

Our Reference: Appeal by Sustainability 2050 / John Callaghan
Your Reference: ABP-315173-22

21 December 2022

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

HAND DELIVERED

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Time: <u>16.48</u>	By: <u>[Signature]</u>

Dear Ms McCormack,

We refer to your letter dated 24 November 2022 enclosing a copy of the appeal received by An Bord Pleanála (“the Board”) from Sustainability 2050 / Mr John Callaghan (“the Appellant”) in respect of our application for planning submitted to Meath County Council under reference number 22331 (“the planning application”). Your reference for this appeal is ABP-315173-22.

In response to the appeal, we make the following points:

1. The Appellant appears to be operating under a fundamental misunderstanding in respect of the nature of the proposed development and what exactly it is. This is apparent by reference to the number of irrelevant classes in Part 1 and Part 2 of Schedule 5 of the Planning and Development Regulations 2001 – 2022 (the “Planning Regulations”) to which the Appellant has referred in his appeal, which the proposed development is not relevant to. The proposed development, as stated at the outset of the Appellant’s appeal, is for the construction of a reinforcement buttress to the extant embankment walls of the Tailings Storage Facility (“TSF”). The dam itself is not changing in any way, nor the height or storage capacity of the dam.
2. Specifically, the planning application requests permission for the construction of a reinforcement buttress to the extant embankment walls of the TSF. The works will consist of the construction of a rockfill and earthen reinforcement buttress to sections of the extant embankment walls of the TSF. The proposed buttress, to be constructed on the downstream slope and at the crest of the Stage 1, 2 and 3 starter embankments, will provide additional support and increase the overall stability of the extant upstream raises i.e. Stage 4 and Stage 5. In essence, and in simple terms, the proposed development solely involves the addition of rock to the existing embankment of the TSF to further buttress it. For ease, we will refer to this as the “proposed development” in this letter.
3. The proposed development (buttressing) is not an EIA development. It is not itself listed in Part 1 or Part 2 of Schedule 5 of the Planning Regulations.
4. We have analysed whether the proposed development (buttressing) would amount to a change to or extension of the existing dam, within the meaning of Class 22, Part 1 of Schedule 5 or Class 13, Part 2 of Schedule 5. Our conclusion is that the proposed development is not

significant in and of itself, nor in comparison to the size of the dam, and does not comprise a change or extension:

- 4.1 which results in an increase in size greater than 25% of the dam or
- 4.2 which results in an increase in size greater than an amount equal to 50% of the appropriate threshold.
5. In fact, the quantity of materials (circa 95% of which are by-product materials as opposed to virgin materials, a fact which does not appear to be acknowledged by the Appellant) required to build the proposed development would constitute 8.65% of the total material used to build the embankments to the dam to date.
6. The quantity of water impounded or the area of land on which the dam sits is not changing in any respect; only the buttressing is changing insofar as additional rock is being added to it.
7. Contrary to the assertions made by the Appellant, the proposed development (buttressing) is not or does not involve any one of the following:
 - 7.1 A quarry or open cast mine where the surface exceeds 25 hectares within the meaning of Class 19, Part 1, Schedule 5.
 - 7.2 The extraction of minerals within the meaning of Class 2(c), Part 2, Schedule 5.
 - 7.3 The construction of private roads which would exceed 2000 metres in length within the meaning of Class 10(dd), Part 2, Schedule 5.
 - 7.4 Groundwater abstraction where the annual volume of water abstracted is equivalent to or exceeds 10 million cubic metres within the meaning of Class 11, Part 1, Schedule 5 or 2 million cubic meters within the meaning of Class 10(l), Part 2, Schedule 5.
 - 7.5 Artificial groundwater recharge scheme where the annual volume of water recharged is equivalent to or exceeds 10 million cubic metres within the meaning of Class 11, Part 1, Schedule 5.
8. In relation to the assertion that the proposed development (buttressing) is sub-threshold development likely to have significant effects on the environment, we refer the Appellant and the Board to the enclosed Environmental Impact Report. This concludes that the proposed development is not likely to have significant effects on the environment for the reasons set out therein.
9. For all of these reasons, and without prejudice to the fact that the proposed development (buttressing) is not an EIA project in and of itself, we are satisfied that, the conclusion is that the need for an environmental impact assessment can be screened out for the proposed development.
10. Further, the Appellant has himself identified in his appeal the worthiness of the objective of the proposed development in noting the flooding risks associated with dams and the appropriateness of continually improving and upgrading dams to ensure compliance with modern safety standards and current international practice. This objective is the very same objective of the proposed development. In particular, as noted in the enclosed Environmental Impact Report, Tara Mines wishes "*to address the risk of tailing embankment failure through conservation design criteria, independent of trigger mechanisms, in order to minimise potential impacts*". This is a key objective of the "*Global Industry Standard on Tailings Management*" which Tara Mines is in the process of adopting, having recently become a

member of the International Council for Mining and Metals. In this regard, the Appellant and Tara Mines appear to be aligned as to the worthiness of the objective of the proposed development.

11. Finally, we wish to draw the Board's attention to the fact that the Appellant is seeking to collaterally attack the long established Tara Mines operations in the context of this planning appeal, where the application for consent relates specifically and solely to the proposed development (buttressing). the Appellant cannot do this as the statutory time period within which any such challenge may be brought has long since passed. Any and all allegations relating to our existing dam infrastructure are entirely irrelevant in these circumstances and are denied as incorrect, inaccurate and untrue. We therefore do not propose to address these comments as part of this application.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Paschal Walsh'.

Paschal Walsh EHS Manager

Boliden Tara Mines DAC

