

DECISION

LAND USE RESOURCE CONSENT
RESOURCE MANAGEMENT ACT 1991

Applicant:	L&M Group Limited
Reference:	LU 2015/149
Location:	1028 and 968 Waikaka Road
Proposal:	Storage of commercial mining equipment
Type of Consent:	Land use consent
Legal Description:	Part Lot 5 Deposited Plan <u>7</u> 758 Lot 2-3 Deposited plan 5492, Lot 1 Deposited Plan 10945 and Lot 9 Deposited Plan 13018
Zoning:	Rural
Activity Status:	Discretionary
Commissioner:	Keith Hovell
Date of Decision:	18 June 2015
Decision:	Application approved subject to conditions.

This matter has been considered by me under delegated authority as Hearing Commissioner, in consultation with Rosie Given, Resource Management Planner.

Subsequence to this decision being granted 18 June 2015, the applicant applied for a minor amendment under section 133A of the Resource Management Act. This is to allow a minor correction to the deposited plan number on the cover page from, Part Lot 5 Deposited Plan 758 to Part Lot 5 Deposited Plan 7758. Howard Alchin acting under delegated authority confirmed this amendment.

Proposal

The application relates to the land at 1028 and 968 Waikaka Road, Gore.

- 1028 Waikaka Road is owned by Pullar Siding Farm Limited. This site is legally described as Part 5 Deposited Plan 7758 as described in Computer Freehold Register SL10C/718 containing 47.7895 hectares more or less.
- 968 Waikaka Road is owned by L & M Mining Group Limited. This site is legally described as Lot 2-3 Deposited Plan 5492, Lot 1 Deposited Plan 10945 and Lot 9 Deposited Plan 13018 as described in Computer Freehold Register SL10C/715 containing 33.4014 hectares more or less.

In 1999 L & M Mining Limited applied for a resource consent LU 114/99 to undertake earthworks during mining operations which included:

- The diversion of the Waikaka Stream,
- Stripping and stockpiling of non gold bearing soils and gravels,
- Processing of gold bearing gravels for gold recovery using physical rather than chemical process,
- Construction of temporary bunds of overburden upstream of the mine pit for flood protection purposes,
- Replacement of mined and stripped materials, and,
- Restoration of disturbed land.

This resource consent was publically notified and granted approval on 14 April 2000 for a term of 15 years. During this time the mining operation started but ended prematurely because of economic considerations. The disturbed land has since been restored back to pastoral farm land, wetland etc as required by various consent conditions. However, some mining equipment still remains on site.

As the consent was for a term of 15 years it expired on 14 April 2015. The applicant now seeks resource consent solely for the storage and earthworks associated with the removal of the remaining equipment which consists of a cross pit conveyor, a transfer wagon, parts of a bucket wheel and three associated containers. The highest part of this equipment is approximately 24 metres above the ground. It is intended to sell the land that L & M Mining Limited own and the mining equipment upon it. The applicant seeks a resource consent for the storage of the existing equipment and earth works associated with its removal for a period of 10 years.

At the time the equipment is to be removed the conveyor will need to be dismantled into transportable portions. All of the equipment will be trucked away to a destination which is still unknown. The number of vehicle movements will depend on the size of the trucks but this will be spread over a period of time and will be intermittent due to the likely length of the journey to deliver the equipment. A traffic management plan is proposed for this time.

Gravel may need to be brought into the site to create footings for cranes or other machinery required of the dismantling of the existing equipment. It is estimated that approximately 3000 cubic meters of gravel may be needed. The gravel will be delivered by truck over three 10 hour days. It is expected that there will be 10 truck deliveries per hour which will result in 20 movements to and from the site per hour.

Once the conveyor has been removed the land surrounding it will be returned to pasture and the land in the mining equipment paddock will also be returned to pasture or gravelled depending on the farming requirements of the owner at the that time.

Land use consent LU 114/99 required three bonds to be put in place. Two of these bonds have now since returned. The bond that is still in place is for rehabilitation of the site. This provides the Council with a level of security that the equipment will be removed and the site will be rehabilitated back into rural pastoral farm land. As this resource consent has now expired the applicant has offered to transfer the bond so it is in place under this land use consent. However, the bond is tied to the land use consent LU 114/99 therefore the bond will either needed be varied to reflect the new consent number, or a new bond will be required. If a new bond was to be put in place it will be to the same value, being \$45,000.00 and would be subject to the same conditions.

Status of the proposal

The land subject to this application is zoned Rural in the District Plan.

Land use consent LU 114/99 has now expired. The conditions of that consent were in place to ensure that the site was left in a state that pastoral farming could take place. The applicant is applying to allow for the continued storage of commercial mining equipment and earthworks associated with its removal. This activity is not permitted as of right in the Rural zone under permitted activities Rule 4.2.1(1) in the district plan.

The equipment although existing has a maximum height of 24 meters, height Rule 4.8.1(b), in the district plan allows for structures up to 12 meters in height.

Overall this resource consent is required to be considered as a **discretionary activity**. There is no limit to the matters that the Council can consider.

Consultation

Gavin Gilder, Policy Planner, Kevin Marshall, Works Inspector and Colin Young, Technical Services Engineer at Environment Southland have all viewed this application as the land is situated within an area susceptible to inundation. Environment Southland does not have any concerns with L & M Mining Limited's proposal to store plant in the Waikaka Stream floodplain.

The storage of equipment in a rural zone is not uncommon as a normal part of the farming practice. Any dwelling in the vicinity of the area is at least 1 km away.

Pullar Siding Farm Limited own a portion of land which the equipment is stored on. Lois Gardyne is the sole director of this company and she has provided written approval to this proposal. Jeffrey Lamb's property at 914 Waikaka Road is located to the south east of the equipment. His dwelling is located predominantly behind a small hill which mitigates the visual impact of the equipment. Jeffrey and Julie Ann McIntosh own 971 Waikaka Road which is located on the south side of the road. There are a number of trees that surround the dwelling and given the distance the dwelling is from the equipment these mitigate the visual impact.

Given that the resource consent application is for the temporary (10 years) storage of existing commercial mining equipment and earthworks associated with the removal of the equipment and the plan to rehabilitation of the site, I am satisfied that subject to appropriate conditions any adverse effects of the proposal will be no more than minor. I am satisfied that no other person could reasonably claim to be affected by or have an interest in the proposal. As a consequence, this application has been processed without public notification and without the need to obtain the approval of any other persons.

Staff Comments

The Councils Roding Manager comments on this application as follows:

Current Situation

The consent site is on the east side of Waikaka Road between Milne Road and North Chatton Road. This section of Waikaka Road is classified as an arterial road under the current Gore District Plan (the Plan) and as a secondary collector road under the incoming One Network Road Classification (ONRC). The section of Waikaka Road adjacent to the site is rural and has a chip sealed surface. There are grass verges on both sides of the road with earth surface water channels. There is no existing street lighting. A 100kph speed restriction applies to this section of road.

Access and Sign Assessment

The application has been assessed in accordance with the requirements contained in the Gore District Council Subdivision and Land Development Bylaw 2011 (the Bylaw) and the Gore District Plan (the Plan).

Sight distances available at the existing vehicle accesses meet the requirements. No new access is requested by the applicant. Seal widening was constructed at the existing access by the applicant. The main area of concern from a roading perspective is the prospect of extreme overweight/over dimension loads using the road once the plant is removed from the site. This can however be dealt with at the time as special permits will be required for such loads.

Provision for Pedestrians / Cyclists

Additional provision for pedestrians and cyclists is not considered necessary.

Processing of the Application

RMA sections 95A – 95F set out the matters the Council is required to consider and assess in determining how to process the application. Having regard to those provisions, Howard

Alchin the Councils Senior Planner, acting under delegated authority has determined:

1. Taken as a whole, the information submitted in the application is adequate for the Council to:
 - (a) Understand the nature and scope of the proposed activity as it relates to the district plan
 - (b) Assess the nature and magnitude of any adverse effect on the environment; and
 - (c) Identify any persons who may be affected.
2. The adverse effects of the activity on the environment with respect to land use matters under the district plan will not be more than minor. As a consequence it is not mandatory to notify the consent.
3. There are no special circumstances that warrant notification of the application.
4. It is not appropriate for Council to exercise its discretion to publicly notify the application in any case.
5. The land is shown to be subject to potential inundation Policy 4A.4(4)(a) requiring this application to be sent to Environment Southland for comment. Its comments are referred to above in consultation.

As a consequence, Howard Alchin acting under the delegated authority of the Council determined that this application can be processed without any notification and without the need to obtain any further written approvals.

In reaching that view Mr Alchin had particular regard to:

- The various rules of the district plan
- The objectives and policies in the District Plan
- The location of the site
- The scale of the activity
- The existing nature of the activity

I am aware that any conclusions I have reached in determining how this application is to be processed are separate from the specific issues considered in making a decision on the application itself.

Matters for Consideration

As noted above, this application is considered as a discretionary activity. In considering this application, regard has been given to sections 104 and 104B, the relevant portions of which state:

104 Consideration of applications—

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (b) any relevant provisions of—
 - (i) a national policy statement:
 - (ii) a New Zealand coastal policy statement:
 - (iii) a regional policy statement or proposed regional policy statement:
 - (iv) a plan or proposed plan; and
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

104B Determination of applications for discretionary or non-complying activities—

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

The following Objectives and Policies of the district plan are also relevant:

3.3 Objectives

- (1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area.
- (2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality.
- (7) Ensure that the effects of earthworks and other land disturbance are avoided, remedied or mitigated.

3.4 Policies

- (1) Establish zones that reflect the characteristics and amenity values of the area.
- (2) Control the adverse effects of land use activities on the environment.
- (10) Recognise that earthworks and disturbance of the ground is a necessary part of undertaking many activities.
- (11) Ensure that the effect of earthworks and other land disturbance are avoided, remedied or mitigated.

The Council is required at the time of development to consider the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ("the NES"). The NES applies when it is likely that potentially hazardous activities are or have been undertaken on the land subject to this consent. In this case a large portion of surrounding land has been used for mining purposes which is on the Hazardous Activities and Industries List. The application states that the area where the equipment is currently situated has not been mined as the operation ceased before it reached that area. Notwithstanding this, the applicant has advised that when the equipment is removed they will meet all of the requirements set out in the NES. I am satisfied that no action needs to be taken under then NES at this time.

I am satisfied that there are no Part II matters in the Resource Management Act contravened by this proposal. Nor is the proposal contrary to any objective or policy of the district plan. Having regard to these matters and the storage of mining equipment, I conclude that it is appropriate to approve the application subject to conditions.

Decision

Pursuant to sections 34(1), 104 and 104B the Gore District Council grants consent to L & M Group Limited (Applicant) for the storage of mining equipment, subject to the following conditions imposed under Section 108 of the Act:

- 1. The activity shall be undertaken in general accordance with the application LU 2015/149 dated 21 May 2015.*
- 2. This consent shall have a duration of 10 years from the date of this decision.*
- 3. No more than 3 months after all equipment is removed from site or from the date this consent expires, whichever is first, the site shall be rehabilitated back to rural farm land. A rehabilitation plan shall be submitted to the Council's Senior Planner for approval prior to the rehabilitation works being undertaken.*
- 4. At least 1 month prior to any earthworks being undertaken in relation to the removal of mining equipment or rehabilitation of the land, the consent holder shall provide detailed information to the Council's Senior Planner, on how either;*
 - a. the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not apply to this proposal, or,*
 - b. the works will meet the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.*

If either of the above cannot be achieved then a resource consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health is required to be obtained before earthworks can take place on site.

- 5. The consent holder shall no later than 18 September 2015 either;*

- a. provide a bond to the Gore District Council, to the value of \$45,000.00 to cover removal of equipment and rehabilitation of the land, or,*
- b. vary the existing bond that is in place under land use consent LU 114/99 to reflect and reference this land use consent (LU 2015/149)*

Advice notes

1. The resource consent does not constitute a building consent. I strongly advise that you discuss your proposal with the Councils Building Control Manager to ensure that all Building Act regulations will be met.

Reasons for Decision

1. No persons could reasonably claim to be affected by this proposal who have not provided their written approval.
2. Subject to the conditions set out above the proposal will not give rise to any adverse effects.
3. The proposal is not contrary to any objectives and policies of the proposed district plan and consistent with the provisions of Part II of the Resource Management Act 1991.

Compliance with Conditions

It is the consent holder's responsibility to comply with any conditions imposed on a resource consent during the exercise of that consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the RMA.

Right of Objection

Pursuant to Section 357A of the Resource Management Act 1991 the applicant or consent holder has a right of objection in respect of the conditions imposed by way of this decision. Any such objection shall be accompanied by a deposit of \$300.00.

Any such objection shall be made in writing to the Gore District Council, setting out the reasons for the objection, within 15 working days after the decision being notified to you.

Cost of Processing the Application

The costs of processing resource consent application is undertaken by the Gore District Council on a fully cost recoverable basis. The full costs of processing this consent will be assessed by the Council. Should these costs be less than the deposit paid then a refund will be provided to you. If the costs exceed the deposit paid then a further account will be issued to you. It should be noted that section 357 of the RMA provides a right of objection to any additional fees charged by the Council.



Keith Hovell

Hearing Commissioner Under delegation of Council