

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ**

Decision No. [2023] NZEnvC 28

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under s 120 of the Act

BETWEEN

TIMOTHY DEIDRICK WILLIAM
LANG, CHRISTINE ANNE LANG,
TERRANCE SYDNEY GANE,
SUZANNE THORA KEPPEL,
LORREE ANNE WILSON,
GEOFFREY GLYNN FORD
NICHOLSON

(ENV-2022-CHC-23)

Appellants

AND

BULLER DISTRICT COUNCIL

Respondent

AND

WESTLAND MINERAL SANDS
CO. LIMITED

Applicant

Environment Judge J E Borthwick – sitting alone under s 279 of the Act

In Chambers at Christchurch

Date of Consent Order: 16 February 2023

CONSENT ORDER



LANG v BULLER DISTRICT COUNCIL – CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed, and the conditions of resource consent RMA RC210051 are amended as set out in Appendix 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

B: Under s 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Timothy Deidrick William Lang, Christine Anne Lang, Terrance Sydney Gane, Suzanne Thora Keppel, Lorree Anne Wilson and Geoffrey Glynn Ford Nicholson regarding the conditions of consent in resource consent RMA RC210051.

[2] On 9 May 2022 the applicant, Westland Mineral Sands Co. Ltd, was granted resource consent by Buller District Council to carry out mineral sand mining within approximately 22ha of land near Nine Mile Beach, Cape Foulwind.

[3] On 1 June 2022 the appellants appealed certain conditions of consent. The appellants are owners of properties along the western (Mr and Mrs Lang, Mr Gane and Ms Keppel) and northern (Ms Wilson and Mr Nicholson) boundaries of the mine site.

[4] On 28 June 2022, the Environment Court granted the applicant's unopposed application for commencement of the consent on the basis of interim

conditions.¹ Those interim conditions required, pending resolution of the appeal:

- (a) a reduction in mining hours of operation (Condition 11.1);
- (b) increased noise monitoring (six monthly) for the properties along the western boundary of the mining site (Condition 16.3); and
- (c) a reduced daytime noise limit of 50 dB $L_{\text{aeq}(15\text{min})}$ (Condition 16.5).

[5] The parties attended Environment Court facilitated mediation on 21 September 2022 and reached agreement. During the mediation the acoustic engineers present (Jon Farren (MDA, for the applicant) and James Boland and Jeremy Trevathan (AES, for the appellants)) undertook informal conferencing to discuss technical noise issues.

[6] The experts' agreement that the noise levels in the conditions of consent² are appropriate, and capable of being met (with mitigation measures if required), largely resolved the technical issues for discussion. The applicant subsequently agreed to conditions concerning the frequency of monitoring (i.e. yearly) as proposed by the appellants' noise experts. The parties also agreed to other amendments, including prohibiting mining on public holidays when mining is occurring within 80m of the northern property boundary (Condition 11.2).

[7] Having read and considered the consent memorandum of the parties dated 30 September 2022, which details the agreement reached between the parties to resolve the appeal, the court requested a copy of the submission by Wallace Diack Trustees Ltd, which was not on the court's file. Wallace Diack Trustees Ltd had been named as an appellant. The parties explained that Wallace Diack Trustees Ltd is the joint owner of Lot 3 DP 13269 BLK III Steeples SD, along with appellants Ms Wilson and Mr Nicholson, as trustees of the Pauls Road Family Trust. Wallace Diack Trustees Ltd did not expressly sign the original submission, and counsel for the appellants acknowledged the oversight of including Wallace

¹ *Lang v Buller District Council* [2022] NZEnvC 110.

² Condition 16.5, 45dB $L_{\text{aeq}(15\text{ min})}$ (night-time) and 55dB $L_{\text{aeq}(15\text{ min})}$ (day-time).

Diack Trustees Ltd as a named appellant. Wallace Diack Trustees Ltd has now been removed as an appellant to this consent order.

[8] The court issued a Minute dated 7 November 2022, in which I asked for clarification of aspects of the consent order. The parties responded to that Minute in a memorandum dated 18 November 2022, proposing amendments to the draft consent orders. A second Minute dated 30 January 2023 was released addressing drafting of the amended orders, with the court suggesting further editing to ensure that the conditions of consent are clear, certain, and enforceable. The parties accepted those suggestions confirming, amongst other matters, that the consent orders do not require the Lot 3 site to be permanently inhabited in order that the site be ‘occupied’.³

Other relevant matters

[9] No person gave notice of an intention to become a party to the appeal under s 274 of the Resource Management Act 1991 (‘RMA’ or ‘the Act’).

[10] The parties agree that costs should lie where they fall and accordingly no order for costs is sought.

Outcome

[11] The court understands for present purposes that all parties to the proceeding have executed the memorandum requesting this order and are satisfied that all matters proposed for the court’s endorsement fall within the court’s jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

³ Joint memorandum dated 7 February 2023.

[12] On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought under s 279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297.

Jane S.

J E Borthwick
Environment Judge



Appendix 1: Westland Mineral Sands Co Ltd

Conditions of Consent - BDC

General Conditions for BDC and WCRC	
1.0 General	
1.1	The Consent Holder must carry out the mineral sand mining activities in general accordance with the application, except where revised by subsequent further information provided during the consent application process, including the plan titled "Proposed Site Plan – Nine Mile Project" dated 5 April 2022 and prepared by Westland Mineral Sands Co Ltd, attached as Schedule 1.
1.2	The Consent Holder must ensure all key staff and contractors are made aware of, and have access to, the resource consent conditions prior to the commencement of mining. A copy of these documents must also be readily available on-site.
1.3	All actual and reasonable costs incurred by the Consent Authorities in monitoring, enforcement and administration of this resource consent must be met by the Consent Holder.
1.4	Within 2 months of implementation of these consents, the Consent Holder must appoint an Accountable Person to be responsible for compliance of all conditions of these consents. The Accountable Person must be based on-site for a minimum of 4 hours per day, for three days per week. The Accountable Person must: a) Review, submit and ensure compliance with all management plans listed in the conditions of these consents; b) Ensure there is another person who can provide cover in the event they are sick or unavailable, and to provide for succession ('Nominated Cover Person'); c) Be the point of contact between the Consent Holder, the Consent Authorities, the Community Liaison Group (required by Condition 10.0) and the community generally, and pro-actively engage with these parties as required under these consents; d) Deliver on reporting requirements required by the conditions of these consents.
1.5	The Consent Authorities must be advised of the name and contact details of the Accountable Person and the Nominated Cover Person. In the event that the Accountable Person or Nominated Cover Person change, the Consent Authorities must be notified.
1.6	A sign must be erected at the property boundary adjacent to the access road, which provides the name and contact details of the Accountable Person and Nominated Cover Person required to be appointed under Condition 1.4.
2.0 Notification	
2.1	For monitoring purposes, the Consent Holder must notify the Consent Authorities of the following: (a) the intended commencement date of activities at least 5 working days prior to commencement of works on-site; and (b) the intended completion of final mine closure rehabilitation activities at least 5 working days prior to works ceasing on-site.
3.0 Review of Conditions	
3.1	Pursuant to Section 128(1) of the Act, the Consent Authorities may review any of the conditions of these consents by serving notice on the Consent Holder within a period of

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	60 working days, commencing on each anniversary of the date of commencement of these consents for any of the following purposes: a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, including any material elevation of noise levels associated with the mining or processing operation, including for extended periods of time, which was not anticipated by noise modelling informing the resource consent conditions. b) To assess the appropriateness of imposed compliance standards, monitoring parameters, monitoring regimes and monitoring frequencies and to alter these accordingly. c) To ensure that any management plan required by these conditions gives effect to conditions of these consents.
4.0 Bond Conditions	
4.1	The Consent Holder must provide and maintain in favour of the Consent Authority a bond to secure compliance by the Consent Holder with all the conditions of these consents, including the completion of all final mine closure activities required by these consents and to avoid, remedy or mitigate any adverse effects on the environment arising as a result of the exercise of these consents.
4.2	The payment of the bond quantum by the Consent Holder, as required by Condition 4.4 must either be: a) A bond in favour of the Consent Authority for the guarantee sum in a form and executed by a surety acceptable to the Consent Authority; or b) A cash bond deposited with and held in a bank account by the Consent Authority
4.3	Where a bond is guaranteed in accordance with Condition 4.2 a), the guarantor must bind itself to pay up to the bond quantum for the carrying out and completion of all obligations of the Consent Holder under the bond.
4.4	The bond (as set at any time under Condition 4.1) must be held or remain in full force and effect throughout the term of these consents and until all conditions under these consents have been performed unless otherwise agreed by the Consent Authority.
4.5	The amount of the bond must be \$100,000.00 (one hundred thousand dollars).
4.6	The amount of the bond may be inflation adjusted annually, if requested by the Consent Authority, by the movement of the CPI relative to the CPI at the date when the bond is first provided.
4.7	The Consent Holder will not exercise or must cease exercising these consents: a) Until the bond required by Condition 4.1 has been fully executed by the Consent Holder and guarantor, or has been deposited with the Consent Authority, or

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	b) In respect of any inflation adjusted bond referred to in Condition 4.6, after 30 working days have expired from the date the Consent Holder was notified of the terms of the inflation adjusted bond by the Consent Authority unless the inflation adjusted bond has been executed with the Consent Authority by the Consent Holder and guarantor, or has been deposited with the Consent Authority; or c) In respect of any bond sum changed or reviewed pursuant to Sections 127 or 128 of the Act, after thirty 30 working days have expired from the date the Consent Holder was notified of the decision of the changed or reviewed bond by the Consent Authority unless the changed or reviewed bond has been executed with the Consent Authority by the Consent Holder and guarantor, or has been deposited with the Consent Authority, or d) If, during the term of these consents, the whole or any part of the bond is required to be used for the carrying out and completion of all obligations of the Consent Holder under the bond, unless the full bond has been executed with the Consent Authority by the Consent Holder and guarantor, or has been deposited with the Consent Authority.
4.8	The Consent Holder must complete such work requested in respect of which any bond or deposit is held, within the time period nominated by the Consent Authority's written request.
4.9	If the consents are transferred in part or whole to another party or person, the bond must continue until any outstanding work at the date of transfer is completed to ensure compliance with the conditions of these consents, unless the Consent Authority are satisfied adequate provisions have been made to transfer the liability to the new Consent Holder.
4.10	In the event of any such transfer of the consents, the Consent Holder must ensure that the transfer provides a replacement bond to the Consent Authority on the terms required by the Bond Conditions.
5.0 Annual Work Programme	
5.1	At least 20 working days prior to mining activities commencing and thereafter on or before the anniversary date of the commencement of these consents, the Consent Holder must submit a programme of work ("Annual Work Programme") for certification by the Consent Authorities detailing: ○ The proposed works to be carried out over the next 12 months including: ▪ Equipment to be used; ▪ Areas of topsoil and overburden stripping and stockpile locations; ▪ New areas of land disturbance that will be mined; ▪ Access tracks; ▪ Drill/prospecting sites and other tracks to be constructed; and ▪ Any other site works within the consent area.

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	○ The approximate open volume of the working pit at the start of the year including depth of excavations and the area of the working pit. ○ The progressive rehabilitation works to be carried out over the next 12 months including: ▪ Areas of unrestored land (i.e. all land not finally topsoiled and revegetated) at the beginning of the new year; ▪ The area that will be fully rehabilitated during the forthcoming year; ▪ Maximum slope angles, bench heights and widths of recontoured ground, if applicable; and ▪ Rehabilitation method and technique including replacement of topsoil and vegetation cover. ○ Description of measures to prevent adverse effects on natural waters, including drainage works within the consent area, and the collection and treatment of site run-off before discharge to land. ○ Measures that must be adopted to ensure soil conservation and slope stability are controlled; ○ A description and analysis of any unexpected adverse effects that have arisen as a result of activities within the last 12 months, and the steps taken to address the adverse effect.
5.2	The following plans, reports and results of monitoring must also be submitted as part of the Annual Work Programme: ○ A detailed plan or aerial photograph showing: ▪ The open working area at the start of the year; ▪ Proposed mine path for the forthcoming year including haul and access roads; ▪ Rehabilitated ground behind the open pit area; ▪ Location of existing and intended topsoil or overburden dumps and their dimensions; ▪ Location of natural waterbodies; ▪ Location of present and intended drainage works and settling ponds; and ▪ Any other site works within the consent area. ○ An updated Erosion and Sediment Control Plan in accordance with condition 25.0. ○ Results of surface water quality and water level monitoring from the previous 12 months in the form of an Annual Hydrological and Water Quality Report required by condition 29.10.

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	○ Any proposed updates to Management Plans submitted in accordance with the respective conditions of consent. ○ Results of dust monitoring from the previous 12 months required by Condition 24.2 for the previous 12 months. ○ A geotechnical report which confirms the proposed pit slope geometry to ensure a stable landform.
5.3	The Consent Holder must provide the Consent Authorities with any further information, which the Consent Authorities may reasonably request after considering any Annual Work Programme. This information must be provided in a timely manner as required by the Consent Authorities.
6.0 Management Plans	
6.1	At least 20 working days prior to undertaking any activities authorised by these consents, the Consent Holder must provide to the Consent Authorities the following management plans for certification in accordance with conditions of these consents: • Lighting Management Plan • Transport Management Plan • Avian Management Plan • Lizard Management Plan • Dust Management Plan • Rehabilitation Management Plan • Water Management Plan • Monitoring and Mitigation Plan • Erosion & Sediment Control Plan (collectively Management Plans)
6.2	All Management Plans must include (where relevant): a) The purpose of the plan; b) Reference to the relevant conditions; c) How each of the relevant conditions have been given effect to; d) Identification of procedures for implementing the relevant plan; e) Audit check lists; f) Monitoring programmes and/or protocols; g) Feedback mechanisms for adaptive management, including circumstances in which a material change to the management plan would be required; h) An organisational chart showing staff and contractor positions and responsibilities for plan implementation; i) Relevant training and induction procedures and schedules; j) Reporting procedures and format for providing the results of any monitoring or surveying required by the Management Plans.

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6.3	Site activities must not commence until the management plans required in condition 6.1 have been certified by the Consent Authorities.
6.4	If the Consent Holder has not received a response from the Consent Authorities within one month of the date of submission of the management plans under Condition 6.1, the management plans must be deemed certified. If the response from the Consent Authorities is that they are not able to certify the management plans, the Consent Holder must consider any reasons and recommendations provided by the Consent Authorities, amend the management plans accordingly, and resubmit the management plans to the Consent Authorities.
6.5	The Consent Holder may amend the management plans at any time to take into account: a) Any positive measure/s to ensure the stated objectives of the management plans are achieved; b) Any required actions identified as a result of monitoring under these consents; and c) Any changes required to further reduce the potential for adverse effects as a result of actions identified in the Annual Work Programme. Where management plans require the input of an appropriately qualified person, any amendments to those management plans must also be undertaken by the appropriately qualified person. <i>Advice Note: Some management plans have ongoing annual review requirements which are required in order to avoid, remedy or mitigate effects. These specific review requirements are stipulated in the relevant conditions of this consent.</i>
6.6	Any amended Plans must be provided to the Consent Authorities within 20 working days of their review, for certification in accordance with Condition 6.1.
6.7	The Plans must not be amended in a way that contravenes the matters set out in the conditions for the respective Plans.
6.8	A copy of the latest version of the Plans must be kept on site at all times and all key personnel must be made aware of the contents of each Plan and their responsibilities under each Plan.
6.9	Subject to any other conditions of these consents, all activities must be undertaken in accordance with the latest version of the Plans.
7.0 Method of Operations	
7.1	The mine boundaries must be clearly marked on the ground before any earthworks take place, with a 5m setback from major drains, 10m setback from the eastern vegetation, 20m setback from Blind River and 40m setback from Okari Road and Silverstream wetlands clearly identified. <i>Advice note: Boundaries are to be defined across the ground surface of the site from the edge of the relevant feature.</i>
7.2	The maximum disturbed area of the mine pit must not exceed 2 hectares and total site disturbance must not exceed 5 hectares at any one time.

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	<i>Advice note: the 2 hectare mine pit disturbance area relates to the open pit perimeter and does not include the disturbance associated with topsoil removal, waste/tails backfilling activity or rehabilitation activity.</i>
7.3	The Consent Holder must strip soil material ahead of operations and stockpile it for progressive and final mine closure rehabilitation purposes. Stockpiled soil must be protected from erosion caused by water and wind as far as practicable.
7.4	The Consent Holder must not bury any topsoil or soil material suitable as a growing medium or remove it from the site.
7.5	The Consent Holder must erect a minimum two-wire stock fence around the perimeter of the native vegetation on the site, in the general location shown on the Site Plan attached in Schedule 1. The stock fence must be maintained for the duration of the consent.
8.0 Rehabilitation	
8.1	The Consent Holder must carry out progressive rehabilitation, to achieve the following requirements: a) Reinstatement of the dune landform; b) Reinstatement of existing drainage patterns to reflect pre-mining catchment areas which discharge to the major drains; c) Ensure short and long term stability of the reinstated landform; and d) Protect Okari Road and Silverstream wetlands, Blind River and the coastal forest along the eastern Site boundary from the effects of erosion and sediment generation. <i>Advice Note: Progressive rehabilitation is defined as the 2ha area of progressive rehabilitation occurring behind the mine pit area. Progressive rehabilitation involves the placement of mine tailings and slimes in the mining void, followed by the replacement of overburden, spreading of topsoil and returning the land to pasture to maintain a maximum mine pit area of 2ha.</i>
8.2	At the completion of mining (final mine closure), the dune landform must be fully rehabilitated, by reinstating the dune landform to a similar contour and profile as that which existed prior to mining, with no mining voids left. <i>Advice Note: Final mine closure is the completion of all mining and progressive rehabilitation works, end of mine landscaping on the northern boundary, and includes the replacement of the temporary tailings stockpile back to the mine area, and where the previous dune landform and pre-mining land drainage patterns are reinstated acknowledging a reduction in elevation associated with the removal of HMC material.</i>
8.3	The Consent Holder must provide a Rehabilitation Management Plan to the Consent Authorities, which is in general accordance with the draft Rehabilitation Management Plan labelled “WMS-NM-REHAB-V13 -Rehabilitation Management Plan” prepared by Westland Mineral Sands Co. Ltd, detailing progressive and final mine closure rehabilitation strategies for all facilities and operational areas of the mine to achieve the following rehabilitation objectives: a) To create a stable dune landform with a similar contour and profile at final mine closure as that which existed prior to mining; b) To establish vegetation cover on all areas disturbed by mining activity; and

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	c) To protect freshwater values associated with Blind River and Okari and Silverstream Wetlands. <i>Advice Note: All Management Plans are required to adhere to the requirements of Condition 6.0.</i>
8.4	The Rehabilitation Management Plan must, as a minimum, detail measures which address the following: a) A programme of progressive rehabilitation of the pre-mining landform; b) The original and anticipated final mine closure topography; c) Contour and stability of all post-mining landforms; d) Establishment of pasture cover over all disturbed land; e) Restoration of drainage discharge channels; f) Protection of water and soils from the effects of erosion; g) The achievement of water quality standards for water interacting with previously disturbed sites/areas for the duration of mining and in the long term to protect aquatic values; h) Removal of buildings, equipment and structures; i) Post-mining weed and pest control requirements; and j) Any post-mining monitoring requirements.
8.5	If for any reason active mining ceases for more than 3 months, operational stockpiles must be removed and material returned to the mining area, and all disturbed areas must be rehabilitated as required by the conditions of these consents within 6 months from the date of the last mining activity.
9.0 Complaints and Non-Compliance	
9.1	Upon receipt of any complaint, the Consent Holder must promptly investigate the complaint, take action to remedy or mitigate the cause of the complaint and inform the Consent Authorities within 48 hours of the report, of the details of the complaint and the action taken.
9.2	The Consent Holder must maintain a complaints register for all aspects of operations in relation to these consents. The register must be available to the Consent Authorities at all times and must: a) detail the date, time and type of complaint; b) cause of the complaint; and c) the action taken in response to the complaint.
9.3	Complaints which may infer non-compliance with the conditions of these consents, must be referred to the Consent Authorities within 48 hours of the report.
9.4	In the event of any breach of compliance of the conditions of these consents the Consent Holder must notify the Consent Authorities within 48 hours of the breach being detected. Within 5 working days of any breach the Consent Holder must provide written notification to the relevant Consent Authorities which explains the cause of the breach, and if the cause was within the control of the Consent Holder, steps which were taken to remedy the breach and steps which must be taken to prevent any further occurrence of the breach.

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	<i>Advice Note: This consent condition does not replace the compliance and enforcement responsibilities of the Consent Authorities.</i>
10.0 Community Liaison Group	
10.1	Within 90 working days of commencement of these consents, the Consent Holder must establish a Community Liaison Group (CLG). An invitation must be extended to 4 representatives of the Okari Road and Tauranga Bay community and the West Coast Penguin Trust. The Consent Holder must ensure that members of the CLG are provided with the opportunity and facilities to meet at least once every three months for the first 12 months of mining operations, and thereafter as agreed with the CLG. <i>Advice Note: The CLG is not a decision making body, but an important forum for the dissemination of information from the Consent Holder to interested parties. It also provides the opportunity for meaningful engagement between the parties, and for the CLG to comment on consent compliance and provide recommended changes to operations, monitoring and adaptive management. Comments and recommendations from the CLG are to be given due consideration. In the event that it is not possible to establish or maintain a CLG through lack of interest or participation from the local community, then such failure to do so shall not be deemed a breach of these conditions.</i>
10.2	The purpose of the CLG is to provide an ongoing means of communication between the Consent Holder and the local community, both through regular meetings and informal communication between the members and the Accountable Person (required by Condition 1.4). Matters to be discussed may include, but are not limited to: a) Any complaints recorded and actions taken in response to the complaints as required by Condition 9.2; b) Road safety and/or maintenance concerns; c) Weekend trucking occurrences and reasons for such operations; d) Upcoming weekend and/or surf events at Tauranga Bay which the Consent Holder should be aware of; e) Any proposed amendments to Management Plans; f) The results of any surveys or monitoring undertaken in accordance with conditions of this consent (including in relation to ecology, dust and radiation).

Buller District Council Conditions	
11.0 Hours of Operation	
11.1	The mining and processing activities must comply with the following hours of operation: ○ Mining Activities– 0800-2200 ○ Processing Plant Activities - 24 hours a day / 7 days a week <i>Advice Note: In addition to condition 11.1, further restrictions on transport operations are contained in Condition 17.0 Transport.</i>
11.2	When mining reaches a point 80m from the northern property boundary (the point at which Condition 16.9 also requires the temporary noise bund to be constructed) <u>and Lot 3 DP 13269 BLK III Steeples SD is “Consented and Occupied” as defined in Condition 22.8 then:</u>

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	- Mining activities must only occur between the hours of 0800-2200 Monday to Friday and 0800-1800 Saturday. - Mining is not permitted to occur on Sundays <u>and public holidays</u> for the period when mining is occurring within 80m of the northern property boundary. <i>Advice Note: Condition 11.2 only applies if a dwelling is constructed and a Certificate of Code Compliance has been issued on from when Lot 3 DP 13269 BLK III Steeples SD is "<u>Consented and Occupied</u>" as defined in as per Condition 16.3(b)(c).</i>
12.0 Buildings	
12.1	Buildings associated with the mining activity must be constructed and located generally in accordance with the site plan titled "Plant Site Plan – Nine Mile Project" dated 18 March 2022 and prepared by Westland Mineral Sands Co Ltd and the updated plant drawings (Schedule 2).
12.2	The colours to be used for all buildings and structures must be grey and have a light reflectance value (LRV) of less than 15% for roof material and less than 25% for cladding.
12.3	The Consent Holder must remove all buildings and reinstate the processing plant area to pasture before the completion of the term of consent.
13.0 Site Access	
13.1	At least 10 working days prior to the commissioning of the processing plant, the site access must be upgraded to provide a left turn deceleration lane that is in accordance with Waka Kotahi NZTA Diagram D for a 100km/hr speed environment, attached as Schedule 4.
13.2	At least 10 working days prior to the commissioning of the processing plant, vegetation at the accessway must be trimmed to achieve a 160m visibility splay consistent with a 100km/hr design speed in the Waka Kotahi NZTA 'Road Traffic Standard 6 – Guidelines for Visibility at Driveways'.
13.3	Prior to any works being undertaken in accordance with 13.1 above, the Consent Holder must submit engineering designs and plans identifying the extent of the proposed road construction works, together with a Design and Access Statement prepared in accordance with NZS4404:2010. The engineering designs must include details of all aspects of the alterations and certification from a Chartered Professional Engineer practising in Civil Engineering that all proposed works comply with NZS 4404:2010. The designs are to be certified by Council's Infrastructure Manager prior to physical works being undertaken. <i>Advice Note: All construction work on road reserve is to be undertaken by a Council approved contractor.</i>
14.0 Road Safety and Maintenance Measures	
14.1	At least 60 working days prior to commencing trucking of Heavy Mineral Concentrate (HMC), the Consent Holder must make payment of \$13,500 + GST to the Council. The contribution is for the express purpose of completing road safety measures identified as being funded by the Consent Holder in Section 5 of the WSP report titled: "Westland Mineral Sands Co. Ltd Transport Impact Assessment", dated 16 th February 2022, which will be undertaken by the Council as the road controlling authority.

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14.2	Okari Road (between the site access and Tauranga Bay Road) must comprise a minimum 5.5m sealed carriageway width and must be free from potholes, rutting and slumping as reasonably assessed by the Council's Infrastructure Manager, prior to commencing trucking of HMC from the processing site, and for the duration of mining.
14.3	At least 10 working days prior to mining commencing, the Consent Holder must commission a survey of Okari Road to be undertaken by a suitably qualified transport engineer, to confirm that the road meets the standard in Condition 14.2. A copy of the survey must be provided to the Council's Planning Department within 10 working days of the survey being completed. If the survey identifies defects, the transport engineer must confirm in writing to the Council's Infrastructure Manager that the defects have been rectified prior to trucking commencing. <i>Advice Note: All construction work on road reserve is to be undertaken by a Council approved contractor.</i>
14.4	The Consent Holder must commission an independent Road Safety Audit of the Nine Mile Surf Car Park, with particular regard to the potential effects of trucks passing through this area when on-road car parking is occurring. The audit must be conducted by a suitably qualified transport engineer within the first 6 months of mining activities commencing. The Audit should: ○ Identify whether changes are required to the Transport Management Plan to adequately mitigate any concerns identified; and ○ If required, identify recommendations for potential safety measures (such as parking restrictions or an expansion area) to further mitigate identified risks. The Consent holder must: ○ implement any changes recommended to its Transport Management Plan in accordance with Condition 17.8 within 2 months; and ○ forward the Audit to the Council's Infrastructure Manager to consider implementing recommended safety measures as Road Controlling Authority. <i>Advice Note: Any safety issues that are identified and are not solely attributed to the operation of the Application site shall be considered separately through Business as Usual Council road safety improvement processes.</i>
15.0 Lighting	
15.1	Lighting must not exceed 10 lux spill (horizontal and vertical) of light onto any adjoining property, measured at any point more than 2m inside the boundary of the adjoining property.
15.2	Lighting must be designed in a manner which adheres to the Australian Government's National Light Pollution Guidelines for Wildlife January 2020 (or subsequent revision); including but not limited to: • All fixed lighting must be directed downward, shielded to avoid light spill outside of permitted activity limits, operate in the yellow orange spectrum, and be filtered to remove blue and violet wavelengths; • Lights must only illuminate the object or area intended; • Fixed lights must be mounted as close to the ground as practicable while still achieving site lighting requirements;

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	- External lighting must be minimised on the seaward side of buildings to minimise light spill toward the coast; - external lighting must use the lowest intensity lighting possible, while ensuring compliance with workplace health and safety requirements.
15.3	A Lighting Management Plan, which is in general accordance with the draft 'Lighting Management Plan' prepared by Westland Mineral Sands Co. Ltd dated 4th March 2022, must be prepared by a suitably qualified and experienced professional and provided to Council's Planning Department. The objective of the LMP is to ensure that lighting remains within the limits specified in Conditions 15.1 and 15.2-and to avoid or mitigate adverse effects on residents and wildlife. <i>Advice Note: All Management Plans are required to adhere to the requirements of Condition 6.0.</i>
15.4	The Consent Holder must conduct a lighting audit of the site, within 20 working days of commencement of mining activities, and at least once annually thereafter, to confirm compliance with conditions 15.1 and 15.2. The audit must be carried out by a qualified lighting technician, and reviewed by a suitably qualified ecologist. The results and confirmation of compliance with conditions 15.1 and 15.2 must be submitted to the Council's Planning Department within 10 working days of receipt of the audit.
15.5	If the lighting audit establishes compliance with conditions 15.1 and 15.2 is not achieved, the Consent Holder must investigate and implement additional mitigation required to achieve compliance. The Consent Holder must submit a report to Council's Planning Department within 10 working days of the audit detailing the mitigation measures that will be implemented and must undertake a further compliance monitoring report within 10 working days of any mitigation measure being implemented to demonstrate the effectiveness of that mitigation.
16.0 Noise	
16.1	Prior to the commencement of any night-time activities on site, a report from a suitably qualified and experienced acoustic specialist must be submitted to Council's Planning Department confirming that the proposed processing plant and associated equipment that operates at night does not exceed the following noise levels: Cumulative noise from all static processing plant: 60 dB L_{aeq} (15 min) at 50 metres from the north and west side of the enclosures, measured at a height of 1.5m above the existing ground level.
16.2	Cumulative noise from the processing plant <u>including mobile equipment</u> may only be permitted to exceed the above noise level if it can be demonstrated that noise levels received at the property boundaries will not exceed the limits provided in Condition 16.5.
16.3	The Consent Holder must undertake noise monitoring to demonstrate compliance with the noise limits in Condition 16.5: a) within 30 days of mining and processing operations occurring, and b) <u>at least once every 12 months for the duration of mining and processing operations; and</u>

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	c) when mining operations first occur within 100 metres of any dwelling at Lot 3 DP 13269 BLK III Steeples SD, <u>provided the lot is "Consented and Occupied", as defined in Condition 22.8; and</u> d) <u>when mining operations first occur within 50 metres of Lot 3 DP 13269 BLK III Steeples SD, provided the lot is "Consented and Occupied", as defined in Condition 22.8.</u> If compliance is not achieved, the Consent Holder must investigate and implement <u>temporary</u> additional mitigation required to achieve the noise limits as soon as practicable. The consent holder must submit a report to Council <u>as soon as practicable and</u> within 60 working days of the relevant monitoring report detailing the <u>permanent</u> mitigation measures that will have been be implemented and must undertake a further compliance monitoring report within 10 working days of any <u>permanent</u> mitigation measure being implemented to demonstrate the effectiveness of that mitigation. <u>Advice Note: The Consent Holder's attention is drawn to the obligations in Condition 9.4.</u>
16.4	All noise monitoring results undertaken in accordance with Condition 16.3 must be provided to Council <u>and the Community Liaison Group</u> within 5 working days of completion of each monitoring visit.
16.5	Mining and processing activities must comply with the following noise limits at the property boundary of any dwelling existing at the date consent is granted (excluding any dwelling on the site), and at the property boundary of Lot 3 DP 13269 BLK III Steeples SD if a dwelling is constructed and a Certificate of Code Compliance has been issued under the Building Act 2004 <u>provided the lot is "Consented and Occupied" as defined in Condition 22.8:</u> ○ Daytime (0800-2200): 55 dB L_{aeq}(15 min) ○ Night-time (2200-0800): 45 dB L_{aeq}(15 min) and 75 dB L_{AFmax} Noise must be measured and assessed in accordance with New Zealand noise standards: NZS 6801:2008 "Acoustics – Measurement of Environmental Sound" and NZS 6802:2008 "Acoustics -Environmental Noise", respectively. <i>Advice note: A dwelling is proposed to be constructed on Lot 3 DP 13269 Blk III Steeples SD, however the date at which this may or may not be constructed is uncertain due to additional approvals being required for this activity. The This consent condition ensures that if a Building Consent for a dwelling on Lot 3 is issued if this dwelling is constructed <u>consented and the site is first-occupied (regardless of whether the dwelling is built)</u>, the noise limits will apply at the property boundary. at that time as with other existing dwellings.</i>
16.6	Construction activities must be conducted in accordance with NZS 6803: 1999 "Acoustics – Construction Noise" and must comply with the "typical duration" noise limits contained within Table 2 of that Standard. <i>Advice Note: Construction activities include the formation of access roads, any required boundary bunds and planting, and the construction of the processing plant and load out area. For the avoidance of doubt, overburden stripping at the mine site must not be considered construction except where this is required for the formation of noise control bunds.</i>

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16.7	The Consent Holder must adopt the Best Practicable Option (BPO) to minimise noise and vibration at all times. This includes regular replacement of worn parts, maintenance of mufflers, lubrication of all moving parts to avoid squeaks and squeals, appropriate operation of all equipment, and maintenance of access roads.
16.8	Vehicles or equipment must not be fitted with tonal or beeper reversing alarms.
16.9	Prior to mining operations commencing within 80 m of the northern site boundary, a 3.0m high earth bund must be constructed adjacent to the northern boundary of the mining area. The bund must be constructed within the planting area shown on the Site Plan attached as Schedule 1, and must not encroach on the Phase 1 Northern Boundary Planting required by Condition 22.1. The bund must be immediately stabilised by hydroseeding or similar. The bund must be removed at the completion of mining and rehabilitation works, to allow the planting required by Condition 22.2 to be completed.
17.0 Transport	
17.1	Truck movements associated with removal of heavy mineral concentrate must be limited to 30 per day and 3 per hour between the hours of 0800-2000 Monday to Friday, and limited to exceptional circumstances on weekends. <i>Advice Note: For the purposes of the Transport conditions, a movement is defined as being a movement either to or from the site. A truck and trailer unit entering and leaving the site is therefore 2 movements.</i>
17.2	The Consent Holder must manage operations to limit weekend heavy vehicle movements to exceptional circumstances where trucking has been disrupted during the week for reasons that are out of the Consent Holder's control i.e. weather. A record must be kept of heavy vehicle movements, including an explanation of the exceptional circumstances which result in the need for any weekend heavy vehicle movements, and this must be supplied to the Council and CLG if requested.
17.3	In addition to the restrictions in condition 17.1, there must be no heavy vehicle movements: ○ 30 minutes either side of nautical dusk and nautical dawn between McKay Road and the site boundary; ○ During school bus pick up and drop off times between McKay Road and the site boundary, which will be confirmed with the school bus operator prior to mining commencing; ○ On public holidays; ○ During the Cape Classic annual surf event. <i>Advice Note: Nautical dusk and nautical dawn for the mine area can be viewed at https://sunsetsunrisetime.com/sun/westport_(new_zealand)</i>
17.4	All mine related traffic must adhere to the following maximum speed restrictions: Heavy Vehicles • The Esplanade – 40km/hr • Star Tavern Corner (Cape Foulwind/Lighthouse/Tauranga Bay Road's intersection) – 30km/hr • Carters Beach area – Brunnings Road to Bradshaws Road – 80km/hr • Northbound at the Okari Road/Tauranga Bay Road Intersection (including past the access to 4 Okari Road) – 25km/hr All Vehicles

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	• Tee intersection of Tauranga Bay/Seal Colony Road via Okari Road to Mine Site entrance – 40km/hr • Mine Site entrance to processing plant area – 30km/hr
17.5	The Consent Holder must install a Speed Management System on its trucks to monitor truck speeds to ensure compliance with Condition 17.4. Records must be supplied to the Council on request.
17.6	A Transport Management Plan (TMP) must be prepared by the Consent Holder and provided to Council's Planning Department, which is in general accordance with the draft 'Transport Management Plan' prepared by Westland Mineral Sands Co. Ltd dated 18 March 2022, detailing the measures and procedures to be adopted for all mine related traffic. The objectives of the TMP are to: ○ Ensure the safe and efficient operation of the road transport network around the Cape Foulwind area; ○ Avoid, remedy or mitigate potential transport related effects on residents and visitors to the Cape Foulwind area; ○ Avoid effects on the Little Blue Penguin and other threatened species. <i>Advice Note: All Management Plans are required to adhere to the requirements of Condition 6.0.</i>
17.7	As a minimum the TMP must address the following: ○ Speed restrictions and route; ○ Details of protocols to manage vehicle interactions; ○ Noise mitigation measures; ○ Little blue penguin mitigation measures; ○ Dust mitigation measures; ○ Light pollution mitigation measures; ○ A procedure for identifying and reporting road maintenance and safety issues to Council in consultation with the CLG; ○ Exploring alternative trucking routes.
17.8	The TMP must be updated in the instance a <i>trend</i> in road safety incidents arises that demonstrates that the existing measures are insufficient to adequately address road safety issues, and if any changes are required as a result of the Road Safety Audit required by condition 14.4. The update will include practicable measures to mitigate the identified issues, to the satisfaction of Council. <i>Advice Note: a 'trend' may be determined by three or more instances of the same type of incident. Incidents due to non-compliance with the TMP, or related to the Consent Holders' drivers' conduct are not applicable to this condition.</i>
18.0 Avian Management	
18.1	At least 20 working days prior to mining commencing, and annually thereafter, the Consent Holder must conduct a survey of the section of Okari Road being used by mine traffic using a trained conservation dog to confirm the location of burrows of kororā (Little Blue Penguin) which may be affected by mine traffic. If burrows are identified, management and mitigation measures must be implemented in accordance with the Avian Management Plan required by Condition 18.3, and in consultation with the West Coast Penguin Trust.

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18.2	Immediately following the commencement of consent, the Consent Holder must engage the services of a qualified and experienced ecologist to undertake four baseline seasonal surveys to confirm the presence and location of threatened or at-risk indigenous bird species within or adjacent to the mining footprint, including kororā (Little Blue Penguin), rōroa (great spotted kiwi), pūweto (spotless crane), koekoeā (long-tailed Cuckoo), tōrea (South Island Pied Oyster Catcher), tītī (sooty shearwater), tōrea tai (variable oystercatcher), fairy prion (<i>Pachyptila turtu</i>), matuku (Australasian bittern), Tāiko (Westland Petrel) māātā (South Island fernbird). The quarterly seasonal surveys must be conducted for the duration of mining, and for one calendar year post mining. If the surveys confirm the presence and habitat of any threatened or at-risk indigenous bird species then management and mitigation measures must be implemented in accordance with the Avian Management Plan required by Condition 18.3. <i>Advice Note: Baseline surveys are able to be undertaken during the first year of mining, as stipulated in the Avian Management Plan.</i>
18.3	An Avian Management Plan (AMP) must be prepared by a suitably qualified and experienced ecologist/ornithologist and provided to Council's Planning Department, which is in general accordance with the draft 'Avian Management Plan – Westland Mineral Sands Limited Proposed Nine Mile/Okari Road Mine' dated 31 March 2022. The objective of the AMP is to avoid adverse effects on any threatened or at-risk indigenous bird species found to be within or adjacent to the mining footprint. <i>Advice Note: All Management Plans are required to adhere to the requirements of Condition 6.0.</i> <i>Advice Note: Threatened or at-risk bird species refers to the Conservation Status according to the Department of Conservation's Threatened Classification System</i>
18.4	The AMP must detail measures to protect the identified bird species in Condition 18.2 which must include: ○ Measures to avoid harm to kororā including but not limited to excluding penguins from burrows, construction of fencing (with underpasses as required), provision of artificial nest boxes at sites away from roads and traffic controls. ○ Survey methods for the surveys required by Condition 18.1 and 18.2; ○ Monitoring of lighting and controls consistent with the Commonwealth of Australia (2020) guidelines in order to minimise light spill from the site and reduce effects on nocturnal birds including seabirds and roroa; ○ Monitoring to confirm the presence and specific location of māātā, matuku and pūweto; ○ Methods to avoid effects on birds using Okari Road Wetland and Silverstream Wetland, including but not limited to; ▪ Provision of physical separation of the active mine areas from key habitats for birds, particularly during the breeding; ▪ Required training of project staff and/or contractors to identify and report the presence of identified at risk and threatened bird species; ▪ Mitigation and management measures to avoid adverse effects on resident avifauna to be incorporated into, and consistent with, the LMP and TMP, including but not limited to:

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	• Controls on lighting; • No heavy vehicle movements 30 minutes either side of nautical dawn and nautical dusk to avoid Little Blue Penguins; • Limiting the speed of vehicles along Okari Road to 40km/hr; • Limiting the speed of vehicles to 30km/hr while on site; and. • Management options which further restrict operations if an unforeseen effect arises. ○ Pest control to be undertaken across the site and the adjoining wetland habitat where access can be obtained.
18.5	The Consent Holder must report the results of the surveys and monitoring by producing an Annual Avifauna Management Report, which must be provided to Council's Planning Department and the Buller/Kawatiri office of the Department of Conservation no later than June each year.
18.6	The AMP must be reviewed annually and may be amended at any time by the Consent Holder. Any amendments to the AMP must be submitted to Council and must: ○ achieve the AMP purpose of avoiding effects on any threatened or at-risk indigenous bird species; ○ comply with the conditions of this resource consent; and ○ have been reviewed by an appropriately qualified and experienced ecologist/ornithologist; ○ follow the certification process set out in Condition 6.0. <i>Advice note: any disturbance or relocation of avifauna may require a permit from the Department of Conservation under the Wildlife Act (1953).</i>
19.0 Lizard Management	
19.1	At least 20 working days prior to mining activities commencing, the Consent Holder must engage the services of a qualified and experienced herpetologist to: ○ Conduct a lizard survey to detect the presence of lizards within edge habitats of the mine site; ○ Establish a 5 m buffer zone around all identified lizard habitat; and ○ Fence the buffer areas with a high (>1 m) silt fence (made from UV stabilised woven polypropylene silt control fabric), to prevent lizards entering the mining area and prevent sediment flowing into intact vegetation.
19.2	At least 20 working days prior to the commencement of mining, and at least once annually thereafter, the Consent Holder must spray and remove gorse and blackberry along the fringes of native vegetation adjoining the mining area using knapsack sprayer and handheld tools.
19.3	A Lizard Management Plan (LiMP) must be prepared by a suitably qualified and experienced ecologist/herpetologist and provided to Council's Planning Department, which is in general

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	accordance with the draft Lizard Management Plan For a Proposed Sand Mine at Okari Road, Tauranga Bay' prepared by Wildlands Consultants dated February 2022. The objective of the LiMP is to avoid adverse effects on lizards within or adjacent to the mining area, including the West Coast Green Gecko. <i>Advice Note: All Management Plans are required to adhere to the requirements of Condition 6.0.</i>
19.4	The LiMP must detail measures to protect lizard species present within the vicinity of the mine site, which must include details of: ○ Survey methods of suitable lizard habitat prior to any vegetation clearance; ○ Management of identified lizard buffer zones; ○ Salvage and relocation methods, if required; ○ Ongoing monitoring measures; ○ Dust suppression measures; ○ Predator control and monitoring measures; and ○ Reporting mechanisms.
19.5	The Consent Holder must report the results of the surveys and monitoring by producing an Annual Lizard Management Report, which must be provided to Council's Planning Department and the Buller/Kawatiri office of the Department of Conservation in Westport no later than June each year.
19.6	The LiMP must be reviewed annually and may be amended at any time by the Consent Holder. Any amendments to the LiMP must be submitted to the Council and must: ○ achieve the LiMP purpose of avoiding effects on any threatened or at-risk indigenous lizard species; ○ be consistent with the conditions of this resource consent; ○ have been reviewed by an appropriately qualified and experienced ecologist/herpetologist; ○ follow the certification process set out in Condition 6.0. <i>Advice note: any disturbance or relocation of lizards may require a permit from the Department of Conservation under the Wildlife Act (1953).</i>
20.0 Cultural and Heritage Sites	
20.1	The Consent Holder must undertake all activities in accordance with the Archaeological Management Plan prepared by NZ Heritage Properties Ltd titled: "<i>Cape Foulwind, West Coast, An Archaeological Management Plan for K29/15, K29/16, K29/17, K29/18, K29/19, K29/20, K29/21, K29/23, K29/45 and Unrecorded Sites</i>", dated October 2021.
20.2	As outlined in the Archaeological Management Plan, the Consent Holder must erect a visible barrier between the mining area and archaeological site K29/16 identified on the site plan titled "Proposed Site Plan – Nine Mile Project" dated 5 April 2022 and prepared by Westland Mineral Sands Co Ltd.
20.3	Archaeological monitoring must be undertaken in accordance with the Archaeological Management Plan. If the Consent Holder identifies any archaeological discoveries or potential areas or sites of historic value, the Consent Holder must adhere to the On-call Protocols set out in the Archaeological Management Plan.

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	<i>Advice Note: The consent holder has obtained an archaeological authority from Heritage New Zealand Pouhere Taonga (Ref: 2022/366) which contains conditions which must be complied with regarding earthworks that may affect archaeological sites, including discovery protocol for koiwi tangata, taonga and Māori artefacts.</i>
21.0 Financial Contribution	
21.1	Should the value of the proposed mine development amount to a total of \$500,000.00 or above, a financial contribution of cash must be paid to Council for the provision of reserves and facilities. The calculation for assessing the financial contribution must be 0.5% of the total value of the development. The Consent Holder must advise Council of the value of the proposed development, and must pay the cash amount to the Council prior to the commencement of any works covered by this consent. The calculation of the financial contribution must be based on the estimated costs of the following components of the activity: a) Construction of buildings (i.e. total cost of all buildings); b) Costs of drainage works and road formation; and c) Cost associated with removal of vegetation (excluding costs of rehabilitation planting etc).
22.0 Visual screening and planting	
22.1	Within 60 working days of the commencement of construction of the processing plant, the Consent Holder must plant a 5m strip along the northern boundary of the mine area with natives including mahoe, ngaio, coprosma, manuka, NZ flax and kōhūhū, as shown on the site plan dated 5 April 2022 attached as Schedule 1, and shown as Phase 1 Northern Boundary Planting in the 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 5.
22.2	Within 90 working days of mining and rehabilitation being completed at the northern extent of the mine area, the Consent Holder must remove the temporary noise bund on the northern boundary, and plant and stock fence a 7m wide planting strip directly adjacent to the planting required in Condition 22.1, as shown on the Site Plan dated 5 April 2022 attached as Schedule 1, and shown as Phase 2 Northern Boundary Planting in the document titled 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 5.
22.3	If requested by the owner of Lot 5 DP 354487 Blk III Steeples SD, within 60 working days of request, the Consent Holder must plant a native vegetation strip of 3 rows of plants at 2.0m intervals along the boundary of Lot 5 DP 354487 Blk III Steeples SD, comprising kōhūhū, ngaio, mahoe, coprosma, manuka and NZ flax, as shown on the shown on the Site Plan dated 5 April 2022 attached as Schedule 1, and shown as Resident Boundary Planting in the document titled 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 5.
22.4	If requested by the owner of Lot 10 DP 354487 Blk III Steeples SD, within 60 working days of request, within 60 working days of the request, the Consent Holder must plant a native vegetation strip of 3 rows of plants at 2.0m intervals along the boundary of Lot 10 DP 354487 Blk III Steeples SD, comprising kōhūhū, ngaio, mahoe, coprosma, manuka and NZ flax, as shown on the shown on the Site Plan dated 5 April 2022 attached as Schedule 1, and shown

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	as Resident Boundary Planting in the document titled 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 5.
22.5	If requested by the owner of Lot 4 Deposited Plan 447107, within 60 working days of the request, the Consent Holder must construct a 2.0m high planted bund along the northern side of the mine entrance, as shown on the Site Plan dated 5 April 2022 attached as Schedule 1, and shown as Entrance Road Northern Bund in the document titled 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 5.
22.6	Prior to mining commencing, the Consent Holder must construct a 2.5m high bund along the southern side of the mine entrance, planted with mahoe, ngaio, coprosma, manuka, NZ flax and kōhūhū as shown on the Site Plan dated 5 April 2022 attached as Schedule 1, and shown as Entrance Road Southern Bund in the document titled 'Mitigation Strategy' dated 5 April 2022 prepared by Glasson Huxtable Ltd, attached as Schedule 2.
22.7	The Consent Holder must maintain the vegetation required in conditions 22.1-22.6 for the duration of the consent, applying fertiliser and water, and undertaking weed control and replacing any dead or diseased plants as necessary.
<u>22.8</u>	<u>"Consented and Occupied" means:</u> <u>In relation to Lot 3 DP 13269 BLK III Steeples SD:</u> (a) <u>a building consent has been issued for a dwelling on the lot, east of the Okari Road wetland; and</u> (b) <u>an area east of the Okari Road wetland is occupied whether or not the dwelling in (a) above has been built.</u>

