

## STAFF REPORT

**TO:** Environment & Planning Subcommittee  
Commissioner Hearing

**FROM:** Neil Tyson, Consent Planner

**REFERENCE:** RM090387 (Replacing WD870124)

**SUBJECT:** **TGG MINING LTD - REPORT EP09/10/13** - Report prepared for the hearing of Monday 19 October 2009

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### 1. APPLICATION AND BACKGROUND

This is an application made pursuant to Section 127 of the Resource Management Act ("the Act") to change the conditions relating to existing resource consent WD870124. WD870124 is a water permit under Section 14 of the Act and was granted by the West Coast Regional Council in January 1991. WD870124 authorises the taking and use of groundwater and pond supply for gold recovery purposes at rates of 231 litres per second and 20,000,000 litres per day. WD870124 was transferred from McKay Mining to TGG Mining Ltd on 28 January 2009 and it has an expiry date of 16 January 2011. As described in the Consent Planner's (Jack Andrew) report, the applicant is seeking to move their mining operation to a new upstream location which, as a minimum, requires a site to site transfer of the point of take of WD871024.

The application lodged by consultants *Resource Management Group (RMG)* was found by the writer to be deficient and inaccurate regarding various matters relating to the proposed taking of water under water permit WD870124. For example, the report states at #34 that the applicant has an existing consent to take 20 cubic metres daily from the river. However, in discussion with TGG director David Thurlow he advised that this information is incorrect. He advises that for some time McKay Mining have been taking their water supply directly from the Matakita River via a single pump and not from groundwater as authorised under WD870124. He also advises that the actual pumping rate (11.1 litres per second) is significantly less than the currently authorised 231 litres per second.

TGG have subsequently confirmed that they are seeking as part of this proposal various changes to WD870124 including authorising the new upstream pumping site(s) and the taking directly from the river versus groundwater.

Any effects of these changes to WD870124 are therefore assessed in this report. It will also be seen that various changes to WD871024 are required regardless of the Commissioner's decision on landuse consent application RM090312. It is recommended that a new number RM090387 replace the existing number WD871024 for administration reasons as the "WD" is inconsistent with the Council's number system.

## **2. RELEVANT SUBMISSIONS**

The writer has read the three submissions and my assessment is that the issues raised by submitters do not specifically relate to the writer's assessment of the changes to WD870124. The only exception is the potential for nuisance pump noise which is assessed by Council's Regulatory Services Coordinator (Graham Caradus) in his report. The draft consent attached to this report includes a condition relating to pump noise, which is consistent with Mr Caradus' recommendation.

## **3. ASSESSMENT**

### **3.1 Discretionary Activity**

A change of conditions of an existing resource consent is an application outside of the Tasman Resource Management Plan (TRMP) and, under Section 127 of the Act, the status of such applications is (fully) discretionary.

A discretionary activity may be granted or declined by the Council and if granted may include conditions, pursuant to Section 108 of the Act, on any matter the Council considers appropriate and relevant.

### **3.2 Principal Issues (Actual and Potential Effects on the Environment)**

The principal issue(s) associated with the proposed change of conditions of WD870124 relate to any effects of the taking of 11.1 litres per second from the Matakītaki River. Possible issues are water availability, reliability and suitability at the new location. The writer considers that the adverse effects of the change in water source will, in this case, be no more than minor for the following reasons:

1. any adverse effects on river biota including fish will be minor as the proposed rate of take of 11.1 litres per second is small relative to the river flow. Furthermore, the water used in the gold mining process will largely return to the river with only minor losses to evaporation and if/when used for dust suppression; and
2. the intake suction in the river will be screened to avoid entrainment of fish.

It is relevant that the applicant has not applied under Section 13 RMA to undertake any works in the riverbed including any works associated with a pump and intake. The application also advises that no mining works will occur within 20 metres of the river. It is therefore considered that any effects arising from the placing of a suction pipe and intake screen in the riverbed will be de minimis.

### **3.3 Relevant Statutory Provisions**

In considering this application, the Commissioner shall have regard to the full range of relevant matters outlined in Section 104 of the Act including any relevant provisions of the Tasman Regional Policy Statement (TRPS) and the Tasman Resource Management Plan (TRMP).

The Commissioner shall also have regard to the relevant principles outlined in Sections 6, 7 and 8 of the Act and that granting this change of conditions of resource consent achieves the purpose of the Act as presented in Section 5.

For this application, relevant provisions of the Tasman Regional Policy Statement (TRPS) and the Tasman Resource Management Plan (TRMP) include the following from the TRMP:

*30.1.9 When assessing resource consent applications to take water, particularly those applications to take water from water bodies where no allocation limit has been established, to take into account actual and potential adverse effects, including cumulative adverse effects of the proposal in combination with any existing authorised takes, on:*

- (a) natural character of the water body and its margins;*
- (b) associated wetlands;*
- (c) cultural and spiritual, amenity and recreational values;*
- (d) aquatic habitat, including plants and animals;*
- (d) other water users;*
- (e) water reserved for other uses;*
- (f) hydrological regime of the water body;*
- (g) capacity to dilute contaminants;*
- (h) uses and values identified in Schedule 30.1;*
- (i) not applicable*

and 30.1.11 Except:

- (i) as otherwise provided by a water conservation order, or
- (ii) for rivers in the Moutere gravel catchments;

To manage the allocation of water for consumptive uses from rivers that

- (a) have no established minimum flow or allocation limit; and
- (b) do not have regionally or nationally significant aquatic habitat value as identified in Schedule 30.1;

so that the cumulative abstraction between November and April inclusive, other than in relation to hydro power, from the proposed and all existing authorised takes from the river does not exceed 10 percent of the 5-year, 7-day low flow, provided that up to 33 percent of the 5-year, 7-day low flow may be allocated if the cumulative adverse effects listed in Policy 30.1.9 from the proposed take in combination with any other authorised take are avoided, remedied or mitigated.

### **3.4 Water Conservation (Buller River) Order 2001**

For completeness, the Commissioner should be aware of the existence of the above operative WCO, which was amended in 2008. Importantly, the WCO contains no relevant restrictions relating to this section of the Matakītaki River at the application site. Further upstream within the DoC estate, the Matakītaki River has high level protection as a Schedule 1 "Water to be retained in Natural State". Therefore, this change of conditions application of WD870124 is unaffected by the WCO.

### **3.5 Flow Data**

The rate of take sought is 11.1 litres per second while existing consented takes from the Matakītaki River amount to some 100 litres per second. Compared to the Matakītaki River flow statistics, the combined abstraction of (100 + 11) 111 litres per second is small compared to the five year return period one day low flow at Mud Lake recorder of 16,900 litres per second. As a percentage, the proposed abstraction represents less than 1% of the 1-in-5 year low flow at Mud Lake. Mud Lake is the name given to a previous recorder site just upstream of the Six Mile Creek earthquake slip at map reference NZMS260 M29:532-287.

## **4. DISCUSSION**

From the above, it can be seen that the total allocation from the Matakītaki River will be less than 1% of the five year low flow and this is fully complying with the TRMP guideline allocation under Policy 30.1.10 and 30.1.11. The writer's assessment is that the policies in the TRMP support the granting of the application rate of 11.1 litres per second.

With regard to the matters in Policy 30.1.9, the writer considers there should only be minor adverse effects of the proposed water take on natural character given that the volumes are so small. There will be adverse effects resulting from the pump and intake pipe on amenity and recreational values but these are relatively short term and the effects can be minimised. For example, the pump and intake can be camouflaged or painted and/or located so that they are largely invisible to river users. Importantly, no structures are proposed in the river bed so the pump intake, pipes etc should not present any risk to passing kayakers.

Rather than specify a single take point for the applicant's pump it is proposed that they be authorised to locate the single pump between the two identified sites with the view to providing greater flexibility.

## **5. RECOMMENDATION**

Regarding this application (RM090387) for a change of conditions of existing resource consent (water permit) WD870124, the writer considers, based on the evidence, that a sustainable supply of water is available from the river and that any adverse effects of the activity on the environment will be no more than minor.

If the Commissioner is of a mind to grant the landuse consent RM090312, then this change of conditions application is recommended to be granted.

Furthermore, if the Commissioner is of a mind to grant landuse consent RM090312 for a longer term than 16 January 2011 then the writer supports the granting of a new replacement water permit ie replacing WD870124, that shares the same term as RM090312. This will avoid the applicant being required to apply for a replacement water permit if the mining works are not completed by 16 January 2011. The applicant has stated that they agree to this alternative.

### **5.1 Duration of the Consent**

The consent term is unchanged and cannot be changed under a change of conditions application.

If a replacement water permit is granted as suggested above it should share the same term as RM090312.

### **5.2 Consent Conditions**

Should the Commissioner decide to grant consent, the I attach a draft replacement consent with conditions consistent with similar recent consents granted in the catchment. If consent is granted, a condition relating to noise minimisation is likely to be appropriate and a possible condition is included with the water permit consent.

Neil Tyson  
**Consent Planner Water**



## DRAFT RESOURCE CONSENT DECISION

**Resource Consent Number:** RM090387

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants a change of conditions of resource consent to:

**TGG Mining Ltd**  
(hereinafter referred to as “the Consent Holder”)

**Activity authorised by this consent:** To take and use surface water for gold recovery purposes

### Location Details:

Address of Property: Matakitaki River  
Property Valuation: LINZ - Crown river bed

This replacement consent RM090387 has an unchanged term expiring on **16 January 2011** and is subject to the following conditions:

## CONDITIONS

### Site, Take and Use Details

- |                                  |  |
|----------------------------------|--|
| 1. Legal Description of Land:    | Crown land & Part Marginal Strip   |
| Category of Water Source:        | Surface water  |
| Name of Water Source:            | Matakitaki River   |
| Water Management Zone:           | Upper Buller   |
| Catchment:                       | Buller   |
| Maximum rate of take authorised: | 40 cubic metres per hour   |
| Average daily take authorised:   | 480.00 cubic metres per day  |
| Weekly rate of take authorised:  | 3,360.00 cubic metres per week   |
| Intake Location co-ordinates:    | 2456023E, 5911358N (upstream extent)<br>2455364E, 5911664N (downstream extent)<br>(New Zealand Map Grid Datum) |

### Intake Screen

- The Consent Holder’s river intake shall at all times when it is operating be screened sufficiently to prevent the entrainment of fish.

As a minimum, the intake screen shall be constructed such that the velocity at the outer screen surface is less than 0.3 metres per second and the screen mesh-size shall be no greater than 5 millimetres.

## Monitoring

3. Within one month of the taking of water commencing under this consent, the Consent Holder shall provide to the Council's Co-ordinator Compliance Monitoring (digital format) photographs showing the relevant features of the as-built scheme including, but not limited to, the location of the pump, the suction pipe to the river and the intake screen.
4. The work carried out to establish the river intake shall be the minimum required and shall be in such a manner as to minimise sedimentation and discolouration of the river.
5. No fuels or lubricants shall be stored within the banks or bed of the river or in location where there is any risk of their being lost to floods or where such contaminants may discharge into the river. All machinery on the work site shall be refuelled, and any maintenance works undertaken, in such a manner as to prevent contamination of land and surface water. Spillage of contaminants into any watercourse or onto land shall be adequately cleaned up so that no residual potential for contamination of land and surface water run-off from the site occurs. If a spill of more than 20 litres of fuel or other hazardous substance occurs, the Consent Holder shall immediately inform the Council's Co-ordinator Compliance Monitoring. All steps necessary to contain and minimise the effect of the discharge of any such contaminants shall be undertaken immediately and/or as directed by the Council's Co-ordinator Compliance Monitoring.
6. Equipment used in exercising this consent shall have noise attenuation measures installed and maintained, such that noise generated by the operation, when measured at the notional boundary of any dwelling, does not exceed the following noise performance standard levels:

	<b>Day</b>	<b>Night</b>
L <sub>10</sub>	55 dBA	40 dBA
L <sub>max</sub>		70 dBA

### **Advice Note:**

Council staff monitoring compliance with this condition will do so in accordance with New Zealand Standards NZS 6801:2008 *Acoustics – Measurement of environmental sound*, and NZS 6802:2008 *Acoustics – Environmental noise*.

7. The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent.
8. Council may, for the duration of this consent and within the three month period following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:

- a) dealing with any unexpected adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage; and
  - b) to reduce the quantities and rates of water authorised to be taken if the consent is not fully exercised; and
  - c) requiring the adoption of the best practical option to remove or reduce any adverse effects on the environment; and
  - e) to comply with the requirements of a relevant operative rule in the Tasman Resource Management Plan.
9. For the avoidance of doubt, this consent/change of conditions **(delete one)** replaces WD870124.

### **ADVICE NOTES**

- 1. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
  - 1. comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (PTRMP);
  - 2. be allowed by the Resource Management Act; or
  - 3. be authorised by a separate resource consent.
- 2. Access by the Council or its officers or agents to the land subject to this resource consent is reserved pursuant to Section 332 of the Resource Management Act.