, archaeological values, land stability and public access.

123. Kā Rūnaka identify that the site is part of a wider significant cultural landscape and hold concerns that the location and scale of activity may impact on the values of the cultural landscape. The values associated with the cultural landscape include, but are not limited to mahika kai, ara tawhito, archaeological values, nohoaka, wāhi tūpuna, water transport route, place names, urupā, pā.⁶⁸

124. The Applicant has sought to identify and mitigate effects on cultural values. Mitigation measures include:

- a. Setbacks from waterbodies;
- b. Management of effects to ensure no discharge to waterbodies;
- c. No chemical contaminants used for on-site processing;
- d. Diesel appropriately stored and banded;
- e. Archaeological investigation and monitoring;
- f. Provision of uninterrupted public access to the Clutha / Mata-au;
- g. Avoidance of disturbance to indigenous vegetation and habitats of indigenous fauna; and
- h. Consultation with regard to biodiversity enhancement options.⁶⁹

125. Kā Rūnaka note that mining has the potential to destroy and modify archaeological sites.⁷⁰ I agree and consider adherence to the recommendations in the Archaeological Report by Ms Ross essential to mitigate effects on known and potential Māori archaeological sites. Ms

⁶⁸ Submission 171, 8.3 – 8.4

⁶⁹ S. Johnstone evidence, paragraph 27.

⁷⁰ Submission 171, 8.5

Ross' report contains recommendations for further investigation (the test trench) prior to excavation for mining, in order to provide more robust information on the archaeological potential on the site.⁷¹

126. Kā Rūnaka identify that additional information on staging, visual impacts and mitigation, and rehabilitation of the site following mining would assist their assessment of the effects on cultural values.⁷² Staged site plans with the suggested condition detailing the timing of bunds have been provided. In regard to rehabilitation, I suggest the following condition form part of the consent:

Within twelve months of the commencement of consent, the consent holder shall provide a rehabilitation plan which addresses the following matters:

- a. The final surface contour of land following completion of mining, including any on-site drainage patterns. The final site contour is to integrate with the surrounding landform and restore the site to its pre-existing landform, except that the Council green waste tip on Section 92 Block VIII Benger SD is to be filled in and the tailings dump on Section 90 Block VIII Benger SD is to be removed.*
- b. Methods to preserve topsoil and restore agricultural productivity of the mined land.*
- c. Methods and timeframes for rehabilitation of mined land, including backfilling, regressing and reinstatement of farm infrastructure.*
- d. Methods for ecological enhancement in a non-agricultural location near to the site.*

A copy of the draft rehabilitation plan shall be provided to Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Kā Rūnaka) via Aukaha. Kā Rūnaka shall be afforded a minimum of 20 working

⁷¹ V. Ross evidence, paragraph 25.

⁷² Submission 171, 8.8

days to provide feedback on the draft rehabilitation plan. The consent holder shall provide to the Central Otago District Council a copy of the rehabilitation plan and Kā Rūnaka feedback.

127. Kā Rūnaka request that a bond is imposed in respect of this project.⁷³ The Applicant agrees to this.

128. Kā Rūnaka request planting of some indigenous species is undertaken to contribute to biodiversity values in the catchment.⁷⁴ The Applicant agrees to this. The Applicant's current view is that planting along the Clutha / Mata-au marginal strip would provide the highest degree of benefit, as an agreement for maintenance of the planting can be arranged with the Cycle Trust following the closure of the mine. The Applicant is also prepared to undertake exotic species removal and considers that this can practically be done while rehabilitation of the cycle trail is underway.

129. I understand that there are a number of concerns in regard to effects on cultural values. I consider that the Applicant has demonstrated a willingness to address cultural matters, engage in consultation and modify the proposal in response to feedback. I consider that the proposed conditions and additional information go some way to addressing cultural concerns, and I retain an open mind in regard to other matters Kā Rūnaka may seek to address or include in draft conditions in respect of the proposal.

Duration

130. A ten-year consent duration is requested.

131. I consider this to be appropriate noting the timeframe to carry out the mining activity is estimated to be 5-7 years, and the additional time provides for project establishment and rehabilitation.

⁷³ Submission 171, 8.17

⁷⁴ Submission 171, 8.17

132. I understand that the duration of the water permit from ORC is limited to 6 years by provisions introduced by way of Plan Change 7 to the Regional Plan: Water for Otago.
133. Ms Stirling recommends limiting the duration of the land use consent RM230325 to 6 years to align with the water permit duration, as a water permit is necessary for dust control.⁷⁵ I do not consider it necessary to align the duration of the land use consent from CODC to the duration of the water permit from ORC as the Applicant can easily source water for dust suppression.
134. Rule 12.1.2.2 in the ORC Regional Plan: Water for Otago allows the taking and use of surface water from the main stem of the Clutha / Mata-au, up to 100L/s and 1 million litres per day, per landholding, as a permitted activity, subject to engineering performance standards. Rule 12.2.2.4 allows the taking and use of groundwater from within 100m of the main stem of the Clutha / Mata-au on the same conditions, and additionally that it does not affect any existing lawful take of water. As the main stem of the Clutha / Mata-au is adjacent to both the site and land owned by the Applicant, it is very practical for the Applicant to access an alternative source of water, should the water permit expire and not be renewed. The Applicant can apply for a resource consent to construct a bore as a controlled activity under Rule 14.1.1.1 in the ORC Regional Plan: Water for Otago.
135. The water permit is also required to authorise the taking of water for dewatering the mine pit. I do not consider this to be a reason to limit the duration of the land use consent either, as the Applicant may be able to operate dewatering at a lesser scale as a permitted activity (albeit I understand this may be less efficient) , and also undertake activities on the site that do not require dewatering, such as backfill and rehabilitation of the mine void.

⁷⁵ S42A report [125]

136. Should the Commissioners require further assurance, I recommend an advice note be added to the land use consent noting that the water permit is required for dewatering and that renewal or an alternative source should be sought well in advance of the expiry.

137. I consider the requested 10-year duration to be essential to provide for the activity to be undertaken and allow sufficient time for rehabilitation.

138. I consider it unduly onerous to require renewal of the CODC land use consent in tandem with renewal of the water permit, and unnecessary to manage environmental effects.

Positive effects

139. A summary of positive effects, which have largely been discussed in preceding sections is as follows:

- a. The proposal will result in social and economic benefits as discussed in Mr Hawkeswood's evidence, by providing work and socio-economic activity in the local area.
- b. The proposal provides opportunity for habitat and ecological value improvements to (location), by planting native riparian vegetation and removal of exotic weed species.
- c. The proposal will result in some enhancement to visual amenity by rehabilitation of the Council green waste pit and tailing stockpile currently on the site.

140. Overall, I conclude the proposal has a number of positive effects.

Matters raised by submitters

141. In total, 471 submissions were received. Two submissions were withdrawn prior to the hearing,⁷⁶ leaving 469 for the Commissioners to consider. Six

⁷⁶ Submissions 313 and 169

submissions were in opposition, six were neutral and 457 were in support of the application.

142. Ms Stirling has a different summary of submitter positions; the key difference is she states 8 opposing, 3 neutral and 1 unspecified. I explain the differences below, though note these are largely immaterial to the substantive decision as the matters raised by submitters have been considered regardless.

- a. Submitter 018⁷⁷ has circled both oppose and support. I have included this submission as neutral, whereas Ms Stirling has identified it as 'unspecified'.
- b. Submitter 163⁷⁸ has crossed out support and oppose, and retained 'neither support or oppose' on their submission form. I have interpreted this as neutral, and Ms Stirling has interpreted this submission as 'oppose'.
- c. Submitter 165⁷⁹ has not stated if they oppose or support consent. The submission does not seek that consent be refused but does request additional information / assessment. I have interpreted this as neutral, and Ms Stirling has interpreted this submission as 'oppose'.

143. Whilst my assessment above has addressed the relevant effects / matters of concern noted by submitters, for the avoidance of doubt I have included specific responses to matters raised by submissions, except as noted as follows to avoid duplication:

- a. Matters related to water quality or quantity are addressed in Mr MacDonell's evidence.

⁷⁷ Grant Anderson

⁷⁸ Jane and Noel Barrett

⁷⁹ Ministry of Education

- b. Matters identified in submissions from Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga⁸⁰ and Te Rūnanga o Ngāi Tahu⁸¹ have been addressed in the section on cultural effects above.
- c. Submitter concerns relating to dust are specifically addressed in Mr Goodhue's evidence.
- d. Submitter concerns relating to noise are specifically addressed in Mr Hegley's evidence.
- e. Submitter concerns relating to transport matters are specifically addressed in Mr Copland's evidence.

Fire and Emergency New Zealand (FENZ)⁸²

144. The Submitter requests confirmation that there is adequate water supply for firefighting activities, adequate access to enable response to emergencies, and consultation with the submitter during preparation of the Site Emergency Management Plan.

145. I refer to the evidence of Mr Johnstone; a SEMP has been drafted and consultation with FENZ is underway⁸³. The SEMP addresses the matters raised in the submission.

146. The Applicant accepts conditions proposed by the submitter, except to clarify that there are no explosives on site that may create risk of mine explosion.

⁸⁰ Submitter 171

⁸¹ Submitter 167

⁸² Submitter 162

⁸³ S. Johnstone evidence, paragraph 14.

Jane and Noel Barrett⁸⁴

147. The Submitters identify concerns about the effects of noise as experienced at their home and question whether noise levels will be monitored. Mr Hegley's evidence addressed this and clarifies the maximum noise level and monitoring approach.

Culling Trust⁸⁵

148. The Submitter raises concerns regarding the effect of water take and discharge on the mauri of the river. I refer to the discussion on cultural effects where this matter is addressed in more detail and Mr MacDonell's evidence.

149. The Submitter is concerned about the increase of dust. I consider that the Dust Management Plan will enable the appropriate management of dust effects.

150. The Submitter is also concerned about the effects of noise on the tranquil nature of the locality, and on the enjoyment of the cycle trail. I consider the mitigation measures proposed combined with targeted noise monitoring will appropriately mitigate these effects.

Ministry of Education⁸⁶

151. The Submitter requests further detail on dust management practises. I consider that the updated Dust Management Plan addresses this.

152. The Submitter is also concerned about heavy vehicle movements and traffic safety effects. A condition is volunteered by the Applicant to address this, as discussed in Mr Copland's evidence.

⁸⁴ Submitter 163

⁸⁵ Submitter 164

⁸⁶ Submitter 165

153. The Submitter requests that the Applicant engage directly with Millers Flat School. The Applicant agrees and Mr Johnstone details consultation undertaken with the school in his evidence.⁸⁷

Graeme Young⁸⁸

154. The Submitter raises a concern that the site is contaminated. I refer to the evidence of Mr Keogh and consider that suitable testing has been undertaken to exclude the landfill from the mine site, and to ensure that soil has been tested to ensure there are no contaminants that may cause environmental or health problems in the stockyard area.

155. The submitter is also concerned about the scale of the project and impacts on the local community. I consider the mitigation measures proposed appropriate to mitigate effects of the proposal, as outlined in the preceding sections.

Millers Flat Water Company⁸⁹

156. The Submitter identifies water infrastructure within the proposed mine footprint and requests a condition requiring agreement from MFWC prior to any impact on that infrastructure.

157. I refer to the evidence of Mr Johnstone. A private agreement between the Applicant and MFWC has been finalised and signed by both parties.⁹⁰

158. The Submitter also requests a condition of consent requiring the Applicant to adopt appropriate practices for the storage and use of hazardous substances. The Applicant agrees to this.

⁸⁷ S. Johnstone evidence, paragraph 12.

⁸⁸ Submitter 166

⁸⁹ Submitter 170

⁹⁰ S. Johnstone evidence, paragraph 10.

159. The Submitter consider that the degree of exceedance of the earthworks standards is so large that, by extension, the proposal cannot be consistent with the District Plan.⁹² I consider that limits in the permitted activity rules are a trigger for resource consent, not a threshold for acceptability. It is the effects of the activity that must be assessed, and I refer to earlier sections of my evidence in respect of these. I refer to my evidence below for a specific assessment of the proposal against the District Plan Objectives and Policies.

160. The Submitter requests that the duration of the land use consent from CODC is restricted to the same duration as the water permit from ORC.⁹³ I refer to my discussion in paragraphs 134 to 139 above on this matter.

161. The Submitter has raised concerns about effects on the amenity and tranquillity of their property arising from bunds, flood lighting, noise and dust.⁹⁴ I defer to the evidence of Mr Hegley and Mr Goodhue in respect of noise and dust respectively.

162. In respect of lighting, conditions are proposed that control the degree of light spill and verification of this by a suitably qualified person. The Applicant accepts these conditions and I agree that they will appropriately mitigate effects of lighting.

163. In respect of the visual effects of bunds, Mr Moore has undertaken a site visit to the Submitter's property and undertaken a specific assessment. He has assessed that the bunds will significantly modify the sense of rural openness of views to the south of the property for approximately two years, noting that views of the bund are buffered by existing vegetation

⁹¹ Submitter 172

⁹² Submission 172, paragraph 5.3

⁹³ Submission 172, paragraph 6.1.

⁹⁴ Submission 172, paragraph 7.2.

and buildings. Mr Moore concludes the effects on the Submitter to be adverse / low-moderate (minor) for the period of two years and adverse / very low (less than minor) for the remainder of the project.⁹⁵ The Applicant agrees to a condition of consent restricting the duration of Stage 2 to 2 years, and I consider this provides more certainty on the effects. It is acknowledged that the bunding will have a degree of effect, and I consider this is also mitigated by grassing the bunds. A condition of consent could also be included requiring the part of the bund facing the Submitter's residence is grassed as quickly as possible, with the use of irrigation as appropriate. I have included a draft condition to this effect in **Appendix [B]**.

164. The Submitter raises a number of concerns with respect to noise.⁹⁶ I consider that the degree of noise effect has been clarified substantially in Mr Hegley's evidence and trust this addresses the Submitter's concern. I have concluded in paragraphs 59 and 60 above that the effects of noise are acceptable and I clarify that this conclusion applies also in respect of noise effects on this Submitter.

165. The Submitter also raises concerns in regard to biodiversity, the Clutha Gold cycle trail, archaeology and heritage and greenhouse gas emissions. These matters are addressed at paragraphs 112, 107, 74 and 115 of my evidence respectively.

166. The Submitter raises various issues in relation to the Applicant reopening the Council green waste landfill on the site.⁹⁷ This does not form part of the proposal and so I have not given it further consideration.

167. The Submitters requests conditions further restricting the hours of operation and timing and duration of the activity.⁹⁸ I do not agree that the proposed condition restricting work to daylight hours only is necessary

⁹⁵ M. Moore evidence, paragraph 22 – 23.

⁹⁶ Submission 172, section 8.

⁹⁷ Submission 172, section 12.

⁹⁸ Submission 172, section 17.

given the mitigation provided in respect of lighting. I do not agree that a condition requiring that the section nearest their home is mined first is practical, nor changes the nature and scale of effects (only the timing). I have proposed a condition limiting the duration of works in Stage 2 to two years, noting that much of the Stage 2 work is more than 400m away from the Submitter's property. Further a Specific Management Zone is proposed for specialised dust control measures within 400m of the Submitter's property.

168. I acknowledge that this Submitter is particularly concerned about effects on them arising from the proposal. I consider that the conditions in **Appendix [B]** provide a level of mitigation that appropriately minimises the effects of the activity on this Submitter.

Department of Conservation⁹⁹

169. The Submitter seeks that the Applicant undertake a heritage assessment and that Council impose suitable conditions to address heritage matters. Ms Ross has undertaken a heritage values assessment and I consider that consent conditions requiring adherence to the recommendations of that report will address this matter.

Wendy Gunn¹⁰⁰

170. The Submitter is concerned about the proximity of the activity to her property, and in particular the effects of noise. The Submitter requests continuous noise monitoring to ensure compliance with the District Plan is achieved and provision of a noise monitoring device to her. I consider the mitigation proposed by Mr Hegley to be appropriate and agree a noise monitoring device on the boundary of the project area would be more effective than a noise monitoring device at the Submitters house.¹⁰¹

⁹⁹ Submitter 452

¹⁰⁰ Submitter 471

¹⁰¹ N. Hegley evidence, paragraph 55.

171. The submitter queries whether dewatering will occur overnight and raises concerns about overnight noise. I consider the assessment provided by Mr Hegley on overnight noise demonstrates that overnight noise will be acceptable and will not breach the noise standards.¹⁰²

172. The Submitter is also concerned that there will be little social benefit to the Millers Flat community. I have not placed weight on positive effects as part of my assessment as these are difficult to quantify. Mr Hawkeswood's evidence provides additional commentary on this matter, identifying the economic contribution to the area and the region which will arise from the proposal.

Submitters in support¹⁰³

173. Submissions in support of the proposal contain a number of common themes, therefore I discuss these collectively. The reasons for submissions in support include:

- a. The proposal provides jobs for the community.
- b. There are positive flow-on effects within the local and wider area for products and services required by the mine operation.
- c. The land will be restored post-mining, to the same if not better condition.
- d. The community will benefit.
- e. The proposal is good for the economy.
- f. There are social benefits to community.
- g. Adverse effects on the environment are adequately mitigated and less than minor.
- h. The proposal may increase the population of the local area.

174. I have included consideration of these matters in my consideration of positive effects of the proposal.

¹⁰² N. Hegley evidence, from paragraph 61

¹⁰³ 457 submissions

Proposed consent conditions

175. A full set of the conditions that I recommend are included as **Appendix [B]** to my evidence. My assessment of effects above is based on the mitigation measures contained within this draft set of conditions. Any mitigation measures I have noted in the assessment of effects section above have been incorporated into the conditions in **Appendix [B]**.

176. I have reviewed the conditions suggested by Ms Stirling in her s42A report. I address below matters where I consider the conditions are not suitable or I recommend different mitigation. I have not addressed in this section minor edits for clarity or minor consequential changes.

Conditions 3 and 5

177. There is some duplication between these conditions and the Applicant does not propose that all site workers and site visitors read the consent documentation. The Applicant does take responsibility for compliance and for ensuring workers understand the consent requirements that are relevant to their role. That is a fundamental premise of a resource consent. The Applicant will ensure that a copy of the resource consent is accessible on site, and that persons managing the site are aware of the full range of requirements.

Condition 6

178. This consent specifies a 6-year lapse date in accordance with s125 RMA. An extended lapse date is not necessary in this case and the standard s125 RMA provisions are acceptable to the Applicant.

179. I do consider a condition restricting the duration of consent to the requested 10 years to be appropriate and suggest that this replace condition 6 as drafted.

Condition 7

180. This condition specifies a limit to the earthworks volume of 11.9 million cubic metres. It is acknowledged in the application¹⁰⁴ and s42A report¹⁰⁵ that this volume is an estimate. The reason it is an estimate is because earth swells when it is removed from the ground, and so one cubic metre in the ground becomes larger in a truck. The scale of swell is variable and influenced by the type of material. Imposing a volume limit on earthworks is unnecessary in my view as the scale of activity is controlled by the area, depth of excavation and duration of consent. It would be very difficult to measure and monitor a volume of earthworks.

181. I consider it appropriate to retain the area restriction in condition 7 and have added in a maximum depth of excavation to provide additional definition of the scale of the activity.

Condition 8

182. Condition 8 limits the number of people engaged in the activity to 20. With reference to the discussion in paragraph 21 above, this condition is recommended to be amended to 30, to provide contingency and allow for site visitors (e.g. delivery drivers).

Conditions 10 and 11

183. Condition 10 sets out requirements for a gold mine management plan. In my opinion, the condition is not suitable for this project and I have prepared a redrafted condition. My reasons are:

- a. The condition requires the management plan be provided within one month of the date of consent. This may not be sufficient time to prepare a substantial management plan and this timeframe is unrelated to the effects of the activity. I recommend a minimum

¹⁰⁴ Section 3.2 of the AEE

¹⁰⁵ Paragraph [56]

timeframe before the activity starts as a timing requirement instead.

- b. The condition refers to crushing. This activity does not form part of the proposal.
- c. The condition refers to 'mitigation measures to be employed to minimise environmental effects and/or adhere to best practice'. I consider the appropriate standard is compliance with consent conditions. The proposed terminology is uncertain.
- d. The condition requires provision of information that has already been provided or is not relevant, for example, plans showing the areas of extraction and 'operational traffic aspects'.

184. Condition 11 requires the GMMP is certified by CODC but does not specify what CODC is to certify it against. This certification requirement is uncertain and unnecessary. If the GMMP does not cover the matters listed in the condition, that is a compliance matter. The matters noted in the condition are already covered to large extent by existing documentation and there are no new or unexpected matters likely to arise in the GMMP. I propose this condition is deleted.

Condition 16

185. Condition 16 relates to the preparation of a site emergency management plan. There is reference to mining explosion, which is not relevant to this project. I recommend clause (b) is deleted.

Condition 17

186. Condition 17 refers to an area of the mine that is completed and backfilled within 6 months. Based on my conclusions in paragraphs 96 and 97 above, I consider this condition to be unnecessary.

Condition 18

187. Condition 18 provides for three options involving the vehicle accesses. Clauses (a) and (b) are unnecessary, as the Applicant does not propose to use two vehicle accesses concurrently. Mr Copland recommends that clause (c) is edited to provide for alternative vehicle access design¹⁰⁶ and I have included this in my recommended draft conditions.

Condition 19

188. Condition 19 requires the upgraded vehicle access to be designed by a qualified person. I agree with the substance of this condition but have reworded it to an advice note directing the consent holder to the CODC Rooding Bylaw 2023.

Condition 23

189. This condition is reporting a record of activity. I have deleted reference to compliance with an annual work programme as it is not clear what effect this addresses, given the consent holder sets the work programme. I have edited reference to the volume of earthworks to refer instead to the area and depth of earthworks.

Condition 25

190. This condition restricts works on Sundays and public holidays to dust control only. The Application includes machinery maintenance and the operation of dewatering pumps on these days. The Applicant advises that the continual operation of dewatering pumps is necessary for efficient operation of the site. Machinery maintenance may be undertaken on these days to ensure operational efficiency on working days. The s42A report does not raise any adverse effect specifically with undertaking these activities on Sundays and public holidays and I consider it to be

¹⁰⁶ L. Copland evidence, paragraph 65 and 68.

appropriate noting that other parameters controlling effects of the activity remain applicable (e.g. noise limits).

Condition 26

191. Condition 26 requires all earth bunds to be constructed prior to any mining. The Site Plans provided on 5 April 2024 show bunds being constructed in a staged manner so as to mitigate effects from the active operation, and leaving the part of the site where there is no mining in pasture. I have provided a redrafted condition to reflect a staged approach to bunds and the revised height of 3m agreed by Mr Moore and Ms McKenzie (except where necessary for noise mitigation).

Condition 27

192. Condition 27 states the permitted activity noise limits. I disagree with the advice note that the noise limits apply to any new notional boundary established after the date of consent. There are no reasons given in the s42A report for this restriction, and it is inherently uncertain. Any new residential activity could not establish without resource consent.

Condition 28

193. This condition sets a noise standard for dewatering pumps. Based on my discussion in paragraph 56 above, I consider this condition should be deleted.

Condition 31

194. The condition requires an Operational Noise Management Plan (ONMP) is prepared. This is acceptable to the Applicant. The condition requires it is certified by CODC but does not specify what CODC is to certify it against. This certification requirement is too uncertain and unnecessary. If the ONMP does not cover the matters listed in the condition, that is a compliance matter. The noise modelling is agreed by the experts to be appropriate, and it demonstrates noise levels well below the District Plan anticipated noise levels. I have proposed minor edits to the condition.

Condition 35

195. This condition requires bunds to be grassed and irrigated. I recommend adding 'if necessary to attain 80% strike' to the condition. Irrigation may not be necessary to attain suitable grass strike, or it may be necessary during establishment, but not once established. The added text will prevent the establishment of unnecessary irrigation infrastructure, but still require a suitable outcome.

Condition 36

196. This condition requires bunds to be constructed and retained for each stage. The condition as written conflicts with condition 26. I have proposed a redraft of condition 26 that replaces this condition, and I recommend this condition is deleted.

Condition 42

197. This condition requires signage to meet permitted activity standards. It does not control an environmental effect and I recommend it is included as an advice note.

Condition 45

198. This condition is to make the Applicant aware of requirements under separate legislation for the movement of oversize vehicles on the road. I consider that this would be more appropriate as an advice note.

Condition 46

199. This condition requires the agreement of the MWFC prior to any works affecting the water infrastructure. This agreement has been reached and a copy is attached to Mr Johnstone's evidence. The condition is unnecessary.

Condition 47

200. This condition relates to stormwater discharge requirements. I recommend it is removed as it does not relate to the adverse effects of the activity within the land use consent matters. Discharge of stormwater is a matter controlled by the regional council.

Condition 48

201. This condition requires compliance with the dust management plan. I have recommended edits to provide for changes to be made to reflect updated practise or new information.

Condition 50

202. I recommend that this condition relating to accidental discovery of archaeological material is deleted. The Applicant's archaeological report recommends a more nuanced approach, where certain areas are identified as requiring monitoring and others where it is appropriate to rely on an accidental discovery protocol. I consider that the Archaeological Authority conditions will reflect this and there is high risk of inconsistency with those requirements. I prefer the Archaeological report recommendations to this condition as drafted, as they are informed by expert archaeological advice. This condition also conflicts with condition 51 (which requires adherence to New Zealand Heritage Properties Archaeological Report recommendations) for the reasons explained above.

Condition 51

203. This condition requires adherence to the March 2024 Archaeological report. I consider that this should be edited to provide for any modifications required by Heritage New Zealand Pouhere Taonga.

Conditions 52 - 55

204. These conditions relate to a closure and rehabilitation plan. I have provided a redraft which more accurately reflects the proposal, including:
- a. Removal of the retrospective approval in condition 32 and editing the timeframe to reflect the progressive nature of the proposal.
 - b. Provision of a rehabilitation outcome standard.
 - c. Editing consultation requirements to provide more certainty for all parties.
 - d. Deletion of condition 54 as it replicates condition 38.
 - e. Amendment of the timeframe in condition 55 to reflect the requested duration.

Conditions 56 -57

205. These conditions relate to a bond. I agree a bond condition is appropriate, but I find the drafting concerning, particularly the requirement for Council to agree to the amount of bond without any parameters for that agreement or requirement for the amount to be determined by a person with relevant expertise. I have provided a suggested revision of the bond conditions.

Condition 58

206. This is the review condition. I recommend deleting clause (b), which enables review to ensure the consent conditions are consistent with statutory documents. In my opinion, that assessment forms part of the s104 decision making and appropriately occurs prior to the grant of consent.

207. A copy of the condition set that I recommend is included as **Appendix [B]**.

Evaluation of Objectives and Policies (s104(1)(b))

National Policy Statement on Indigenous Biodiversity

208. The Objective of the NPS-IB is to “*maintain indigenous biodiversity*”. The Objective recognises the mana of tangata whenua as kaitiaki of indigenous biodiversity.
209. Indigenous biodiversity is maintained by locating the works separate to areas of established indigenous habitat, and by undertaking enhancement work as proposed in Mr Johnstone’s evidence.¹⁰⁷ Mr Chapman identified very limited habitat on the site suitable for herpetofauna and noted that there is potential benefit in the Applicant’s proposed ecological restoration.¹⁰⁸ Ms Wills agreed that planting of indigenous vegetation would create a positive effect.¹⁰⁹
210. Collaboration with tangata whenua is provided for in the ecological enhancement programme.
211. I consider that the proposal achieves the NPS-IB Objective and the relevant provisions in Policy 1 and Policy 8.

Regional Policy Statement 2019 (RPS)

212. The Otago Regional Policy Statement 2019 (“**RPS**”) was made fully operative on 4 March 2024.
213. Objective 1.1 seeks the sustainable use of resources to promote economic, social and cultural wellbeing. Supporting policies refer to enabling the sustainable use and development of resources, recognising and providing for Kāi Tahu values and avoiding significant effects on human health. I consider the Objective to be enabling of development subject to the

¹⁰⁷ S. Johnstone evidence, paragraph 27.

¹⁰⁸ S. Chapman evidence, paragraphs 14 and 21.

¹⁰⁹ B. Wills evidence, paragraph 62.

protection of identified values. I consider that the Applicant has put significant effort into providing for Kāi Tahu values and this is reflected in proposed conditions of consent which provide for ongoing future engagement.

214. Objective 2.2 provides for Kāi Tahu values and interests and supporting policies recognise and provides for the protection of identified wāhi tūpuna sites. There may be unidentified wāhi tūpuna sites as noted by Kā Rūnaka in their submission. The Applicant has mitigated effects to the extent possible with the level of information available.

215. Objective 3.1 seeks to maintain the values of ecosystems and natural resources. I consider the proposal adequately set back from the margins of waterbodies so as not to adversely impact on the values within Policy 3.1.2. Regarding Policy 3.1.6, I consider the dust management measures appropriate to maintain amenity values associated with air quality. Policy 3.1.7 relates to soil values, and I consider the proposal suitably protects topsoil and will achieve suitable rehabilitation of pastoral land. Policy 3.1.8 seeks to minimise soil erosion and I consider this is achieved by the ESCP. Policy 3.1.9 requires that indigenous biodiversity is maintained and for the reasons expressed above in paragraph 210, I agree that is achieved.

216. Objective 5.1 and supporting Policy 5.1.1 seek to maintain or enhance public access to rivers and their margins. I consider the proposal achieves this by providing suitable alternative public access where the existing public access is affected.

217. Objective 5.3 requires sufficient land to be managed and protected for economic production. Supporting Policy 5.3.1 provides for mineral extraction and processing in rural areas. Policy 5.3.4 recognises the functional needs of mineral extraction and processing activities to locate where the resource exists.

218. Objective 5.4 requires that adverse effects of use of natural and physical resources are minimised. Policy 5.4.8 specifically addresses the effects from mining activities, and I address this in detail due to the very detailed nature of the policy:

- a. The proposal is not located in any of the locations that clause (a) seeks to avoid. Therefore, clause (b) and (ba) of the policy are not relevant.
- b. Adverse effects on the health and safety of the community are avoided, as required by (c), with reference to the conclusions in Mr Copland's, Mr Hegley's and Mr Goodhue's evidence.
- c. Adverse effects on highly valued natural features are avoided by way of setbacks from the Clutha / Mata-au and Tima Burn (clause (d)).
- d. Clause (e) relates to biological diversity offsetting, which I consider has very limited relevance, but regardless I consider the positive effects on biodiversity are achieved on the basis of Mr Wills' evidence.¹¹⁰
- e. Clause (f) seek to reduce unavoidable adverse effects by staging and progressive rehabilitation. The application is consistent with these principles.
- f. Clause (g) directs a precautionary approach where there is uncertainty, or potentially significant or irreversible effects. I do not consider that to be the case for this application.

219. Overall, I consider the proposal to be consistent with the 2019 RPS.

Proposed Otago Regional Policy Statement 2021 (PORPS)

220. Decisions on the Proposed Otago Regional Policy Statement 2021 ("PORPS") were notified on 30 March 2024. The appeal period ended on 4 April 2024 and I understand that at least five appeals were received. There may be others that have not been uploaded to the ORC website at the time of preparing my evidence.

¹¹⁰ B. Wills evidence, paragraph 62.

221. The AEE provided an assessment against the PORPS, and since decisions on the PORPS have been notified, the wording of relevant provisions has changed. I have reviewed the changes and provide an updated assessment.
222. I consider that the proposal, as relates to the CODC land use consent, does adequately protect the values of the Clutha River / Mata-au through setbacks of the activity from waterbodies. In this regard I consider the values expressed in Objective LF-WAI-O1 (Te Mana o Te Wai) and LF-VM-O2 (Clutha Mata-au FMU vision), as edited by the PORPS decisions, are protected.
223. Provisions previously in Objective LF-LS-O11 have been redrafted into LF-LS-O12, which seeks to safeguard the life-supporting capacity of soil. I consider this objective will be achieved by the separate stockpiling of topsoil, and rehabilitation of the land to pastoral use.
224. Objective LF-LS-P22 has undergone minor amendments only and I remain of the view that public access will be maintained by providing an alternative nearby public access during mining.
225. Overall, I consider the proposal to be consistent with the PORPS.

Central Otago District Plan

226. The District Plan contains manawhenua objectives in section 3.3. Objective 3.3.1 has particular regard to kaitiakitanga and supporting Policy 3.4.1 refers to the Kai Tahu Ki Otago - Natural Resource Management Plan (1995) as the principal resource management planning document. I discuss this document below. Subsequent Objectives 3.3.2 – 3.3.5 provide for wāhi tapu, wāhi taoka, wai, and mahika kai.
227. Policy 3.4.2 seeks to recognise and provide for wāhi tapu and wāhi taoka by establishing processes that allow the existence of these to be taken into account and by ensuring significant adverse effects on such sites are avoided, remedied or mitigated. Based on the information available to me at the time of preparing this evidence, there is an information gap as to the extent and values associated with a draft wāhi tupuna area that may be

reconciled through the hearing process. However, I have no information to suggest that effects may be at a significant level, given the setback from the Mata-au and mitigation of effects thereon.

228. Objective 4.3.1 recognises that communities need to provide for their wellbeing, while ensuring environmental quality is maintained or enhanced. I consider the proposal is consistent with the Objective based on my conclusions in respect of the effects of the proposal and consistency with supporting (and more specifically worded) policies in the District Plan.

229. Objective 4.3.3 (Landscape and Amenity Values) requires that landscape values are maintained and where practicable enhanced. This objective applies to all landscapes within the Rural Resource Area, including Outstanding Natural Landscapes, Significant Amenity Landscapes and 'Other' Rural landscapes. Enhancement is not a mandatory requirement but is only engaged '*where practicable*'. In my opinion, enhancement is not required wherever it is remotely feasible, but rather must be a fit for purpose assessment taking into account the use of the site for pastoral purposes as anticipated by the zone, and other values and District Plan provisions. The Objective seeks to maintain rural amenity values and based on Mr Moore's evidence I consider that the proposal achieves this. The proposal does not impede or adversely affect the open natural character of hills and ranges, nor specified natural character or landscape values. A sense of openness is impacted on one side of 1334 Teviot Road; however, I refer to the more specific Policy 4.4.8 below in this matter.

230. Policy 4.4.2 relates to landscape and amenity values. In regard to the methods for achieving the policy referenced in clauses (a) through (h) of the policy, I make the following comments:

- a. Structures do not adversely affect the open natural character of hills and ranges, skylines, prominent places and natural features (clause (a)). Notably, all except the workshop are permitted.
- b. Development is compatible with the amenity values of neighbouring properties (clause (b.)). In this matter I refer to Policy 4.4.8 below.

- c. Buildings are located to maintain the open natural character of hills and ranges without compromising the landscape and amenity values of prominent hillsides and terraces (clause (g)).

231. The remaining clauses in Policy 4.4.2 are not relevant to the proposal. The policy is very directive in the terminology used to specify the methodology for achieving its stated outcome, and I consider the proposal appropriately avoids, remedies or mitigates effects in accordance with the policy.

232. Policy 4.4.8 is the most specific provision in relation to neighbours amenity and I place significant weight on it. It requires that effects including (but not limited to) noise, vibration, traffic, dust and hazardous substances are not *significant* (my emphasis). I consider that there are no significant effects arising from these matters. Further, the policy prevents a significant degree of effect, and by inference, a lesser degree of effect is acceptable. I consider the proposal consistent with this policy.

233. I consider Policy 4.4.9 has limited relevance as it addresses reverse sensitivity effects of new activities. The policy recognises that rural activities generate noise that can disturb neighbours.

234. Objective 4.3.6 seeks to preserve the natural character of water bodies and their margins. I consider this is achieved by setting the project back from water bodies. I do not consider Policy 4.4.4 to be relevant as it relates to works specifically within riparian margins, and this proposal is not.

235. Objective 4.3.7 seeks to maintain the life supporting capacity of soil resources. The rehabilitation plan contains specific reference to the preservation of topsoil. An Erosion and Sediment Control Plan has been provided appended to Mr Johnstone's evidence. I consider the mitigation gives effect to the objective.

236. I do not consider Objective 4.3.8 or Policy 4.4.7 to be relevant as they relate to *Significant Indigenous Vegetation and Habitats of Indigenous Fauna*.

This is not relevant to this site as demonstrated by the evidence of Dr Wills¹¹¹ and Mr Chapman.¹¹²

237. Objective 12.3.1 promotes the safe and efficient operation of the Districts roading network. Policy 12.4.1 seeks to avoid, remedy or mitigate adverse effects on the roading network by requiring safe and efficient access points and off-road loading, manoeuvring and parking. I consider the proposal achieves these matters, and in particular that the assessment by Mr Copland demonstrates an appropriate and safe vehicle access design is achievable.¹¹³

238. Objective 14.3.4 recognises and provides for appropriate protection for the values associated with the District's archaeological sites. Policy 14.4.6 provides for conservation values of archaeological sites by ensuring that works carried out near archaeological sites recognise and provide for their values. I consider this is achieved through the reporting of Ms Ross, which identifies the archaeological values and provides for appropriate mitigation through recording and preservation of artefacts. The policy further requires protection of archaeological values where the values are significant. Ms Ross confirms that the known archaeological sites in the project area have at the most, moderate archaeological values.¹¹⁴ In respect of unrecorded / unknown archaeological sites, the value of these is expected to be low-moderate (for sites related to mining), medium (for sites related to domestic activity) and low to high (for midden / oven sites).¹¹⁵ The archaeological value associated with both known and unknown archaeological sites is at a level below 'significant' in all cases, therefore, I consider this policy and objective are given effect to, and the management of archaeological values is consistent with the District Plan.

¹¹¹ B. Wills evidence, paragraph 53.

¹¹² S. Chapman evidence, paragraph 28.

¹¹³ L. Copland evidence, paragraph 20 and 62.

¹¹⁴ V. Ross evidence, paragraphs 10-13.

¹¹⁵ *1346-1536 Teviot Road, Roxburgh, An Archaeological Assessment*, Prepared by New Zealand Heritage Properties Ltd, Revision H, Pages 104-106.

239. Objective 17.3.1 seeks to avoid and mitigate the adverse effects of hazards. Policy 17.4.4 requires that the location, design and/or operation of land use activities does not increase the intensity and frequency of existing hazards. Based on Mr Williman's assessment, I agree that the proposal does not increase the intensity or frequency of existing flood hazard from flooding.
240. Policy 17.4.5 seeks to ensure that the use, storage and transport of hazardous substances are designed and located so as to avoid or mitigate risk to the environment and the community's health and safety. I consider the recommended conditions appropriately manage risk from diesel storage, noting that the legislative controls are different to when this policy became operative. The HS Regulations control the requirements for hazardous substance storage.
241. Overall, I consider the proposal to be consistent with the Objectives and Policies in the District Plan.

Relevant Other Matters (s104(1)(c))

242. The Kāi Tahu Ki Otago Natural Resource Management Plan 2005 (NRMP) is relevant.
243. Section 5.4.6 notes that mining is to be discouraged within landscapes of cultural significance or highly visible landscapes. I consider the visual bunding will assist in mitigating visibility of the site. The project is setback from the Mata-au, and a precautionary approach to potential Māori archaeology is recommended by Ms Ross. I retain an open mind regarding any other mitigation measures that Kā Rūnaka may suggest.
244. Section 5.4.6 (17) further states that all applications for mining should include the following:
- i. site rehabilitation plans that include the planting of indigenous species and address long term concerns; and*
 - ii. requirement for screening off of the work site; and*

iii. prevention or reduction of vibration, dust, noise, soil and water contamination; and

iv. restriction of the hours during which explosives may be used;

v. provision for the containment of all waste discharges from mining operation.

245. Draft conditions in respect of rehabilitation include the planting of indigenous species. A draft rehabilitation plan has been provided. The work site will be screened by bunding. Effects in relation to vibration, dust, noise and soil, and mitigation of these are discussed above. The proposal does not involve the use of explosives. There is no chemical processing of gold which may create contaminated waste. I consider that the Applicant has provided information on the above matters as required by 5.4.6 (17).

246. Section 5.4.6 (19) requires that earthworks mitigate effects on landform, indigenous vegetation, soil instability and other adverse effects of earthworks. There is effectively no indigenous vegetation in the project area as demonstrated in Mr Wills evidence. Geotechnical effects on land stability are addressed by Mr Macdiarmid. Landform is to be reinstated on completion of mining. Other adverse effects of earthworks (noise, dust etc.) have been addressed above, and appropriate mitigation for the effects included in draft conditions.

Part 2 RMA

247. The purpose of the RMA, as set out under Section 5 (2) is to promote the sustainable management of natural and physical resources. Relevant matters in sections 6, 7 and 8 also require consideration.

248. Section 6 identifies matters of national importance under that need to be recognised and provided for in this application.

(a) the preservation of the natural character of ... rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

249. The proposal is set back from the Clutha River / Mata-au and Tima Burn, and will preserve the natural character of these waterbodies and their margins. The proposal creates a small degree of enhancement to natural character from the indigenous planting proposed.

(d) the maintenance and enhancement of public access to and along ... rivers:

250. The proposal maintains public access to rivers by providing a reasonable and convenient alternative access, where existing access is temporarily restricted.

(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

251. Kā Rūnaka are concerned that activities including mining and earthworks are a threat to the values of the wāhi tūpuna landscape and their relationship with the Mata-au. The Applicant has acknowledged and sought to protect cultural values as discussed above, including providing for test trenching to identify any unknown Māori archaeological sites prior to earthworks, consultation regarding works and rehabilitation, and ensuring works are set back from the Mata-au and Tima Burn. Additional information has been provided in evidence in regard to concerns raised by Kā Rūnaka. Further, ongoing engagement is included in draft recommended conditions to continue to recognise and provide for the relationship of Kāi Tahu whānau with the Mata-au and wāhi tūpuna.

(f) the protection of historic heritage from inappropriate subdivision, use, and development:

252. I consider the mitigation described in the archaeological report appropriately protects historic heritage values.

(h) the management of significant risks from natural hazards.

253. I consider that the proposal will not create any significant risks from natural hazards on the wider environment and that any effects internal to the site

will be appropriately managed on the basis of Mr Williman's and Mr Macdiarmid's evidence.

254. The RMA specifies that particular regard shall be had to the relevant other matters listed in Section 7 including:

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(c) the maintenance and enhancement of amenity values:

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

255. The Applicant recognises that Kāi Tahu whānau exercise kaitiakitaka in the Mata-au catchment, and input from Kā Rūnaka has been sought and responded to in regard to the proposal.

256. The proposal is an efficient use of natural resources and recognises the finite characteristics of the natural and physical resources, by ensuring the land is restored to agricultural use post mining. The proposal appropriately provides for the maintenance and enhancement of amenity values and the quality of the environment, as discussed in my evidence above.

257. Section 8 requires that the principles of the Treaty of Waitangi are taken into account. The Applicant has engaged with Kā Rūnaka in the development of the proposal and has provided for ongoing consultation in proposed conditions of consent. Additional information from Kā Rūnaka may assist in the decision-making process, particularly in regard to wāhi tūpuna. Overall, I consider that the principles of the Treaty of Waitangi have been given effect to.

258. In summary, I consider the proposal to be consistent with the purpose and principles as set out in Part 2 of the RMA.

Conclusion

259. For the reasons set out above, my overall conclusions are:

- a. In regard to cultural effects, there is a degree of uncertainty in the overall assessment of these particularly as relates to the draft wāhi tūpuna area. Kā Rūnaka may provide an updated view on cultural effects following the provision of the Applicant's evidence. I consider that the Applicant's degree of engagement to date with manawhenua is appropriate, and that ongoing engagement on key matters of cultural concern, as noted in my evidence and reflected in recommended conditions, is appropriate to ensure cultural values are appropriately protected.
- b. All other environmental effects of the proposal are appropriately mitigated.
- c. The proposal is consistent with the relevant statutory documents.

260. I consider that subject to the conditions set out in my **Appendix [B]**, the proposal is acceptable.

261. Overall, I find that the application meets the necessary tests for approval.

Anita Clare Collie

Dated 29 April 2024

Appendices:

[A] Written Approvals

[B] Recommended conditions

[C] Dust Management Plan