

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

Applications made to the Otago Regional Council and the Waitaki District Council

(Consent Authorities)

BY

OCEANA GOLD (NEW ZEALND) LIMITED

(the Applicant)

For the hearing of RM20.024 and 201.2019.1454.001,201.2013.360.2, 201.2016.1 and 201.2019.1241.1 associated with the with the Deepdell North Stage III Project

MEMORANDUM 2 TO PARTICPANTS

14 August 2020

Introduction

1. This is the second minute of the independent hearing commissioners. It deals with matters specific to the hearing.
2. As you have been advised the venue for the hearing has changed and is now at Dunedin Venues in Harrop Street. The first day of the hearing will commence there at 0900h on Wednesday 19 August and continue at 0900h on Thursday 20 August. If necessary we may go as late as 1800h on one or both days of the hearing.
3. We do not anticipate the hearing running into Friday 21 August, but this day will be used if it is essential to do so. If this is the case we may need to provide an alternative venue.
4. The hearing cannot take place if Covid-19 Alert Level 3 is widespread in the South Island. If this occurs the hearing will be postponed. It can take place at Alert Level 2, with appropriate measures including social distancing. We sincerely hope that will be the case.
5. Anyone showing even slight signs of respiratory illness is not to attend the hearing in person.

6. Video links will be available for any party who cannot attend the hearing in person. We encourage their use as appropriate. Any individual wishing to appear via a video link should contact Vicki Swaney at the Otago Regional Council by 1400h on Tuesday 18 August to discuss this. Her contact details are Vicky.Swaney@orc.govt.nz or 03 470 7440.
7. We would much appreciate copies of any legal submissions in advance of the hearing. These should be provided to Ms Swaney by 1500h on Tuesday 18 August.

Hearing Procedure

8. The commissioners have decided to organise the hearing on a topic by topic basis. The main reason for this is that we would otherwise hear from several experts for different parties covering similar matters. It is much more efficient, and we hope much more helpful to us, to run the hearing on a topic basis. Please also note our comments under ‘expert conferencing’ below.
9. Accordingly the programme for the first day is:
 - a. Mr Christensen can read opening legal submissions for the applicant
 - b. We will hear briefly from Mr Hines and Mr Lee for the applicant.
 - c. Ms Williams and Mr Taylor can read opening legal submissions for DoC and the ORC respectively.
 - d. We will hear from experts on terrestrial flora, including wetlands within the Project Impact Area (PIA). We understand them to be Dr Thorsen, Dr Ussher, Mr Lloyd, Mr Chinn, Mr Rance and Dr Mueller. Other experts can participate if they wish to. We are particularly interested in what, if any, values meet the tests for significant habitat under s6(c) of the RMA, and the values assigned to wetlands within the PIA, particularly in light of the provisions of the NPS Freshwater 2020.
 - e. We will hear from any experts who wish to discuss the any significant values they assign to the invertebrate fauna within the PIA. This includes Dr Thorsen and Mr Chinn and any other experts who wish to participate.
 - f. Next we will hear from experts on lizards and skinks. We understand them to be Dr Tocher, Ms Sidaway and Mr Knox. In saying this we note there is strong common ground between Dr Tocher and Ms Sidaway, including that the lizard survey included in the AEE was flawed.
 - g. We next want to discuss the values of the proposed off set areas at Redbank and near Middlemarch, and the extent to which they “provide a net benefit” versus the areas that will be lost within the PIA. We envisage Dr Thorsen, Dr Mueller and Mr Rance taking part in this discussion. Other experts can contribute if they wish to do so.
10. On Day 2 we anticipate covering the following matters to the extent necessary:
 - a. Water Quality: We expect to hear from Dr Greer for the ORC and Ms Hartwell for the applicant
 - b. Aquatic Ecology: This has been covered by Dr Allibone for the ORC and Dr Ryder for the applicant.

- c. Air Quality: Mr Iseli was the reporting officer for the ORC and Ms Harwood has covered this for the applicant.
- d. Landscape: This was reported on by Mr Espie for the WDC and Mr Mckenzie for the applicant.
- e. Planning: This includes Ms Dawe for the ORC, Mr Kyle (and perhaps Ms Hunter) for the applicant and (to some extent) the reporting officers, Mr Purves for the WDC and Ms Neville for the ORC.
- f. We will next hear from the other submitters, who are Mr Roy and McRaes Community Incorporated.
- g. The reporting officers, Mr Purves and Ms Neville, will appear next. We encourage them to supplement their verbal reports with written comments.
- h. We also hope to have time to discuss the draft conditions of consent proffered by the consent authorities and the applicant.

11. We expect the applicant's right of reply to be in writing.

Experts not required to attend

12. We also consider there are a number of experts we do not need to hear from:

- a. Mr Teele, Mr Copeland, Ms Mains, Dr Bertuzzi, Mr Elith, Mr Kelly and Mr Trevathan for the applicant. This is either because their evidence is not contested, or because written approval has been received from the nearest residence, namely the Howards on Horse Flat Road.
- b. Mr Cochrane, Mr Blyth, Mr Brunton and (perhaps) Mr Sutherland for the ORC.

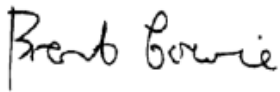
13. If there are any questions whether these and other witnesses need to attend the hearing, or requests that any do so on the above list, please forward them to Ms Bagnall for our consideration.

Expert Conferencing

14. We believe there are a number of topics where experts could agree broadly on the extent of effects, and how these could be avoided or mitigated. Any Joint Witness Statements that either record areas of agreement and disagreement would be extremely helpful to us. In this context we include the following topics:

- a. Herpetology: As already noted there is substantive agreement between Dr Tocher and Ms Sideaway, although this is only following Dr Tocher's involvement, which was after the AEE was lodged. We invite them and Mr Knox to confer to narrow any matters in dispute before we hear from them on Wednesday 19.
- b. Landscape: Our reading of Mr Espie's report and Mr McKenzie's evidence is that the only differences between them are matters of professional judgment about the precise extent of effects. We invite them to confer to attempt to narrow their differences. If they cannot do this, a clear statement of their differences would be helpful. If this occurs, we see no need for either of these witnesses to attend the hearing.

- c. Freshwater Fauna: The differences between Dr Ryder and Dr Allibone are not great. We similarly invite them to confer to narrow any such differences.
 - d. Water Quality: We would like Dr Greer and Ms Hartwell to confer.
15. We observe this is late in the process. However we could not issue any such suggestions (or indeed directions) until all the expert evidence was available to us. As some of the applicant's evidence was late, DoC and the ORC were given extensions to the time available to lodge their expert evidence.
16. Any questions about this minute should be made in the first instance to Karen Bagnall at the ORC. Her e-mail is Karen.Bagnall@orc.govt.nz or 03 470 7447. If she is not available they can be made directly to me at brent.cowie@xtra.co.nz or 027271 5331.



Signed by Brent Cowie (Chair)