

# Memo

**To:** Leigh Robcke – Hauraki District Council      **From:** Craig McGarr

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**Date:** 18 August 2022      **Project No:** 19016

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**Re:** LAND USE CONSENT APPLICATION: LUSE-202.2022. 00001633.001  
(Section 92)

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The resource consent application, which was lodged on 23 June 2022, and which the Hauraki District Council accepted for processing on 27 June 2022, has been reviewed, and the following further information is requested pursuant to section 92 of the Resource Management Act 1991.

In undertaking the review, I have consulted with the HDC experts that have been engaged in respect of the various disciplines, each of whom have requested specific information relative to the specialist reports they have reviewed relative to their discipline, or confirmed that at this stage of the process that no further information is required. Correspondingly, the planning review has focussed on:

- Part A: The Overarching Assessment of Environmental Effects;
- Part B: The Site Specific Assessments of Environmental Effects (Area 1/CFP, Area 2, Area 3, Area 4, Area 5, Area 6, and Area 7);
- Part C: The Application forms;
- Part D: The Technical drawings;
- Part F: Authorisation of Existing Mining Activities;
- Part G: Pre-lodgement Consultation Report; and
- Part J: Relevant Statutory Provisions.

The application includes a suite of proposed conditions (Part E) which include those specific to HDC, those specific to WRC, and those ‘common’ to both. Related to these proposed conditions are a suite of management plans (Part I). A detailed review of these will be undertaken upon receipt and review of the further information requested (which may entail an amendment to what has been proposed). Should further information or clarification be required, then that will be requested at that time.

A site visit was undertaken of the locality on 27 July 2022, which included Area 2 (except for the site of the Willows Farm vent raise), Area 5, Area 6, and Area 7. The general route of Area 4 was observed while transiting between Area 2 and 5. I have previously visited the site of

Area 1, as it generally relates to the location of the proposed mining activity/vent raises, when reviewing an application for exploratory drill sites.

### Overarching Application/AEE

#### *Duration/timing of project*

- Section 1.1 states: *The WNP will extend the life of the Waihi mining operation to 2038...*
- The Economic Impacts assessment states: *The project will ...lengthen mine life by 6 years to 2036 ...Remediation efforts will see further employment and investment over 2037 and 2038*
- Proposed Condition 4 seeks a 10 year lapse date pursuant to section 125 of the Act.
- Proposed condition 5 seeks consent for an unlimited term pursuant to section 123(b) of the Act.

While it is understood that it is not proposed to limit the consent sought to a duration, and there is no date/period proposed in the application for an end date for the proposed mining activity to be completed (and corresponding timeframe for rehabilitation), there is a degree of reliance across the respective assessments undertaken in support of the application that the mining activity sought, together with currently authorised mining activity that is integrated with the implementation of the activity sought, has a relatively defined timeframe. There is no overarching consideration or assessment of the effects of the ‘mine life’ overall, or the component parts of it that this application relates to. Further explanation and assessment of this is required.

Related to this, there is no information or assessment in the Overarching AEE or Area specific AEE’s of the overarching programme or sequencing of works/activities to understand how the respective components of the proposal are to be integrated, initiated, and developed, including for example whether aspects of parts of the overall activity are dependent and reliant on other aspects before they can be undertaken, together with what aspects of the particular mitigation measures are to be in place prior to aspects of the activities occurring. Further explanation and assessment is requested in this regard, including information concerning the duration of works involved for the respective components, and their dependency/relationship on each other relative to preparatory, mining and rehabilitation works.

#### *Outside the Application Areas*

The application is framed to include *‘much of the existing mining infrastructure associated with Oceana’s existing mining operations to transport, process, store and dispose of material extracted as part of the WNP’*. The majority of this ‘infrastructure’ is located within the respective ‘Areas’ that the application relates to, and the application incorporates the continued use of existing/consented/authorised facilities and activities within the respective Areas, in a way which is to co-exist and be coordinated with the continued operation of authorised mining activities, particularly in Areas 5 and 6, relative to the SFA, TSFs, conveyor and northern stockpile – and the related underground mining activities serviced by these.

The application's approach is to utilise, upgrade and extend this infrastructure to accommodate/service the 'new' mines/mining activity that are proposed, being GOP and WUG (and the related Area 2 activity), and this includes a new TSF (Area 7), extended rock stack (Area 6) and 'connectivity' (Area 3 and Area 4).

The application notes that any future mining of Martha Pit which is not already authorised by existing resource consents would be subject to a separate subsequent resource consent process where the effects of that mining activity are assessed. It is understood that such a comment relates to the future mining of the Martha Pit, as opposed to the processing capability/capacity of the existing (and proposed) SFA in Area 5, 6, 7. Please confirm.

It is understood from the scope of the proposal that the application does not seek consent for any activity within the extent of the Martha Pit (identified as the 'Martha Phase 4' area on Figure 1). The application (and the Stantec Assessment) refers variously to the use of existing at grade parking (accessed from Kenny Street), which is to be expanded and provide for a staging facility/park and ride for the WUG site (Area 1 & 2). With reference to the intended use of the existing/proposed parking area to be accessed from Kenny Street, the application material does not include any details (or drawings) of the Kenny Street Carpark proposal. It is also unclear what the existing Martha Open Pit entrance is proposed to be used for, as a component of this application. These areas are not located within the Areas that the application relates to, and the application requires amendment to incorporate them, including the address and title details of the land.

The applications note (in relation to Areas 5, 6, and 7) that:

*Secondary site access points are used infrequently when access via the main gates is impractical. These are:*

- *Moore Street, approximately 500 m southeast of the Moore Street - Barry Road intersection. This is used when an oversize or heavy load cannot access via Baxter Road. It is also an alternative to the Baxter Road access when the Ohinemuri River floods, preventing access via Baxter Road;*
- *Clarke Street is used infrequently for over-weight or over-dimension vehicles. It is also used by members of the Black Hill Motocross Club (discussed later); and*
- *Two access gates off Golden Valley Road east of Moore Street are used infrequently for monitoring or exploratory work, or for over-dimension loads.*

There is no assessment/reference to the use of these access arrangements for the respective construction or operational aspects of the development of the respective Areas. Please confirm, and/or assess their use accordingly. Similarly, there is no reference to the use of Golden Valley Road for vehicle access associated with construction (or operational activity) within these areas. Please confirm, or assess accordingly.

#### *Responsible Operations*

Section 2.2 refers to six Statements of Position, but does not include these for reference. Please supply.

*HDC Approvals*

Section 3.2 states: *The main area impacted by this is Area 5 which contains the existing Waihi SFA which is authorised by a range of permitted activity rules and land use consents. For ease of administration and clarity the land use consent sought for the WNP would authorise all existing and WNP specific land use activities within Area 5 (emphasis added).*

This suggests that the application is seeking to ‘re-consent’ all land use activities in this Area, and for these to operate in conjunction with the proposed activities, as well as to continue to service previously consented activities. Does the Area 5 application/component therefore propose to supersede the current HDC land use consents/conditions that relate to section 5.17.4.1 (P1 or P2) of the District Plan? If so, a specific section explaining this is required, and the site specific AEE for Area 5 requires amendment to reflect this, and address the implications for the existing consents and the existing activities that operate under them. If that is not the proposal, then the application needs to be re-framed/explained accordingly.

It is unclear from Table 2 (section 3.2) which activities the proposal requires consent for. To provide clarity as to what the application seeks, the respective activities listed should be tabulated to align with the activity status. This comment is applicable to all of the AEEs. Please amend in a manner that is consistent with the approach taken for the WRC consent matters to provide clarity.

*Approvals required under other Acts*

Section 4 states: *OceanaGold already holds some of these authorisations and applications for others will be made during or after the RMA resource consent process*

It is unclear from this ‘list’ what authorisations are held, what is required to be obtained (and when), and what (if any) implications this has for the resource consent application to the HDC. Please provide an explanation, including what licences and easements are proposed (and where they relate to) to place infrastructure such as pipes on Council and government-owned land, and what extent of roads are proposed to be closed or realigned. Are these matters necessitating further resource consents (such as subdivision)?

It is also considered that a commentary on the Crown Minerals Act, relative to section 57, should be provided to explain the applicant’s position as to why the applicant does not require access arrangements with private landowners, the Crown or the Council, whose properties overlie the site of the mining activity. The application is currently silent on this matter.

*Tangata Whenua*

Section 5 sets out the consultation undertaken with (and the responses from) several Iwi groups/representatives, and refers to Part G of the application.

The overarching AEE supporting the application states that engagement has occurred with 10 iwi groups and that support (and resourcing) has been offered to prepare CIAs, noting that: *The completion of an iwi led CIA will assist the company in ensuring that Māori cultural*

*values and interests, and the potential impacts of the WNP on these, are appropriately and obviously accounted for in the Project.*

The AEE notes there have been various responses from the iwi engaged with, stating that *In virtually all cases, iwi have reserved their right to defer commenting or taking a position on the Project until they, or another iwi group they have recognised as having authority over specific matters, have completed a robust assessment.*

Having reviewed the various responses in Part G, there are various and differing ‘comments’ made in respect of the understanding of the parties consulted as to the status of the application, and what are understood to be the next steps in terms of process. These include:

- *no objection to the applications being notified;*
- *committed to consultation regarding the lodgement and notification of the resource consent application whilst the assessment is completed;*
- *committed to supporting the lodgement and notification of the resource consent application whilst the assessment is completed;*
- *acknowledging the application being submitted and notified for public submission;*
- *support for the lodgement of the Waihi North Project resource consent application contingent on being given the opportunity to undertake this CVA prior to any hearings; and*
- *no comment being provided.*

These comments are not consistent with each other – and there is no conclusion that can be drawn from them that there is an acceptance through the engagement undertaken that the application can proceed to be notified in the absence of a CVA/CIA being undertaken.

The application is lodged without any assessments of cultural effects in the form of a CIA or CVA, and that assessment (which the applicant is reliant on being undertaken by others) is required to be provided, together with a response from the applicant which addresses (and/or accepts) the assessments undertaken by others as constituting the assessment of cultural effects for the purpose of the application.

#### *LINZ*

Section 6.4 states: *This engagement has been in respect to elements of the project that relate to Crown property and property access.*

Clarify/explain which elements of the project *relate to Crown property and property access*, and what the HDC consent matters are that relate to this?

#### *Waka Kotahi*

Section 6.5 states: *Stantec were commissioned by OceanaGold to describe and assess the traffic and transportation effects with the WNP and were tasked with engaging with Waka Kotahi directly from the outset of the drafting of their assessment. Through this process Waka Kotahi has given guidance and specific feedback on best practice regarding roading upgrades*

*and modifications to reflect the traffic use associated with the project, all of which have been considered in the Stantec report.*

The Stantec report does not include any records of communication with Waka Kotahi (feedback or guidance). Please clarify and explain.

The assessment goes on to state: *the logistics and design of this trench and at the time of writing is in the process of entering into a commercial arrangement with Waka Kotahi for the private use of the road corridor.* What is the status of this?

#### *Martha Trust*

Section 6 concerning consultation and engagement is silent on communications with the Martha Trust. Noting that the application (by way of proposed conditions – Condition C62) requires a third party entity (the Martha Trust) to be responsible for the post closure management of the Gladstone Open Pit Tailings Storage Facility, Northern Rock Stack and Tailings Storage Facility 3, including the activities intended to be authorised by the consent sought under this consent, as well as to take a series of actions – what communications have been had with the Trust to confirm such actions and processes are agreed with, and what mechanism is proposed for this to occur?

#### *The Project's potential social impacts*

Section 7.3.2 states: *After considering the various measures proposed to avoid, remedy, mitigate or offset the effects of the WNP the only negative social effects that WSP attributed moderate to high significance were:*

- *Increased demand for housing...*

*With respect to the first matter, in consultation with WSP a suite of conditions has been proposed which require OGNZL to prepare and implement:*

- *A Workforce Accommodation Strategy – the objective of which is to reduce the extent to which the WNP activities contribute to any local housing shortages; and...*

It is not clear as to how the effects identified are avoided, remedied, mitigated or offset through proposed conditions (102-106), which do not have clear actions to be undertaken to address the effects identified by the proposed objective. Further information/assessment is required to explain the actions proposed to be taken to address these effects.

#### *Biodiversity*

Section 7.4 states: *the Waihi North Biodiversity Project is not mitigation or compensation for an adverse effect of the WNP. Rather, it is a positive beneficial project OGNZL proposes in addition to the mining-related aspects of the WNP.*

*The details of the Waihi North Biodiversity Project are currently being worked through with tangata whenua entities. This engagement process will be ongoing following lodgement of the consent applications. Through that process it is envisaged that details of the project objectives*

*and the mechanism for overseeing the design, governance, implementation, monitoring and review of the project may be agreed prior to a decision on the applications being made. OGNZL has committed to finance the work involved in establishing and designing the Waihi North Biodiversity Project.*

*It has also committed to providing \$2,400,000 prior to commencing stoping within Area 1 to get the Waihi North Biodiversity Project underway, and then \$600,000 annually thereafter for 10 years or until mine closure, whichever is greater.*

*The dollar value proposed each year is proposed in the expectation that it will be sufficient to fund two years of predator control (one during operation and one following closure).*

While draft conditions have been proposed in respect of this matter, there is no explanation of the outcome of the consultation with DOC or Tangata Whenua, with the note to the draft conditions stating: *This engagement process will be ongoing following lodgement of the consent applications. Through that process it is envisaged that of the project may be agreed prior to a decision on the applications being made. If that is the case conditions will need to be proposed which reflect the agreed outcome. The proposed conditions below are proposed to provide an indication of what a condition structure could look like in the event agreement has not been reached by the time a decision on the application is made.*

The scope of the biodiversity project is dependent on the agreement of other parties, including those that are to be a party to the mechanism to implement it (noting that the participants are 'to be confirmed'), and for a 'fund' to be set up and administered, together with a range of actions to be advanced.

Neither the 'overarching' AEE or the 'site specific' AEE for Area 1 contain an assessment of this aspect of the activity for which consent is sought (as a non complying activity), or provide a sufficient explanation of the approach to or rationale for the structure proposed, how it is to be implemented, what occurs if the conditions proposed are not satisfied, or how the conditions may be enforced (and by whom). Such an assessment needs to address the details of the project objectives and the mechanism for overseeing the design, governance, implementation, monitoring and review, rather than this being a matter to be addressed at a later date.

Related to this, the Area 1 AEE states in Section 3 Table 2: *it is envisaged that details on the project objectives and the mechanism for overseeing the design, governance, implementation, monitoring and review of the project may be agreed prior to a decision on the applications being made.*

To enable an assessment of this proposition, these 'details' are required to be provided.

#### *Historic Heritage*

What is the status of the Authority to Modify from Heritage New Zealand Pouhere Taonga. Has this been sought?

*Public access*

Section 9.4.6.12 states: *The activities associated within the WNP will not result in any new impediments to public access along the Ohinemuri River, Mataura River or Ruahorehore Stream. Similarly, no changes are proposed to access arrangements to the Mataura, Gladstone or Favona Wetlands. The surrounding land is currently held in private ownership. No change is proposed to this access arrangement as part of this resource consent application.*

To what extent, if any, has consideration been given to enhancing public access (in addition to riparian planting) to waterbodies, on a voluntary basis to these locations, having regard to Policy 7.3.3(2)(a) of the HDP, noting that Area 2 adjoins existing Reserve Passive zoned land, and Areas 5, 6, and 7 will incorporate such access following rehabilitation?

*Soils*

Section 9.4.6.14 states: *Area 7 [which is classified as highly productive soil], like the remainder of the areas used for mining activities within Area 2, 5 and 6, will be rehabilitated in line with their respective closure plans.* Does the rehabilitation and closure plan that is proposed enable the land to be used for pastoral use? It is noted that parts of the batter slopes of TSF2 currently include landscaping/vegetation, as opposed to being sown in grass/pasture. Please provide a rationale/assessment as to why a similar outcome is not proposed for TSF3 (including the permanent stockpile), and the NRS.

Area 1

Please confirm that the extent of exploration is limited to that occurring underground, and that the application does not include further surface based exploration.

*Vent shafts*

Section 3.2.3.2 refers to temporary surface storage (of spoil) during construction. The application refers to a footprint for construction/clearance of 12m x 12m. Please explain how surface storage is intended to be accounted for beyond this footprint.

For the vent shaft that is also to be used for emergency access, is this in addition to/incorporated into the vent stack structure? Please provide a drawing explaining this.

For the vent shaft that is to be used for construction amenities (section 3.2.3.3), with the associated building (which is understood to be the 'Paper Road Amenities Facility Concept'), is this footprint limited to a maximum clearance of 12m x 12m, and is this structure to be disestablished and replaced with a vent stack structure?

*Environmental monitoring*

Section 3.2.9 identifies that various monitoring activities will be required, including piezometers. How are these to be installed, how many, and in what locations? The application does not include information concerning what the other monitoring 'activities' (equipment) entails in respect of above ground structures/manifestations. Please advise/explain.



*Potential Effect*

Section 5.2.1 states: *The temporary loss of habitat at these ventilation shaft sites will also be offset by enhancement planting of a total of 4.15 ha on the north east ridge of Area 2 to connect the CFP with a forest fragment on that site.*

Is it proposed to use ‘... *best endeavours to procure the entering into of appropriate covenants and/or encumbrances (or similar legal mechanism)...*’ - Proposed Condition 177. Please advise what this entails, and why the proposed condition is not more directive, ‘requiring’ a mechanism to be entered into.

*Blasting and Vibration effects (Section 5.9)*

What mechanisms/conditions (if any) are proposed to inform recreational users of the CFP of the prospect of vibration occurring ‘*as slightly to strongly perceptible events*’ as a consequence of blasting activity?

*Archey’s Frog Conditions*

The proposed conditions (as explained in section 6.2) comprise three parts:

- Vibration limits, and reporting on compliance with those limits;
- Funding for investigations into the efficacy of predator control measures and techniques to improve populations of Archey’s frogs;
- Undertaking pest management.

The assessment (and the conditions) do not explain what is proposed in the event that the vibration levels proposed adversely impact Archey’s frogs in the area of the proposed works, or explain how the effects on frogs within that area are to be monitored to determine the nature (or scale) of any such impacts. Please address.

Area 2

*Surface facilities area*

The drawings embedded in the AEE and attached at Part D do not sufficiently explain the scope of all of the proposed built elements. Drawings and Plans are required of each structure proposed to appreciate their location, scale and proportions.

*WRS*

Section 3.2.10 states: *The WRS will have a total storage capacity of up to 900,000 m<sup>3</sup> of rock, to a maximum height of 20 m above natural ground level.*

Is this to be interpreted as no more than 20m above *natural ground level* at any point within the footprint? The visuals in the Boffa Miskell Landscape Assessment Visual Simulations suggest otherwise. Please confirm/clarify.

*Roading*

Section 5.7 refers to the upgrade of Willows Road and the intersection of SH 25. The corresponding proposed conditions require works to occur:

- a. *Prior to vehicle movements associated with the exercise of this consent reaching greater than 40 vehicles per day; or*
- b. *No later than six months after construction begins at Area 2;*
- c. *whichever occurs first.*

It is unclear in this context what ‘construction’ means, e.g. site works, earthworks, buildings, or other. Please confirm what the trigger is intended to be.

#### *Hauraki District Plan*

Section 7.6.2 addresses the ‘relevant’ objectives and policies of the HDP. No consideration is given to historic heritage in this section of the AEE. For completeness, please address this policy framework.

#### Area 4

Section 2.6 notes: *Land ownership and dwellings in the vicinity of Area 4 are shown in Figure 5, below. Area 4 is either located within road reserve or OGNZL land, with the exception of a small section which traverses Lot 2 DP 50190 as highlighted on Figure 5.* What is the status of any access agreement for the section of the route traversing private property. There is no reference to any specific consultation in the AEE or ‘Part G’ (the pre lodgement consultation report).

#### Area 5

Sections 3.4, 3.5 and 3.6 describe various plant upgrades, and include various figures (example pictures) of plant/equipment, together with a ‘revised layout’ (Figure 25). Limited drawings are provided for the respective elements described (which are limited to that which is embedded in the AEE), and there is no overall plan showing what is being retained, and what is proposed/replaced (Figure 25 - being a line drawing on an existing aerial, is not clear). Dimensioned drawings of each built element are required, together with an overall site plan showing their location, and what is retained/proposed.

Area 5 includes a section of Domain Road (which is zoned Reserve Passive). Infrastructure is proposed to be accommodated within the land associated with the water treatment plant. The application is silent on this aspect in terms of the consent matters and corresponding assessment. Please address.

#### Area 6

Section 5.9 refers to construction and operational noise effects. What is the distinction? Is construction effects/noise limited to the establishment of the noise bund/stockpiles formed from the topsoil stripping, and operational effects being all other activity (including the construction of the NRS)?

#### Area 7

Section 2.8 refers to: *An unformed ‘paper’ road extends into Area 7 from 131 Trig Road North. OGNZL is in discussions with HDC around the prospect of stopping this road.* Does this form

part of the application. What is the basis/rationale for this? Has the effect on the neighbouring land owner been considered?

Section 3.2.2 refers to: *stockpile volume will be provided outside the embankment and impoundment footprint. Stockpiles will vary in height between 16 m and 47 m. Stockpiled material will be used in rehabilitation to the extent possible and necessary. It is likely that this material can be used for the rehabilitation layers or clay liners with the appropriate mixing and conditioning. Any material from the footprint of the foundations that is not utilised for rehabilitation purposes will be recontoured into the surrounding landform within the site and grassed.*

It is noted that the closure layout retains a stockpile (Stockpile 2) to the south east of TSF3 with a height of RL126 (or 160)? and 800,000m<sup>3</sup><sup>1</sup>? It is unclear why this stockpile is retained rather than utilised, and the land recontoured accordingly. Also, is this more properly defined as a rock stack – being a permanent feature, rather than a stockpile? Please explain.

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<sup>1</sup> The figures are difficult to read on figure 29