



Department of  
Conservation  
*Te Papa Atawhai*

DOCCM- 7475570

13 October 2023

Grey District Council and West Coast Regional Council  
C/O West Coast Regional Council  
PO Box 66  
Greymouth 7840

Email: cc\_admin@wrc.govt.nz and planning@greydc.govt.nz

Dear Sir/Madam,

**WEST COAST REGIONAL COUNCIL APPLICATION RC NO: RC-2023-0046**  
**GREY DISTRICT COUNCIL APPLICATION RC No: LUN3154/23**  
**TIGA MINERALS AND METALS LIMITED**  
**STATE HIGHWAY 6, BARRYTOWN**

I refer to the application by TiGa Minerals and Metals Limited for a resource consent to operate a mineral sand mine, including processing and earthworks and vegetation clearance, including within a coastal environment and mining within 100m of a wetland, noise, storage of hazardous substances, take and use of surface and groundwater, discharge of water and stormwater to land and surface water, and discharge of dust to air.

Please find enclosed a submission by the Director-General of Conservation (Director-General) in respect of this application. You will note the submission seeks that the application be declined as currently proposed.

As explained in the submission, the Director-General is particularly concerned that the application does not contain sufficient controls to avoid effects on Westland Petrel, habitat for Threatened and At-Risk birds on adjoining land, and that there is potential for more than minor effects on freshwater species and habitat.

Please contact Amy Young in the first instance if you wish to discuss any of the matters raised in this submission either on [REDACTED]

Yours sincerely,

Suvi van Smit  
Pou Matarautaki Operations Manager Buller

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**Form 13: Submission on application concerning resource consent**

**Resource Management Act 1991**

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**To:** West Coast Regional Council and Grey District Council

**Name of submitter:** Penny Nelson, Director-General of Conservation (the **Director-General**)

This is a submission on an application from TiGa Minerals and Metals Limited (the **Applicant**) for resource consents.

**Description of activity:** TiGa Minerals and Metals Limited are seeking resource consents from the Grey District and the West Coast Regional Councils for a mineral sand mine on private land located on the Barrytown Flats. The site is legally described as Lot 1 DP412689, Rural Section 2847, Section 5 Block 5 Waiwhero Survey District and is located on State Highway 6, Barrytown. The application is for the establishment and operation of a mineral sands mine in an area of approximately 63ha over a 12-year period, including construction of associated infrastructure, such as a processing plant and associated facilities over an area of approximately 2.0ha up to 15m in height, and for a minimum average of 50 truck movements per day between the site and Greymouth or Westport.

**Trade competition:** I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991

**My submission relates to:** The whole of the application

**My submission is:** I oppose the application.

*The Director-General's interest in the Application*

1. The Director-General of Conservation (the **Director-General**) has all the powers reasonably necessary to enable the Department of Conservation (**DOC**) to perform its functions.<sup>1</sup> The Conservation Act 1987 (the **CA**) sets out DOC's functions which include (amongst other things)

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<sup>1</sup> Refer section 53 Conservation Act 1987

management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage.<sup>2</sup> Section 2 of the CA defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.

2. The Wildlife Act 1953 is likely to apply where there is risk of the proposed works disturbing absolutely or partially protected wildlife. This may mean that the applicant needs to also apply to the Department of Conservation for a Wildlife Authority.
3. Policy 11 of the New Zealand Coastal Policy Statement (2010) ('the NZCPS') relates to indigenous biological diversity (biodiversity). Policy 11(a) is to avoid adverse effects on indigenous taxa that are listed as 'Threatened' or 'At-Risk' in the New Zealand Threat Classification System lists, and/or taxa that are listed by the International Union for Conservation of Nature and Natural Resources as 'Threatened'. Westland Petrel / Tāiko qualify under both categories.

*Reasons for the Director-General's submission*

4. The D-G is concerned that the proposal does not adequately identify and address:
  - a. The potential adverse effects on indigenous biodiversity and effects on freshwater fish habitat, including but not limited to:
    - i. Terrestrial indigenous biodiversity,
    - ii. Ecology;
    - iii. Freshwater
  - b. How the proposal will avoid, remedy, or mitigate potential adverse effects.
5. The site is located immediately adjacent to Canoe Creek Conservation Area, managed by DOC, and which is also identified as marginal strip, and Langridge Scenic Reserve land (located to the south of the application area). Located to the north of the site is land also managed by DOC known as: Barrytown Flat. The Canoe Creek Lagoon has been identified as a potential Significant Natural Area. Consideration of effects on the Public Conservation Land is required. The site and adjacent site are habitat for native freshwater species and terrestrial species, some of which are

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<sup>2</sup> Conservation Act 1987, section 6.

threatened. Westland Petrel ('At Risk') are known to breed at only one location in the world. This location is 3.6km north of the proposal site.

6. The Barrytown area is a breeding colony for Westland Petrel and is important habitat under the Convention on the Conservation of Migratory Species of Wild Animals, also known as the Convention on Migratory Species (CMS). This is an international agreement that aims to conserve migratory species. Parties to the CMS, which includes New Zealand, should endeavour to provide immediate protection for migratory species which include Westland Petrel.
7. The proposed mining activity will generate light effects that will disturb Westland Petrel feeding and breeding on land nearby, that is the only breeding colony in the world for this endemic and At-Risk species. Mining activity and truck movements during dark create noise and light that will adversely impact this species.
8. The applicant has provided an Avian Management Plan (AMP) which aims to reduce actual or potential impacts on avifauna on-site or within the immediate zone of influence. The AMP relies on non-experts undertaking wildlife management and monitoring. The applicant does not provide any or any adequate information/evidence that mitigation will be effective. In particular, the Director-General submits that this AMP does not adequately mitigate the lighting effects at the pit site and the likely impact of increased vehicle movements on Westland Petrel during nighttime operations. The Director-General remains willing to consult with the Applicant to explore other methods that would prevent light pollution.
9. The applicant intends to monitor the presence of other Threatened and At-Risk avifauna on the site and 'discourage nesting' (AMP, 3.1), in addition to implementing other management activities if nests are established. Accordingly, an inherent component of the proposal is the disturbance of Threatened and At-Risk species in the coastal environment.

#### *Effects on Freshwater Values*

10. The proposed mining activity has the potential changes to surface water hydrology (wetlands and streams) due to groundwater/surface water interactions.
11. Fish Surveys conducted in the 1980s-90s found several native freshwater species in the Canoe Creek, Collins Creek, Deverys Creek, Maher Creek and several unnamed tributaries. Seven species - longfin eel, torrentfish, giant kōkopu, kōaro, inanga, bluegill bully and kōura - were ranked as 'At-Risk, declining', however an updated assessment of freshwater fish should be undertaken. Given the potential for adverse hydrological effects, there is a risk of adverse effects on freshwater fauna and values.

*Effects on Terrestrial Biodiversity Values.*

12. The Canoe Creek (or Okiwi Creek) coastal lagoon immediately west and north of the application area is dominated by native plant species and has high ecological values. A potential concern for the vegetation of the Canoe Creek coastal lagoon is that the ground water-take for the activity adversely affects the hydrology and therefore the vegetation.
13. The applicant's ecologist states that the coastal lagoon adjacent to the proposal on the west is manmade, a result of mining between 1932 and 1947 and therefore is not subject to provision in the National Policy Statement Freshwater Management Regulations 2020. Records dating back to 1881 clearly show the area as coastal lagoon, north and south of Canoe Creek and therefore it is subject to the NPSFM.
14. The applicant's ecologist has identified significant avifauna that are or could be utilising the site: Black shag (*Phalacrocorax carbo*, At-Risk (relict)), Black-billed gull (*Chroicocephalus Bulleri* (At-Risk (declining)), Caspian tern (*Hydroprogne caspia* (Threatened (Nationally vulnerable)), Grey duck (*Anas superciliosa* (Threatened (Nationally vulnerable)), Red-billed gull (*Chroicocephalus novaehollandiae* (At-Risk (declining)), South Island pied oystercatcher (*Haematopus finschii* (At-Risk (declining)), Variable oystercatcher (*Haematopus unicolor* (At-Risk (recovering)) and White fronted tern (*Sterna striata* (At-Risk (declining))
15. In addition to the birds recorded during the seasonal surveys, the applicant's ecologist notes, a pair of Pacific reef heron (*Egretta sacra*) were seen during the July 2021 site visit. Pacific reef heron are regarded as Threatened (nationally endangered) (Robertson et al. 2021). No Rōroa (*Apteryx haastii*), Mātātā/fernbird or Australasian bittern were recorded at the site, nor were any Westland Petrel recorded, although the absence of Westland Petrel is not unexpected given the methods used for observation.
16. The absence of Rōroa, Mātātā and Bittern is likely due to an absence of sufficient suitable habitat, although being highly mobile, bittern may visit the site on occasion.
17. The applicant's ecologist states that adverse effects from the proposed activities may include:
  - The coastal lagoon and surrounding flaxland and rushland to the west, Collins Creek and Canoe Creek to the south and perhaps wetland areas to the north of the site could be indirectly affected via effects including, but not limited to:
    - fluctuations in ground or surface water,

- an increase in human activity and disturbance (including dust, noise, vibration and visual disturbance)
  - an increase in artificial lighting at the site.
  - Birds leaving or returning to the tāiko colony to the north of the site are also of high ecological value and may be directly affected by human activity and an increase in lighting at the site if these activities are not managed.
18. Both the excavations and water extraction have the potential to change the hydrology of the lagoon and therefore potentially change the lagoon vegetation. The vegetation is a key feature of shy wetland bird species, particularly raupō for the Threatened- Nationally Critical Matuku/Bittern.
19. Objective 7.2 Ecosystems and Indigenous Biodiversity section of the West Coast Regional Policy Statement seeks protection of significant indigenous vegetation and significant habitats of indigenous fauna.
20. Policy 7.2 of the Ecosystems and Indigenous Biodiversity section of the West Coast Regional Policy Statement requires activities to be designed and undertaken in a way that does not cause:
- a) The prevention of an indigenous species or a community's ability to persist in their habitats within their natural range in the Ecological District, or
  - b) A change of the Threatened Environment Classification to category two or below at the Ecological District Level; or
  - c) Further measurable reduction in the proportion of indigenous cover on those land environments in category one or two of the Threatened Environment Classification at the Ecological District Level; or
  - d) A reasonably measurable reduction in the local population of threatened taxa in the Department of Conservation Threat Classification Categories 1 – nationally critical, 2 – nationally endangered, and 3a – nationally vulnerable
21. Lighting from the pit and increased nighttime vehicle movements from the site has the potential to affect the Westland Petrel flight path to their breeding colony and cause grounding that risks injury and mortality. The proposal is inconsistent with this objective and policy.
22. For the same reason cited above, the proposal is inconsistent with the Proposed Te Tai o Poutini Plan Ecosystems and Biodiversity Section Policy ECO-P6. ECO-P6 repeats the policy wording from the West Coast Regional Policy Statement policy 7.2 and ECO-P10, which seeks to: protect

indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by avoiding adverse effects on significant indigenous biodiversity; and avoiding, remedying or mitigating other adverse effects on indigenous vegetation, habitats and species within the coastal environment.

23. The proposal is inconsistent with Proposed Te Tai o Poutini Plan Light Policy LIGHT-P3 (d) which specifically seeks to control the intensity, location and direction of any artificial outdoor lighting to minimise adverse effects on the significant habitats of light sensitive native fauna and the species themselves. The D-G submits that the proposed lighting controls are not sufficient to minimise adverse effects on the Westland Petrel.

#### Conclusion

24. The Director-General submits that the nighttime mining and truck movements will have adverse effects on Westland Petrel that have not been adequately avoided, remedied or mitigated. There are concerns that the proximity of the mine to the adjacent wetland may result in changes to hydrology which in turn could have adverse effects on habitat and freshwater and terrestrial protected species.
25. In all the circumstances, the proposal does not accord with ss 6 (a) and 6 (c) of the Resource Management Act 1991. Nor does it accord with Policy 11(a) of the New Zealand Coastal Policy Statement or the Objective and Policies 3, 7, 8 and 15 of the National Policy Statement for Indigenous Biodiversity.

#### Decision sought

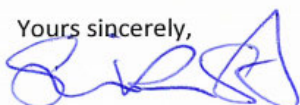
26. I seek the following decision from the Council:
- a) That the consent authority **declines the application.**
  - b) In the event that consent is granted, that conditions be placed on the consent to avoid, mitigate, remedy, offset and / or compensate for the effects of the proposal and to address the Director-General's concerns, including but not limited to:
    - a. a condition preventing mining and truck movements during the hours of darkness;
    - b. compensation for the additional wildlife management imposed on the Department of Conservation as a result of the mining activities;

- c. a requirement to notify and consult the Department of Conservation in the event of a change to the AMP and / or an application to vary the conditions of consent;
- d. all other necessary conditions.

I **do wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Yours sincerely,



Suvi van Smit

Operations Manager

West Coast

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Date: 13 October 2023

**Address for service:**

Attn: Amy Young, RMA Planner

Department of Conservation

[REDACTED]

[REDACTED]

Email: [REDACTED]

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, [REDACTED]