

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an application for resource consents by **TIGA
MINERALS AND METALS LTD**
AND
IN THE MATTER of a submission by the
COAST ROAD RESILIENCE GROUP INC

Statement of evidence of Suzanne Hills
For COAST ROAD RESILIENCE GROUP INC
Topic Compliance Management

Dated: 31 January 2024

Coast Road Resilience Group Inc

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INTRODUCTION

1. My full name is Suzanne Denise Hills. I have a B.Tech (Hons) in Biotechnology and Bioprocess Engineering, Massey University, 1992. I had a career in the food industry in New Zealand and the UK for 17 years. A significant part of my career involved the preparation and validation of management plans (including design of monitoring systems), verification, and in-house and third-party auditing. I was an Auditor for the Soil Association in the UK, where I audited organic food operations to verify compliance to organic standards. Before moving to the West Coast I spent 8 years on a life's sailing adventure. I hold current roles of West Coast branch chair of Forest & Bird; chair of Coast Road Dawn Chorus Inc, and trustee of the West Coast Penguin Trust.
2. I am a member of the Coast Road Resilience Group Inc. (CRRG).I have been asked by the CRRG to provide lay witness evidence in relation to compliance management and monitoring. I am not an expert in this matter and this report is not intended as expert evidence, although as detailed above, I have considerable experience in this area. I have prepared this statement of evidence for the CRRG in relation to this application.
3. I am familiar with the TIGA application site because I have lived on the Barrytown Flats for 7 years.
4. In preparing this statement of evidence, I have reviewed the following documents.
 - TiGa RC Application AEE Final and all of the application's attachments; all of the Amendment to Application documents; all of the Request for Information documents; all of the Peer Reviews.
 - Grey District Council (GDC) and West Coast Regional Council (WCRC) s42a Officers Reports
 - All of the applicant's statements of evidence
 - All of the submitters' statements of evidence
5. In addition to providing this statement in support of the CRRG, I also lodged a personal submission in relation to the TIGA Minerals and Metals Ltd application.

SCOPE OF EVIDENCE

6. This evidence focuses on the following matters: compliance management, including compliance monitoring. Other CRRG members and expert witnesses will be providing evidence on other aspects of the application.

Summary

7. The proposal entails an exceptionally large and complex operation to manage from a compliance perspective.
8. Given the history of resource consent non-compliance on the West Coast, there are serious and valid concerns regarding the resources of the local authorities to effectively discharge their statutory obligation of monitoring and enforcement of the multiple resource consents required for this complex proposal.
9. The concluding paragraph of the Grey District Council (GDC) s42a Officers Report by Mr Geddes summarises the necessary measures required for resource consent compliance. These essential measures would provide greater assurance to the local authorities and the community of compliance being achieved.
10. The proposed Community Liaison Group (CLG) will place a burden on a small Coast Road community which is largely in fierce opposition to the proposal. There would be a considerable level of community resourcing needed for the CLG to function effectively in the proposed advisory and information dissemination roles.
11. Serious and valid concerns remain that the proposed water monitoring may be inappropriate and unable to demonstrate avoidance of hydrological adverse effects on wetlands. The s42A Officers Report for West Coast Regional Council (WCRC) sums this up in paragraph 145: *In practice this may be too complex to achieve and show compliance...*
12. Complexity exists in other areas, including the ecology of the Westland petrel, and the road safety of cyclists and pedestrians. Both are complex systems and paragraph 145 is likely to equally apply.
13. The recently consented mineral sand mining operated by Westland Mineral Sands (WMS) is notable for three significant non-compliances – resulting in an abatement notice and the consent holder seeking a *retrospective* variation to consent. Councils decided this variation was of such significance that they instructed WMS to apply for new resource consents.
14. Despite the imposed consent conditions of an Accountable Person and a Community Liaison Group (CLG) – the same measures recommended for this complex proposal, these significant non-compliances still occurred.
15. To date the emerging mineral sand mining industry on the West Coast has not demonstrated good compliance, with lax management resulting in a serious heavy mineral concentrate [HMC] dust incident at Westport, early January 2024.

Specific Concerns

16. The proposal entails an exceptionally large and complex operation to manage from a compliance perspective. There are over 110 proposed consent conditions to manage the actual and potential effects, with many more sub-conditions and also requirements to comply with management plan provisions. As an example, there are around 20 conditions that relate directly or indirectly to dust management alone.
17. There has been a history of poor compliance management by West Coast local authorities. Failure to manage compliance has often been a major contributing factor to significant environmental damage and/or serious health and safety incidents.
- <https://www.rnz.co.nz/news/ldr/492164/doc-managing-over-300-contaminated-sites-on-west-coast>
- A recent example is the Taylorville Resource Park private landfill. It has been beset with health and safety and environmental breaches, to the point that the WCRC has now transferred its compliance investigation to the EPA.



Figure 1 –
Grey Star,
23 January
2024

18. The history of non-compliance supports the serious and valid concerns regarding the ability of local authorities to resource monitoring and compliance requirements and thereby discharge their statutory obligation.
19. GDC, in their *Request for Further Information 12 May 2023*, raised the issue of compliance management in relation to the proposed complex operation. They highlighted the difficulty of compliance management for **both the consent holder and the local authorities**. They themselves questioned whether the local authorities have the existing resources to manage the compliance requirements. This acknowledgement from GDC highlights both the risk to the environment of multiple non-compliances from the proposed operation, and the potential for the burden of complaint to fall on the small Coast Road community. The response from the applicant did not fully address this significant issue, stating:

Complex consent conditions are not unusual in a mining context. The applicant intends to employ an Environmental Superintendent to oversee the implementation of a compliance and monitoring regime that will ensure that mitigation requirements are put in place, and that conditions of consent and management plans are adhered to.

The applicant is unable to comment on the local authorities' resource levels to manage compliance requirements. The Council has a statutory responsibility to administer the relevant plans and undertake compliance and enforcement of resource consents it issues, and will need to determine how to resource this. However, it is noted that the West Coast Regional Council have an extensive compliance team, and one option may be for the Grey District Council to consider delegating its compliance responsibilities to the West Coast Regional Council if it feels it is not capable of adequately resourcing its statutory responsibilities.

20. The GDC s42a Officers Report by Mr Geddes addresses compliance monitoring in paragraphs 409 – 418. His recommendation of imposing a consent condition for the applicant to employ an Environmental Superintendent or an 'Accountable Person' is critical to ensure that accountability for compliance to consent conditions lies first and foremost with the applicant.
21. Further to the above, Mr Geddes addresses in paragraph 414 the natural conflict of interest in self-monitoring. Mr Geddes' recommendation that this can be mitigated by ensuring the applicant has to use outside experts to conduct key aspects of the monitoring programme, and that the requirement is imposed as a consent condition, is also a critical aspect of ensuring resource consent compliance.
22. In paragraph 415, Mr Geddes also recommends third party compliance auditing:

a periodic inspection of compliance management practices on site is conducted by experts independent from the applicant. This inspection could be required by way of consent conditions through an Expert Advisory Panel and would provide the

community with a high degree of confidence through an independent and impartial team reviewing the consent holder's compliance and monitoring activities.

This third-party compliance auditing would go some way to addressing the self-monitoring concerns of the community and is a necessary check given the complexity of the proposal with its multiple management plans, some of which may function as adaptive management. I note third-party auditing to a considerable level of detail is standard practice in other industries, such as the food industry.

23. The Community Liaison Group (CLG) proposed by the applicant in the conditions is a necessary and essential part of compliance management for the lengthy and complex set of proposed consent conditions. I note however, the community is a small one, and widely distributed along the length of the Coast Road. Being heavily involved myself in West Coast grassroots environmental organisations, I am aware there is already a significant voluntary time commitment made by many, many community members. For example, others are involved in Civil Defence, the Barrytown Hall, the Barrytown School, children's sports, or volunteering at second hand shops or art galleries. People invariably align their community contribution with their values and interests and gravitate to positive initiatives. In short, the proposed CLG will place an unreasonable burden on a small Coast Road community which is largely in fierce opposition to the proposal.
24. The detail of the proposed consent conditions 11.1 and 11.2 point to a sizable level of community resourcing needed for the CLG to function effectively in the advisory and information dissemination roles. It is difficult to see many community members volunteering for a role that is likely to be, or perceived to be, tedious, difficult, a huge responsibility, and potentially confrontational. And as the majority of the Coast Road community are against the proposal, it would be akin to offering climate activists unpaid jobs in a coal mine.
25. Given the applicant's proposed reliance on management plans, some of which are proposed to be adaptive management, Mr Geddes' recommendation in paragraph 417 is essential:

a change to the proposed consent conditions relating to management plans so as to require the relevant consent authority's agreement prior to the amendment of those management plans. If so, much reliance is to be put on management plans, it is crucial that there is oversight and accountability for any amendments to those management plans. The Expert Advisory Panel will provide Perspective Consulting Ltd S. 42A Officers Report 96 recommendations to the respective Councils on the suitability of any amendments proposed.

26. The compliance monitoring of the water management plan (and associated plans) are of particular concern. The proposed water management system is inherently complicated given it has been designed to operate in the area's complex naturally functioning hydrological system. As highlighted in the s42A Officers Report for WCRC, compliance

monitoring to ensure that no adverse environmental effects are occurring in the surrounding water bodies may be too complex to actually demonstrate.

Para 145: In practice this may be too complex to achieve and show compliance, and I do not consider that presently, as the application stands, there is a sufficiently clear picture of how this is to be achieved.

Verification through compliance monitoring will not necessarily be effective in ensuring adverse effects are avoided if the validation of the water system is flawed. Verification and validation are two separate mechanisms in management systems and should not be conflated. The expert witness statement of Professor Brian McGlynn includes comment on the hydrological modelling, and I fully endorse his expert witness statement.

27. Similar complexity exists in other areas, including the ecology of the Westland petrel, and the road safety of cyclists and pedestrians. Paragraph [145] *In practice this may be too complex to achieve and show compliance*, is likely to equally apply to these two matters. The expert witness statement of Dr Susan Waugh covers the considerable level and extent of necessary monitoring to demonstrate avoidance of adverse effects on the Westland petrel. She summarises in her paragraph [14]. I fully endorse her expert witness statement. Likewise, State Highway 6 functions as a complex system¹ and without a mitigating measure to avoid mortal risk to cyclists and pedestrians, it would not be possible for the applicant *to achieve and show compliance*.

1. https://en.wikipedia.org/wiki/Complex_system

28. Enquiries have been made about mineral sand mining operated by Western Mineral Sands (WMS). Information has been obtained via official information requests, and by speaking with residents near the mining operation, as well as a view of the site from a nearby property. This has revealed issues with consent compliance that are relevant to the TIGA proposal.

29. I acknowledge WMS and the applicant are obviously two separate entities and that there are differences between the WMS operation and this proposal. Nevertheless, it is the same industry, and the same regional council. I have therefore used the complaint and non-compliance evidence from WMS to illustrate the risk to the environment of the West Coast mineral sand mining industry.

30. The WMS operation has resulted in three significant non compliances:

- 1) sediment discharge over consented limits;
- 2) exceeding the 2ha pit disturbance limit; and
- 3) exceeding the 5ha total site disturbance limit.

The first non-compliance resulted in an abatement notice. For the other two non-compliances, the consent holder applied for a *retrospective* variation to consent, which Councils decided was of such significance that they instructed WMS to apply for new resource consents.

31. Regarding the non-compliances to the pit and total site disturbance, WMS would have been well aware they had breached, or were about to breach, conditions, but they did not bring this to the attention of Buller District Council [BDC]. Nor did they communicate it to the CLG. It appears the conditions were breached knowingly and progressively by WMS.



Figure 2 Okari Mine Site 10 Dec 2023

32. Numerous complaints illustrate the risk to the environment of non-compliances from mineral sand mining operations. This is despite the imposed consent conditions of an Accountable Person (WMS condition 1.4) and a Community Liaison Group (WMS conditions 10.1 & 10.2) – the same measures recommended for this complex proposal.
33. The length of time during which the conditions appear to have been breached (many months) would indicate that either Councils do not have sufficient monitoring resources to stay on top of the activity, or the consent conditions are difficult to monitor, and/or it is difficult to provide clear evidence of a breach.
34. Table 1 below summarises the information supplied by Buller District Council (BDC) in response to a LGOIMA request from the Coast Road Resilience Group (CRRG) made on 11th December 2023. The key documents received are in the dropbox link below, named BDC & WCRC LGOIMA Response:

<https://www.dropbox.com/scl/fo/41ewzqad2s77mncv26tc0/h?rlkey=pdgf8uv7una64y2aso9wfznm2&dl=0>

Table 1 – summary of complaints and non-compliances of WMS operations at Okari Rd

Nature of complaint or non-compliance	Detail
Complaint by Community Liaison Group (CLG)	<p>Complaint included:</p> <ul style="list-style-type: none"> • Rehabilitation inconsistent with the approved Rehabilitation Management Plan which includes reinstatement of the dune landform. • Mining Methodology and progression inconsistent with the approved Annual Work Plan (AWP). • Exceeding the consented disturbance footprint (2ha pit disturbance and 5ha total site disturbance). • Concerns raised about dust issues because of the exceedance of disturbed land area.
Non-compliances of exceeding both the 2ha pit disturbance and 5ha ² total site disturbance	<p>In response to the above CLG letter of complaint, BDC investigated and reported:</p> <p><i>“...it is clear that the total disturbed area (less the plant area of 1.26ha) is considerably greater than the consented 5ha.”</i>and</p> <p><i>“...with the exception of the disturbed mine pit and over-all mine footprint (General Condition 7.2), activities are considered to be compliant with the conditions of consent.”³</i></p> <p>The consent holder applied for a retrospective variation to consent to address the two non-compliances.</p>
Two complaints from community members on disturbance area non-compliances	<ul style="list-style-type: none"> • Concerns of adverse effects on people and environment from disturbance area breach • Concerns of environmental impacts from consent breach and the potential health impacts to the neighbours and general public from dust emissions as a direct result from excessive areas of disturbed land area currently existing at the mine.
Specific complaints from community members	<p>Total of 11 specific complaints:</p> <ul style="list-style-type: none"> • Heavy vehicle noise • Heavy vehicle operating within school bus route hours • Repetitive screeching noise from mine site • Vehicle reversing tonal alarm • Generator noise from mine site • Noise from plant during gusting easterly • Sand deposited on house during gusting easterly • Noise from plant during gusting easterly • Noise from mine site • Noise of 2 different reverse beepers overnight • Squeaking noise
Over Speed Events exceeding consent conditions	<p>A total of 12 over speed events from virtual speed cameras, January to October 2023</p>

Lighting non-compliances	<p>Identified from the lighting audit</p> <ul style="list-style-type: none"> • Outside light not directed downward • Outside floodlight - light spill exceeding permitted limits • Health & safety reviews identified a total of eight selected lighting fittings that should remain on when the plant is operational after dark • Health & safety reviews identified four areas requiring additional lighting • Non-compliant outside light • Block out curtains / blinds were not installed to the glass door and window of the office, the control room window, and the window of the laboratory • Door to the laboratory left open at night • Lights to plant above ground level not manually switched and timed off; light control measures in conflict with health & safety audit
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2. By way of comparison, the same parameter of the proposed TiGa consent is 8ha.
3. BDC concluded the rehabilitation consistent with the approved Rehabilitation Management Plan.

35. The same LGOIMA request was also made on 11th December 2023 of WCRC, however, they had a different calculation of 20 working days (10 working days longer than BDC) and CRRG did not receive this information until 29 January 2024. This did not leave sufficient time to read and absorb all documents provided and incorporate into this statement. The exception is the significant non-compliance of sediment discharges over consented limits. An abatement notice was issued to WMS by WCRC on 12 May 2023 and the file is included in the above dropbox link. The Westport News article below outlines the abatement notice.



Figure 3 - Westport News articles from June 2023 on WMS abatement notice

36. Further, although appearing to be outside of WMS resource consent conditions, the transport of the HMC initially planned to be transported a short distance by road to the port of Westport for coastal shipping, has instead been transported by road to Port Nelson – a distance of 222km each way. This is a significant departure from the WMS conditions of consent for transport and introduces new adverse effects, including sizeable carbon emissions from the trucking. An emission calculation using the information provided in the article below gives **1,319 tonnes CO₂^e** emissions for the 900 loaded trucks to Nelson¹.

1. Using a rate of 0.135kg CO₂^e/tonne-km from <https://www.tools.business.govt.nz/climate> for 26,000 tonnes HMC transported 222km over 900 trips and a truck net weight of 20tonnes (a gross tonnage of 44,000 tonnes).



Figure 4 - Westport News article 14th September 2023

37. A further incident outside of the WMS consent, but reflective of the lax management of the mineral sand mining industry is the incident of HMC being blown across Palmerston Street in Westport. This occurred because the HMC was not covered or wetted and in strong winds the HMC became airborne.

WESTPORT, WEDNESDAY JANUARY 3, 2024

THE NEWS

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Westport gets sandblasted

Ellen Curnow
 Sand mined near Cape Foulwind and stockpiled on the Westport wharf blew through town yesterday. Sand-filled gutters on Palmerston Street this morning. Photos: Ellen Curnow
 This morning, the gutters outside the Cosmopolitan Hotel and down Palmerston Street past Reynolds Shoes and FRs Café were clogged with sand.
 West Coast Bulk Logistics (WCBL) Buller port operations manager Jarred Rogers told The News sand piles were left exposed over the New Year public holidays. It should have been covered.
 Workers were today covering the sand piles, Mr Rogers said.
 "I'll need to go and find out why the piles been left open over the long weekend."
 Mr Rogers said he planned to install sprinklers within the next

week, "so that, if there is a point that we need to access the pile and open it up, we'll have the ability to completely wet it first so there's no flying sand".
 Mr Rogers was away from Westport over the long weekend, but he would return tomorrow morning, assess the mess and make a plan to clean it up. If necessary, the company would pay for Palmerston Street to be swept.
 "We can do whatever it takes to come and sort it out."
 The WCBL hiccup was disappointing, Mr Rogers said. The company didn't want to disrupt local businesses with its port operations.
 "We're working hard to work with the community and portray a good image within the community."
 He planned to contact affected businesses directly to apologise.
 When WCBL's sister company Westland Mineral Sands gained its mining consent from the Buller

District Council and West Coast Regional Council, a dust management plan was one of the conditions. Mr Rogers said WCBL was stepping up its management plans because the West Coast was facing a windy summer.
 MetService meteorologist Alwyn Bakker said yesterday was a noticeably windy day for Westport, "but not spectacularly so".
 The gust speeds peaked at about 60km/h around 4pm, with mean speeds of about 40km/h.
 The wind was considerably stronger on December 31, with a maximum gust of 80km/h recorded, and a max mean speed of about 55km/h.
 "It wasn't quite the windiest day in 2023, but it was close. The 30th of May got a gust of 81km/h which just pips it at the post."
 The main difference was yesterday's wind was predominantly west/southwest, whereas on New Year's Eve it was northerly.



Heavy mineral sand stockpiled on Westport's wharf blew through town in yesterday's strong winds. Photo: Ellen Curnow

Figure 5 - Westport News Article 3rd January 2024

Additional Comment on GDC s42A Officers Report

38. Given the history of non-compliance in the West Coast mining industry, some of which has resulted in legacy environmental damage, the recommendation of the bond calculation made in paragraph 266 is critically important.

[266]The calculation of the bond is important as the bond might be the only means by which the Councils can address any non-compliance matters cost effectively, or in the event the applicant company cannot for some reason implement the consent conditions. Instead of the \$160,000 bond proposed by the applicant, I consider the bond should be calculated independently and objectively by an advisor with expertise in calculating mine bonds with no relationship to the applicant. The advisor should be mutually accepted by both parties. If there is disagreement about the bond calculation, it should be referred to arbitration. I have suggested a suitable bond condition in Addendum 2.

39. In whichever form the bond is held (as per consent condition 4.2 (a) or (b)), the provision of the bond sum must be guaranteed to the Consent Authority in the event of the consent holder going into liquidation.

40. The conclusion point made in paragraph 432 summarises the necessary measures required for resource consent compliance.

[432] The recommendation that there should be third party compliance auditing is important to ensure there is an independent, objective and transparent compliance regime that has the necessary expertise to oversee the compliance of the consent. This, along with the onsite environmental superintendent (accountable person) and community liaison group, provides a robust oversight and management regime that

provides assurance there will be compliance with the lengthy and complex conditions of consent.

These measures would provide greater assurance to the local authorities and the community of compliance being achieved. However, I note that with the exception of third party compliance auditing, both an Accountable Person and a Community Liaison Group were imposed consent conditions for the WMS operation. Yet these measures have not prevented significant non-compliances, which resulted in the issue of an abatement notice by WCRC and an application for retrospective variation to consent by WMS.

Conclusions

41. The proposal entails an exceptionally large and complex operation to manage from a compliance perspective.
42. Given the history of resource consent non-compliance on the West Coast, there are serious and valid concerns regarding the resources of the local authorities to effectively discharge their statutory obligation of monitoring and enforcement of the multiple resource consents required for this complex proposal.
43. The concluding paragraph of the Grey District Council (GDC) s42A Officers Report by Mr Geddes summarises the necessary measures required for resource consent compliance. These essential measures would provide greater assurance to the local authorities and the community of compliance being achieved.
44. The area's hydrology is a complex system. The s42A Officers Report for WCRC sums up the hydrology compliance issue in paragraph 145: *In practice this may be too complex to achieve and show compliance...* Paragraph 145 is likely to equally apply to the other complex systems of Westland petrel ecology, and the road safety of cyclists and pedestrians.
45. Despite the imposed consent conditions of an Accountable Person and a Community Liaison Group for the WMS operation – the same measures recommended for this complex proposal, significant non-compliances still occurred. It resulted in WMS seeking a *retrospective* variation to consent, which Councils decided was of such significance that they instructed WMS to apply for new resource consents.
46. The proposed Community Liaison Group (CLG) will place a burden on the small Coast Road community, members of which are largely in fierce opposition to the proposal. There would be a considerable level of community resourcing needed for the CLG to function effectively in the proposed advisory and information dissemination roles.
47. To date the emerging mineral sand mining industry on the West Coast has not demonstrated good compliance with three significant non-compliances by WMS, and lax management resulting in a serious HMC dust incident at Westport.