

**SUBMISSION
ON AN APPLICATION FOR RESOURCE CONSENT
UNDER SECTION 96
OF THE RESOURCE MANAGEMENT ACT 1991**

Office Use Only



PART A: DESCRIPTION OF APPLICATION

CONSENT NUMBER:

APPLICANT:

RC-2023-0133-01		Westland Mineral Sands Co. Limited
RC-2023-0133-02		
RC-2023-0133-03		
RC-2023-0133-04		
RC-2023-0133-05		
RC-2023-0133-06		
RC-2023-0133-07		
RC240013		

DESCRIPTION OF PROPOSED ACTIVITY:

Westland Mineral Sands Co. Ltd's resource consent applications for its Heavy Mineral Sands Mining Operation, Mananui Mineral Sand Mining
--

LOCATION:

Mananui

PART B: SUBMITTER DETAILS

Full name/s	Environmental Law Initiative Trust		
Postal address	[REDACTED]		
I am the owner/occupier (delete one) of the following property:	NA		
Primary contact person/s	Anna Sintenie		
Email address	[REDACTED]		
Phone number/s	Home:		Business:
	Mobile:		Fax:

Signature: Anna Sintenie	Date: 2 April 2025
Name (BLOCK CAPITALS): Anna Sintenie	

*If this is a joint submission by 2 or more individuals, each individual's signature is required.
A signature is not required if you make your submission by electronic means.*

(tick one)

I/we wish to submit on the applications lodged with the ~~West Coast Regional Council~~ ☐
I/we wish to submit on applications lodged with the ~~Westland District Council~~ ☐
I/we wish to submit on applications lodged with **BOTH Councils** ☐

I/we **support** the application ☐ (tick one)
I/we **oppose** the application ☐
I/we ~~neither support nor oppose~~ the application ☐

I/we **wish to be heard** in support of my/our submission. ☐ (tick one)
I/we ~~DO NOT wish to be heard~~ and hereby make my/our submission in writing only. ☐

If you wish to be heard, and others make a similar submission would you consider making a joint case with them at any hearing
☐ Yes ☐ ~~No~~

If you indicated you wish to be heard, you will be sent a copy of the S.42A Officer's Report and a copy of the Decision once it is released. These documents will be sent electronically. Only under special circumstances will a hard copy be sent.

☐ Hard (paper) copy

Reasons for a hard copy: _____

I/we **have** served a copy of my/our submission on the Applicant as per Section 96(6)(b) of the RMA

☐ Yes

My/our submission is that: (state in summary the nature of your submission. Clearly indicate whether you support or oppose the specific proposal, or wish to have amendments made, giving reasons)

Contained in attached document

I/we seek the following decision from the Local Authority/Authorities:(give precise details)

Contained in attached document

I/we have attached additional information/reports to support my/our submission

☐ Yes

Important information – please read carefully

Public information

The information you provide is public information. It is used to help process a resource consent application and assess the impact of an activity on the environment and other people.

Your information is held and administered by the West Coast Regional Council and Westland District Council in accordance with the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993. This means that your information may be disclosed to other people who request it in accordance with the terms of these Acts. It is therefore important you let us know if your form includes any information you consider should not be disclosed.



WEST COAST
REGIONAL COUNCIL

388 Main South Road, Paroa, Greymouth 7805
PO Box 66, Greymouth 7840
Telephone (03) 768 0466
Toll Free 0508 800 118
Facsimile (03) 768 7133
Email info@wcrc.govt.nz
Website www.wcrc.govt.nz

36 Weld Street, Hokitika
Private Bag 704, Hokitika 7842
Telephone (03) 756 9010



Freephone 0800 474 834
Facsimile (03) 756 9045
Email council@westlanddc.govt.nz
Website www.westlanddc.govt.nz

Environmental Law Initiative

Submission on Westland Mineral Sands Co. Ltd's resource consent applications for its Heavy Mineral Sands Mining Operation, Mananui Mineral Sand Mining



Environmental Law Initiative
Tiakina te mauri o te taiao

ABOUT US

The Environmental Law Initiative (ELI) uses the law to protect Aotearoa's natural environment.

Founded in 2019 we're a registered charitable trust, with a small team of researchers and lawyers. Read about our legal cases at www.eli.org.nz

If you have any questions about our submission, we would welcome the opportunity to discuss any issues. Please contact Anna Sintenie to arrange a time to discuss:

[REDACTED]

Cover photo by Michael A Lookman.

Westland Mineral Sands Co. Ltd's resource consent applications for its Heavy Mineral Sands Mining Operation, Mananui Mineral Sand Mining

Application numbers of applications submitted on:

- RC-202300133 (WCRC)
- RC2240013 (WDC)

Consents Sought: Westland Mineral Sands Co. Limited are seeking all necessary resource consents to undertake heavy mineral mining and ancillary activities for the Mananui Sand Mine Project (the **Project**). The proposed mine footprint is located on approximately 112 hectares of private land. Ancillary activities include a proposed access from State Highway 6, associated infrastructure and processing facilities also situated on private land.

Submitter: Environmental Law Initiative Trust (**ELI**)

Contact: [REDACTED]

Date: 2 April 2025

ELI wishes to be heard in support of its submission.

Submission:

1. ELI **opposes** the application for the reasons below, and seeks it be declined on the basis that further information is required to determine the adverse effects, and how these effects would be managed.
2. ELI's submission is for the following reasons:
 - 2.1. Deficiencies in the description of the environment affected and information provided;
 - 2.2. Deficiencies in the proposal's assessment and management of environmental effects;
 - 2.3. Inadequate response to information sought by peer reviews;
 - 2.4. Associated limitations on consent authorities' ability to properly consider the applications under s 104.
3. **Decision Sought:** Overall, as proposed, the project is not consistent with Part 2 of the RMA, and the information deficiencies mean that the project should be declined.

Reasons:

Deficiencies in information provided by the applicant

Rivers, wetlands and other water bodies within the project footprint have not been identified

4. The AEE does not adequately assess or describe the existing environment to identify all water bodies, including wetlands and rivers within the footprint of the activity.
5. The AEE's Ecological Report identifies three possible waterways on site. Of these, it determines that they are "not natural or even modified waterways". This assessment is not sufficient information because:

- 5.1. The potential waterways on the site were identified using topographic mapping and aerial imagery only. There has been no validation that this assessment was sufficient to identify existing water bodies, on site. Following the desktop identification of three possible waterways, the assessment of effects was limited to those three waterways.

Further validation, of the existing water bodies on site is necessary, and supported by historical imagery and the landscape and the context presented in the Hydrological Impact Assessment and the Landscape and Visual Impact Assessment, as well as the fauna surveys. These note contextual factors consistent with the presence of water bodies:

- that ponded water was present in hollows, and runoff was observed in the main overland flow pathways;
- In places, it is hard to distinguish between the historical dunes and where the surface drainage has been altered to improve farming production;
- Natural character values include the physical humps and hollows of the historical dune landform and the presence of a small number of drains leading towards the creek
- Larger landscape forms of plain, swampland, troughs and hills.
- Small watercourses and ditches are present which increase the availability of potential prey insects (for bats).

In addition, the desktop analysis conducted as part of the Ecological Peer review indicates potential wetlands:

Based on a review of aerial photographs there are numerous areas on the property westward of the escarpment where surface water is present and/ or

there is a distinct change in vegetation community such that there are indications that these areas potentially meet the definition of a natural inland wetland.

5.2. The AEE does not determine if rivers exist within the footprint of the project. The AEE's classification system (artificial or natural water ways) was applied to the three potential waterways that were then assessed. However, this classification does not determine whether any of those waterways are 'rivers' as defined in the RMA. While Ecological Assessment determined that none of the three waterways are natural waterways, it found that one system has naturalised, with an identified 50m of stable habitat (plus additional intermittent habitat), described as the natural stream. The report evidences side tributaries to this stream. ELI considers that this habitat, for example, may meet the definition of 'river' in the RMA.

5.3. The Ecological assessment determines that there are no "natural inland wetlands" within the footprint of the property, however, there appears to be no determination of the presence or absence of wetlands in the first instance. Natural inland wetlands are a subset of wetlands, which excludes certain wetlands. Wetlands are water bodies defined in the RMA, inclusively, as follows:

wetland *includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions*

5.4. Potential wetlands appear not to have been considered as part of the desktop analysis used to determine the presence of potential waterways.

5.5. However the Ecological Peer Review, by implication (because it also focussed on the subset of wetlands, "natural inland wetlands"), found that potential wetlands were apparent from desktop analysis, and through site visits, that wetlands are present.

5.6. The presence of "inland natural wetlands", appears to be disputed between the Applicant's Ecological Assessment and the Ecological Peer Review.

5.7. It is necessary to first identify the wetlands on site. Once these have been identified, the wetlands which meet the criteria for wetlands to be excluded from the natural wetland definition, can be determined. The applicant has not done this.

5.8. In any case, both wetlands and inland natural wetlands, if present, should be identified, along with their values, so that all values and the impacts on these can be assessed.

Sea and shorebird values in relation to the project site have not been identified:

6. The scope of the Avian Survey is limited to Forest and Wetland Birds. This survey is the basis of the Ecological Assessment in relation to Avian effects. This assessment of effects is therefore limited in the scope of the effects on forest and wetland avifauna. The survey does not account for broader ecological values such as potential uses of the site by sea and shorebirds, or for the site's potential habitat values for those avifauna.
7. The potential impacts of the project for penguins, for example, have not been assessed. Penguin movements and habitat within the site, and across the route covered by heavy vehicle movements associated with the project have not been assessed. At a minimum, to gather the information required to inform such an assessment, footprint surveys on the beach and trail camera surveillance (particularly in the vicinity of identified road kills, and at the road near the mine site), should be undertaken.

Deficiencies in the proposal's assessment and management of environmental effects:

8. ELI is concerned there are deficiencies in the assessment and management of environmental effects including effects on the following:

Fish

9. The survey used to assess on effects on fish appears to have taken place shortly after at least two of the waterways surveyed have been highly disturbed by clearance, including earth and vegetation disruption. This is evident from aerial imagery and the Figures provided in the Ecological Assessment.
10. The description of the existing environment does not give enough information to evaluate which, if any, water bodies on site would be protected by the existing Stock Exclusion Regulations 2020, and when.
11. Therefore, the environment surveyed does not represent the stable state of the aquatic ecosystem that will be impacted by the Project. The survey and ecological assessment are insufficient to understand the baseline state of the aquatic habitat for fish which will be impacted.

12. More information on the effects on should be gathered. The Ecology Peer Review's identification of potential for the site to include brown mudfish habitat underlines the need for this. ELI considers the management of effects of the Project on fish would depend on the effects identified through an adequate survey of the baseline environment, and an analysis of the protections already afforded to that environment.

Penguins

13. In addition to the lack of information about penguin habitat on the site, and the associated management response, penguin road mortality by vehicle strike should be addressed. The Transport management plan sets the Heavy Vehicle Movements and Operating Hours as a maximum of 70 vehicles per day, 24 hours a day, 7 days a week. The Route specified is through Hokitika to the Port of Greymouth. This additional traffic should be assessed and managed for penguin effects. ELI seeks that management measures include restrictions to ensure the movements do not occur outside of daylight.

Insufficient response to peer review:

14. The peer review reports identify several areas where more information is needed. ELI is concerned that several critical information and management response gaps remain. For example:

Lizards

- 14.1. The proposed lizard management is grossly inadequate. This has not been addressed.
- 14.2. The Lizard survey found that: The distributions of Hokitika and Kapitia skink are poorly understood. Both species are listed as Threatened – Nationally Critical and it is possible (but unlikely) that they could be present on the site given the habitats available, and that the site is within their potential range. “We consider the potential presence of these species is a risk to the viability of the project because the loss of individuals through site development could have population-level effects for the species and would be a very high level of effect.” The report recommended additional surveys to delineate lizard habitat and do direct comprehensive management for lizards. The applicant has not responded to this strong recommendation in any way.
- 14.3. Assessment and identification of lizard habitat and values within the site therefore remains inadequate to determine the actual or potential adverse ecological effects to lizards.

Bats:

- 14.4 The bat survey found that the features on site and in the adjacent landscape provide moderate/high quality roosting and foraging habitat for long-tailed bats, and this species has been recorded within commuting distance of the site.
- 14.5 These values should inform an appropriate mitigation proposal.

Birds

- 14.6 The assessment and identification of bird values and bird habitat within the site is currently inadequate to determine the actual or potential adverse ecological effects to birds. ELI considers that the survey conducted remains too limited in scope to address this issue.

Water pollution (Hydrology)

- 14.7 The need for management measures to ensure that any possible overflow cannot simply discharge via the existing drainage systems to Tūwharewhare remains outstanding.
- 14.8 Appropriate monitoring bores along the eastern boundary have not been included, to address long-term potential movement of groundwater from the site to Tūwharewhare along the entire eastern boundary of the site, or to provide advance detection of contaminant movement in the groundwater between the dredge pond and Tūwharewhare.

Perched wetland (Hydrology)

- 14.9 The Hydrology peer review indicates there is some inconsistency as to whether the identified perched wetland neighbouring the site is perched. This is not resolved. Further independent analysis should be undertaken to conclusively resolve this issue, given that the application of the NES-F will require this information.

Rehabilitation

- 14.5 The Restoration Management Plan has not been updated to address the significant deficiencies and uncertainties that have been identified.

Associated limitations on consent authorities' ability to properly apply 104;

15. Without proper identification of water bodies on site, the impact of the project on any wetlands and/or rivers, and which form part of the existing environment cannot be assessed and accordingly, managed.

16. Further, the legislative and regulatory requirements in relation to water bodies present cannot be discharged. These include:

16.1. Rivers and wetlands are elements of the matters of national importance to be recognised and provided for (Part 2, RMA).

16.2. Regional councils control the use of land for purposes relating to the quality, quantity and ecosystems in waterbodies.

17. In applying s 104, the consent authority cannot properly consider effects or determine relevant provisions of s 104(b) listed instruments if the effects have not been assessed. This issue applies to the deficient assessments identified throughout the submission above.

18. For rivers and wetlands (where they are natural inland wetlands) are also subject to the Policies and provisions of the NPS-FM, NES-F, and relevant Resource Management (Stock Exclusion) Regulations.

19. A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application. ELI considers that until the deficiencies are addressed, the consent authority has inadequate information to determine the application and seeks that the application be declined.