

- A. To assist the Hearing Panel, I make the following comments on TiGa Minerals and Metals Ltd - Proposed Conditions of Consent – dated 7th February 2024:

Condition number	Comment
6.4	1. Legal counsel for the Director-General has addressed why deeming provisions are unlawful in her legal submissions dated 26 th February 2024
12.1	2. The hours of operation for each associated mining operation activity must be stipulated, as stated in Supplementary Statement – Nick Fuller transport – 7 March 2024.
13.0	3. No windows permitted on any buildings, as stated in Supplementary Statement – Gary Bramley ecology – 8 March 2024, must be stipulated.
15.0	4. A condition requiring staff to use the company mini bus provided, as stated in Supplementary Statement – Nick Fuller transport – 7 March 2024, should be stipulated.
15.1	5. The hours of trucking must be stipulated, as stated in Supplementary Statement – Nick Fuller transport – 7 March 2024.
16.2	<p>“External lighting must use the lowest intensity lighting possible, while ensuring compliance with workplace health and safety requirements.”</p> <p>6. As stated by legal counsel in her submissions dated 26th February 2024, for the Director-General “The following operational issues are uncertain: a) Whether lighting that accords with the Australian Light Pollution Guidelines for Wildlife 2020 (‘Lighting Guidelines’) complies with relevant health and safety requirements for mines.” This remains the case. I note the continued use of caveats: e.g. ‘while still achieving site lighting requirements’ and ‘while ensuring compliance with workplace health and safety requirements’ in both the conditions and lighting plan prepared by Gary Bramley. If the lighting does not accord with H&S requirements, the lighting conditions to avoid adverse effects on Westland petrel will not be achievable.</p> <p>7. The applicant has submitted a lighting plan written by Dr Bramley, who states no qualifications, or experience in designing, implementing lighting mitigation at operational mine sites.</p> <p>8. Although I do not have expertise or qualifications in lighting design, I note that the Australian Lighting Guidelines have actually been updated and there is now a 2023 version (see 2023 Guidelines). It is of concern that the applicant did not seem aware of this revised version, again emphasising the need for properly qualified lighting engineers to provide evidence to the Panel.</p>
16.3	9. In accordance with the Lighting Guidelines, light management plans should be developed and reviewed by <i>appropriately qualified lighting practitioners</i> , who should consult with an appropriately qualified biologist or ecologist. A lighting plan must be submitted prior to consent, by a qualified expert. The condition accepts the need for a

	lighting plan to be prepared by an appropriately qualified lighting practitioner. As I understand it, there is still no evidence before the Panel from an appropriately qualified lighting engineer, and see comments in relation to condition 16.2 above.
17.6	10. The use of a strobe light is inconsistent with the Lighting Guidelines. A lighting expert should advise in the lighting plan if modifications can be made for compliance.
18.1	“To ensure ongoing use of the site and its environs by the birds which currently occur in the area.” 11. Should ensure <u>safe</u> ongoing use of the site.
18.5	12. Does not provide protection to all threatened or at risk species during their associated breeding seasons, which vary.
18.8	“The number, dates and location of any near misses with vehicles for any native species;” 13. Vehicle strikes must be included.
18.12	14. The approach taken by this condition is quantitative, which is inconsistent with the objective of avoiding adverse effects. 15. Given the measures and conditions proposed by the applicant to protect Westland petrel, if a single death or injury does still occur, this should be the criteria to trigger the ‘immediate stop’ actions stipulated. The Lighting Management plan must be reviewed by an appropriately qualified lighting practitioner, not solely by an ecologist and the Department of Conservation.
18.15	16. A review of the Avian Management plan should occur if a nest is abandoned, as this may signal the measure is insufficient to meet the objectives of the plan.
24.6	17. Legal counsel for the Director-General has addressed why a 100m mining setback from all wetlands must be included on the face of the consent in her legal submissions dated 26 th February 2024

B. I have reviewed the additional evidence filed in behalf of the applicant dated 8th March 2024, and make the following comments:

Comments on Supplementary Statement of Nicholas Peter Fuller transport - 07 March 2024

18. I support the approach taken by Mr Fuller in calculating the additional light vehicle movements during the hours of darkness that will occur, due to the proposed operation.
19. I agree that provided the use of a company mini-bus is required by staff to travel to and from the site during the hours of darkness, that the increase to light traffic movements above the current low baseline volume on State Highway 6, and associated risk to Westland petrel will be low.
- A condition requiring staff to use the mini-bus service as described, must be included in the consent.

Comments on Supplementary Statement of Gary Bramley ecology - 08 March 2024

20. This supplementary statement relates to presumably the most recent proposed conditions of consent, to which I do not have access to.

Comments on Draft Avian Management Plan V5 March 2024

21. Section 1.3 contains a subset of presumably the most recent proposed conditions of consent, that the author thinks is most relevant to avian management. Please note the latest copy I have access to is the 7th of February draft, I have not received a full current version. In order to avoid confusion, I have at times repeated information from the above Comments on TiGa Minerals and Metals Ltd - Proposed Conditions of Consent - 7th February 2024.
22. Condition 12.1: The hours of operation for each associated mining operation activity are not stipulated, as stated in Supplementary Statement – Nick Fuller transport – 7 March 2024.
23. Condition 13.4: I acknowledge that on this copy of this document it states, the processing plant building must be constructed without windows.
24. Condition 15.1: The hours of trucking are not stipulated, as stated in Supplementary Statement – Nick Fuller transport – 7 March 2024.
25. Condition 15.3: I acknowledge that on this on this copy of this document it states, the requirement for all shift workers to use a company mini-bus transport service during the hours of darkness.
26. Condition 16.2: Requires adherence to the Australian Government’s National Light Pollution Guidelines for Wildlife January 2020. However Condition 16.3 does not require the light management plan be developed and reviewed by appropriately qualified lighting practitioners, which is a requirement of the Lighting Guideline and therefore Condition 16.2.
27. Condition 16.5: It appears the applicant has already provided what they consider to be a detailed lighting plan, as requested by the Department during this process, prior to consent. The purpose of this condition is now unclear, it also requires a design statement prepared by a suitably qualified lighting professional, but this has not been provided or included with the draft lighting management plan provided.
28. Condition 18.1 Does not provide protection to all threatened or at risk species during their associated breeding seasons.
29. Condition 18.2 A review of the Avian Management plan should occur if a nest is abandoned, as this may signal the measure is insufficient to meet the objectives of the plan.
30. Condition 18.8 The approach taken by this condition is quantitative, which is inconsistent with the objective of avoiding adverse effects. Given the measures and conditions proposed by the applicant to protect Westland petrel, if a single death or injury does still occur, this should be the criteria to trigger the actions stipulated. The Lighting Management plan must be reviewed by an appropriately qualified lighting practitioner, not solely by an ecologist and the Department of Conservation.

31. Condition 18.11 Should ensure safe ongoing use of the site.

32. Condition 18.15 Vehicle strikes must be included.

A handwritten signature in black ink, appearing to read 'K Simister'.

Kate Simister