

**IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
ŌTEPOTI ROHE**

CIV-2021-412-089

UNDER the Declaratory Judgments Act 1908

IN THE MATTER of an application under the Declaratory Judgments Act 1908

BETWEEN **OTAGO REGIONAL COUNCIL**
Plaintiff

AND **ROYAL FOREST AND BIRD**
PROTECTION SOCIETY INC
Defendant

AFFIDAVIT OF CLAIRE ELIZABETH HUNTER

FOR OCEANA GOLD NEW ZEALAND LIMITED

Dated 20 December 2021

Next event date: 8 February 2022

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I, **CLAIRE ELIZABETH HUNTER** of Dunedin, Planner swear:

Introduction and background

- 1 I am a resource management consultant and Director of Mitchell Daysh Limited, a nation-wide resource management and environmental planning consultancy firm. I have 16 years' experience in this field.
- 2 I hold an honours degree in Environmental Management from the University of Otago. I am a member of the Resource Management Law Association and an Associate Member of the New Zealand Planning Institute.
- 3 Over the past three years I have been involved in projects for Oceana Gold New Zealand Limited (**OGNZL**). I am familiar with that company's Macraes mine site and with its operations at Waihi in the Bay of Plenty. My recent work for OGNZL has included preparing the resource consent application for the Deepdell North project and I gave evidence in support of that application at the Council hearing.
- 4 Through my work I am familiar with the now partially operative Otago Regional Policy Statement and I assisted various clients, including OGNZL with their submissions on the Proposed Otago Regional Policy Statement (**PORPS**). I have read the affidavit of Anita Jayne Dawe dated 13 September 2021.

5 I have read the High Court Code of Conduct for Expert Witnesses. My evidence complies with the Code in all respects and the opinions herein are within my area of expertise.

6 In this affidavit I:

- a. Explain the purpose of a regional policy statement and how a regional policy statement is required to set policy for a range of environmental issues, including but not limited to matters affecting freshwater resources.
- b. Describe how the freshwater chapter of the PORPS is only one element of the document and there are a range of other chapters within the PORPS and explain why I do not think that these should be subject to the Freshwater Planning Process.
- c. Discuss how it might work if certain chapters are separated out from the remainder of the PORPS and managed via different planning processes (i.e. the Freshwater Planning Process vs the regular Schedule 1 Process).
- d. Discuss which of the specific OGNZL submission points that were made on the notified PORPS do not, in my opinion, relate to freshwater.

Purpose of Regional Policy Statements

- 7 Every Regional Councils is obliged to prepare a single regional policy statement (RPS) for its region.¹ The purpose of a regional policy statement is to achieve the purpose of the Resource Management Act 1991 (RMA) by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the region.²
- 8 “Natural and physical resources” is defined in section 2 of the RMA and includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced) and all structures. “Water” is also defined in section 2 of the RMA and includes all forms of fresh water, coastal water, and geothermal water.
- 9 It is clear therefore that freshwater is a topic an RPS must address, but there are many other “natural and physical resources” besides freshwater that also need to be considered.
- 10 In accordance with section 62 of the RMA, a RPS is required to set out the:

¹ Section 60(1), RMA 1991.

² Section 59, RMA 1991.

- a. Significant resource management issues for the region.
- b. Resource management issues of significance to iwi authorities.
- c. Objectives sought to be achieved.
- d. Policies in regard to significant issues and objectives.
- e. Methods (excluding rules) to be used to implement the policies.
- f. Principle reasons for adopting the objectives, policies and methods.
- g. Environmental results anticipated.
- h. Processes to deal with cross boundary issues.
- i. The local authority responsible for specifying objectives, policies, and methods for land use control in respect of natural hazards, hazardous substances and indigenous biological diversity.
- j. Procedures for monitoring.

11 Regional Councils must have regard to the following when preparing a RPS:

- a. Management plans and strategies prepared under other Acts;

- b. Relevant entries on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014;
 - c. Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of the fisheries resource; and
 - d. The extent to which the RPS needs to be consistent with other policy statements and plans of adjacent regional councils; and
 - e. The extent to which the RPS needs to be consistent with the regulations made under the Exclusive Economic Zone and Continental Shelf Act 2012.
- 12 The RPS enables regional councils to provide broad direction and a framework for resource management within their regions as regional and district plans must give effect to them.³
- 13 The RPS is the primary vehicle for identifying and setting policy in relation to significant resource management issues within the region. The RPS is required to take account of all those issues relating to natural and physical resources such as land, water, air, infrastructure, and the coastal environment – all of which are

³ Sections 67(3) and 75(3) of the RMA, 1991.

important to the region and the districts within that region. The RPS is required to put in place objectives, policies and methods (but not rules) to achieve the integrated management of those resources.

- 14 The RPS needs to include provisions which manage freshwater resources. However, in my opinion this is not their primary or only function. The function of the RPS is much broader than that, as I have outlined above.
- 15 Given this broad function, I was surprised to learn when the ORC notified the PORPS, that it would use the Freshwater Planning Process set out within section 80A of the RMA for hearing and determining submissions made on the entirety of the RPS document.

Section 80A – The Freshwater Planning Process

- 16 Section 80A is a relatively new provision, inserted on 1 July 2020⁴, which sets out the Freshwater Planning Process. Section 80A(2) defines a freshwater planning instrument as:
 - a. *A proposed regional plan or regional policy statement for the purpose of giving effect to any national policy statement for freshwater management.*

⁴ Resource Management Amendment Act 2020.

- b. *A proposed regional plan or regional policy statement that relates to freshwater (other than for the purpose described in paragraph (a)).*
 - c. *A change or variation to a proposed regional plan or regional policy statement if the change or variation –*
 - i. *Is for the purpose described in paragraph (a); or*
 - ii. *Otherwise relates to freshwater.*
- 17 Section 80A(3) acknowledges that regional policy statements and regional plans may relate to more than just freshwater, and requires that if a regional council is preparing a proposed regional policy statement or proposed plan that addresses additional matters, the freshwater parts must be prepared using the freshwater specific process and other parts must be prepared using the standard plan making process. In these circumstances only the parts of the RPS or regional plan that relate to freshwater constitute a freshwater planning instrument. This section of 80A was specifically added at Select Committee stage to recognise “that what constitutes a “freshwater planning instrument” may not be clear-cut, and that some planning instruments may have some provisions that relate to freshwater, and other provisions that do

not.” The new section was added in response to that concern to “provide greater transparency and reduce confusion”.⁵

18 The freshwater planning instrument must be publicly notified and opportunity for public submissions provided. The freshwater planning process is then overseen by a Freshwater Hearings Panel. This Panel is convened by the Chief Freshwater Commissioner. The Freshwater Hearings Panel is to conduct a public hearing of the submissions on the instrument. After the public hearing is concluded the Freshwater Hearings Panel must make recommendations to the regional council on the freshwater planning instrument.⁶

19 The regional council may accept or reject any recommendation from the Freshwater Hearings Panel. For each rejected recommendation it must decide an alternative solution. No later than 40 working days after it is provided with the report, the regional council must publicly notify its decisions, including the reasons for rejecting any recommendations.⁷ Appeal rights against the council’s decisions are limited. Submitters are able to appeal a provision or matter to the Environment Court on the

⁵ Resource Management Amendment Bill, As reported from the Environment Committee – Commentary (pp 5-6).

⁶ Sections 80A (4) and (5) and Part 4 of Schedule 1

⁷ Section 80A(5)(c) and (d).

merits if they addressed that provision or matter in their submission, or the recommendation was outside the scope of submissions, and the regional council had rejected a recommendation of the Freshwater Hearings Panel and decided on an alternative solution which led to that provision or matter being included or deleted. In respect of recommendations accepted by the regional council it is only possible to appeal to the High Court on points of law.⁸

Is the Proposed Otago Regional Policy Statement a Freshwater Planning Instrument?

20 Beginning on page 391 of Exhibit 1 to Anita Dawe's affidavit, is a report by Anita Dawe to the ORC⁹. The report says that ORC staff consider the RPS is a freshwater planning instrument in its entirety,¹⁰ and the reason for this is the RMA's integrated approach to the management of natural and physical resources, Ki uta ki tai and the interconnectedness of the provisions.¹¹ In my opinion, other than quoting section 80A, the Report does not address the direction in section 80A(3) that the hearing processes

⁸ Part 4, Schedule 1 – Subpart 2, Appeals Clauses 54 – 57.

⁹ Report no. SPS2135 dated 16 June 2021, authored by Ania Dawe, Manager Policy and Planning.

¹⁰ Exhibit 1, page 393 at paragraph [15].

¹¹ Exhibit 1, page 395 at paragraph [26].

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of a RPS must be split “if the council is satisfied that only part of the instrument relates to freshwater” and just the freshwater parts run through the freshwater planning process (80A(3)(a)). There appears to be no active consideration given to the Council’s role in “satisfying” itself as to the subject matter of the instrument beyond this very high-level conclusion offered in the recommending report by Council staff.

21 At paragraph 12 I explain that a RPS covers a broad range of matters relating to the integrated management of natural and physical resources. The PORPS is no exception and contains the following chapters (referred to as Part 3 - Domains and Topics):

- a. Air¹²
- b. Coastal environment¹³
- c. Land and freshwater¹⁴
- d. Ecosystems and indigenous biodiversity¹⁵
- e. Energy, infrastructure and transport¹⁶

¹² Pages 103 – 107.

¹³ Pages 108 – 120.

¹⁴ Pages 121 – 141.

¹⁵ Pages 142 – 150.

¹⁶ Pages 151 – 164.

- f. Hazards and risks¹⁷
- g. Historical and cultural values¹⁸
- h. Natural features and landscapes¹⁹
- i. Urban form and development²⁰

22 In my assessment, the freshwater planning process was not designed to deal with provisions that are unrelated to freshwater resources. In accordance with the Ministry for the Environment's guidance²¹ which provides a high-level overview of the freshwater planning process, I understand that it was essentially established so as to allow expedited regional plan changes to give effect to the National Policy Statement for Freshwater (NPS-FM), or otherwise relate to freshwater. This guidance also sets out that the process will streamline decisions on freshwater plans by:²²

¹⁷ Pages 165 – 174.

¹⁸ Pages 175 – 181.

¹⁹ Pages 182 – 185.

²⁰ Pages 186 – 197.

²¹ <https://environment.govt.nz/assets/Publications/Files/a-new-freshwater-planning-process-factsheet.pdf>

²² <https://environment.govt.nz/assets/Publications/Files/a-new-freshwater-planning-process-factsheet.pdf>, page 1.

- a. *Requiring regional councils to notify freshwater plans that give effect to the NPS-FM by 31 December 2024 and make final decisions within two years of notification.*
- b. *Establishing independent freshwater hearings panels with enhanced hearing powers, made up of expert freshwater commissioners, council and tangata whenua nominees.*
- c. *Providing for submitter appeal rights to the Environment Court only in certain circumstances.*

23 In my opinion, section 80A is deliberately targeted at making available the Freshwater Planning Process to matters relating to freshwater management. It was promulgated to support the actions necessary on the part of Regional Councils to give effect to the obligations inherent in the NPS-FM in particular. In terms of the PORPS, it is only relevant to those parts of that document which clearly relate to freshwater. All other parts of the PORPS should in my view be subject to the normal process that is available in Part 1 of Schedule 1 of the RMA.

24 Notably, section 80A(3) specifically envisages this split type of scenario occurring. This is evident in the technical guidance note that was issued by the Ministry for the Environment to support

Regional Councils in implementing the process²³. On page 13 of this guidance, it states:

When will a planning instrument need to use the freshwater planning process?

A 'freshwater planning instrument' means a proposed regional policy statement or regional plan (or change or variation) that will give effect to the NPS-FM 2020, or otherwise relates to freshwater (section 80A(2)). This does not include proposed regional coastal plans.

*Therefore, when preparing or changing regional policy statements and regional plans, councils will need to consider whether all or part of the proposed provisions must use the FPP. **Proposed provisions that do not relate to freshwater cannot be considered using the FPP.***

This exercise will be straightforward if the proposed provisions are included in a specific regional freshwater plan, or a plan change that only gives effect to the NPS-FM 2020. In these situations, provisions will go through the FPP.

*However, **it will be more complicated where proposed provisions are not limited to freshwater and NPS-FM 2020 matters. For example, when changes are proposed across a number of domains (such as freshwater, coast, air, urban etc) during the review of a regional policy statement, or development or review of a combined planning document (such as a combined regional policy statement and regional plan, or unitary plan). In these situations, a regional council will need to identify which provisions will go through FPP and which provisions will go through the standard Schedule 1 process.** Councils are required to provide reasons **for which parts will undergo the FPP and which parts***

²³ Ministry for the Environment, Essential Freshwater Wai Māori Mātuatua – A new Freshwater Planning Process – Technical Guidance for Councils, September 2020 <https://environment.govt.nz/assets/Publications/Files/a-new-freshwater-planning-process-technical-guidance-for-councils.pdf>

will not in the public notice, and reasons could be discussed in the relevant section 32 report.

(emphasis added)

Which Parts of the Proposed Otago Regional Statement are considered to be a Freshwater Planning Instrument?

25 I acknowledge the ORC's desire to run a complete and streamlined process for the RPS. I also acknowledge that there can be overlap between the management of natural and physical resources. However, in my opinion the "freshwater chapters"²⁴ of the PORPS can be sufficiently separated so that freshwater specific provisions and only these, can be subjected to the Freshwater Planning Process. I have reviewed the "freshwater chapters" of the PORPS and it is clear in my opinion that the drafting of these provisions are intended to give effect to the NPS-FM.

26 Attached to my evidence and marked "Exhibit CH-1" is a table I have prepared in which I identify the objectives and policies of the PORPS "freshwater chapters" and which provisions within the NPS-FM 2020 they "give effect to".

²⁴ Pages 121 – 136 of the PORPS – referred to as the "Te Mana o te Wai and Freshwater" Chapters of the PORPS.

- 27 Based on this review, it is my opinion that the provisions within the “freshwater chapters” of the PORPS are intended to give effect to the matters dealt with by the NPS-FM. They also largely stand alone as the primary PORPS policy directives insofar as freshwater management in the region is concerned.
- 28 In my opinion all other chapters in the PORPS are either not related to freshwater resources at all (such as air)²⁵ or relate to matters which may have some interaction or interplay with freshwater resources but are focused on outcomes which are broader than just freshwater, such as those specified for the coastal environment, and those provisions which relate to terrestrial biodiversity, urban environments, infrastructure, transportation activities and renewable energy.
- 29 Notably, these chapters of the PORPS also need to be prepared in accordance with other national policy statements, or regulations (in addition to the NPS-FM). This includes the New Zealand Coastal Policy Statement, the NPS for Renewable Electricity Generation, the NPS on Electricity Transmission, and the NPS on Urban Development. These documents relate to matters that are broader than freshwater.

²⁵ Page 103 of the PORPS.

- 30 If the PORPS, in its entirety, was found to relate to freshwater and be a freshwater planning instrument, this would then set a precedent for the country. As all RPSs are required to cover largely the same matters (see my discussion in paragraphs 6 to 13 above), it would be difficult to see how other RPSs could be distinguished from the PORPS and this would mean all RPSs would relate to freshwater and follow the freshwater planning process set out in Part 4 of Schedule 1. I am not sure that this is the intention of the Resource Management Amendment Act 2020.
- 31 In my opinion, only those parts of the PORPS which unquestionably relate to freshwater (i.e., the Freshwater Chapter) should be subject to the Freshwater Planning Process. The remaining chapters and provisions of the PORPS should be progressed via the Part 1, Schedule 1 plan making process.

How Should the Process be Managed?

- 32 Adopting multiple approval pathways is contemplated in section 80A(3) of the RMA and is not unique to the freshwater planning instrument context. Part 1 of Schedule 1 of the RMA sets out an altered approval pathway for regional coastal plans for example. The Minister of Conservation must approve all regional coastal plans and any changes to them. In some instances that I am familiar with around New Zealand, regional coastal plans are not standalone documents and have been incorporated into regional plans or unitary plans which have a multiplicity of functions. The

approval of the Minister is required of any coastal-related provisions of any combined plan as they apply to the coastal marine area.²⁶

33 For example, the Marlborough District Council is a unitary authority and has adopted an approach whereby it has combined its regional policy statement, regional plans, regional coastal plan and district plan into one document – the Marlborough Environment Plan (MEP). In order to distinguish which provision qualifies as a specific planning instrument, the Council has identified each provision using one of the following notations: RPS (regional policy statement), C (regional coastal plan), R (regional plan) or D (district plan). Those which attach the regional plan “C notation are those which need subsequent approval from the Minister of Conservation as I have outlined above.

34 This makes it clear to submitters what provisions they are submitting on and provides insight into the decision-making process that needs to be followed within the broader framework of the RMA. A similar approach could have been adopted with respect to the PORPS, with the freshwater specific provisions clearly identified and thus subject to the freshwater planning process. The ORC could have indicated within the PORPS that

²⁶ Section 64(3) RMA.

the Freshwater Chapter was subject to a different approval pathway, and in making a submission on that component, submitters would know which process would be employed to hear and deliberate on that particular submission.

35 Further direction on how to manage this process was also provided by the Ministry for the Environment in its technical guidance for Councils.²⁷

36 I acknowledge that there may be inefficiencies in having people appear potentially more than once in a hearing process, but in my experience, this would not be dissimilar to what has occurred in other regions or districts where they have heard submissions on a chapter by chapter (or topic / issue) basis.

Other Issues with Using the Freshwater Planning Process for the RPS in its entirety

37 It is also my opinion that pursuing the PORPS in its entirety as a Freshwater Planning Instrument would not be considered to be “best practice” for plan making.

38 As I have explained the RPS has a regional focus and addresses key resource management issues that apply across it. In the

²⁷ Ministry for the Environment, Essential Freshwater Wai Māori Mātuatua – A new Freshwater Planning Process – Technical Guidance for Councils, September 2020 - refer to page 14 <https://environment.govt.nz/assets/Publications/Files/a-new-freshwater-planning-process-technical-guidance-for-councils.pdf>

Otago context, the provisions of the RPS will apply to a wide range of natural environments (including dry inland areas, alpine and coastal environments) and urban areas (rural based communities, cities, and tourism centred areas). There are five territorial authorities in Otago – all existing within somewhat different natural and urban settings, facing potentially different issues, pressures and opportunities.

39 As a result of this, and like many other RPS documents in New Zealand I expect that there will be significant community and public interest in this document. Public participation is a key aspect of Plan making under the RMA. Usual district and regional planning processes allow members of the public significant rights of participation, including the right to submit, present to a hearings committee, and appeal a decision to the Environment Court.

40 Given the likely public interest and broad focus of the PORPS, in my opinion it would be contrary to the participatory nature of policy and plan-making embodied in the RMA and not “best practice” to limit the normal appeal rights on those parts of the PORPS that are not clearly related to freshwater (and which are therefore required to follow the freshwater planning process).

OGNZL’s submission on the PORPS

41 Appendix 5 to OGNZL’s submission was a table setting out OGNZL’s specific submission points on the PORPS provisions.

- 42 I have gone through Appendix 5 and determined whether in my opinion the provision being submitted on relates to freshwater. I set this out, including my reasoning in a new column and this new table is attached to my affidavit as Exhibit CH-2.
- 43 As I have set out in paragraphs 24 to 26 above, it is my view that there is an identifiable set of provisions in the PORPS which are directly related to freshwater. It is these provisions which should be subject to the Freshwater Planning Process. The remainder of the PORPS should be considered using the standard Part 1, Schedule 1 process under the RMA. These processes can be run in parallel as is expected to occur under Section 80A(3).
- 44 Given the broad range of matters that it covers, I acknowledge that there are some provisions within the PORPS where there is cross over between freshwater management and other matters. For example, the biodiversity provisions of the PORPS will require consideration of wetlands and riparian margins. However, biodiversity management, particularly the prevention of loss of indigenous vegetative cover and habitat, is mostly a terrestrial land use matter. Land use activities (e.g., the clearance of indigenous vegetation in a rural zone area) are primarily managed by District Council functions.²⁸

²⁸ Section 31(1)(b) of the RMA 1991.

45 This is also evident in the structure of the indigenous biodiversity provisions in the PORPS, for example the definition of Significant Natural Area refers to significant indigenous vegetation and habitats of indigenous fauna, and corresponding policies such as ECO-P4²⁹ which refers to the following land use activities:

- a. The development and upgrade of nationally and regionally significant infrastructure that has a functional or operational need to be located within the relevant significant natural area;
- b. The development of papakāika, marae and ancillary facilities associated with customary activities on Māori land;
- c. The use of Māori land.

46 ECO-E1 – the explanatory text to the indigenous biodiversity chapter also states:

The policies recognise that managing ecosystems and indigenous biodiversity requires co-ordination across different areas and types of resources, as well as across organisations, communications and individual landowners.³⁰

47 In my opinion the biodiversity provisions are not primarily related to freshwater. For example the management of terrestrial biodiversity is broader than this. Implementation of the PORPS

²⁹ Page 143 of the PORPS.

³⁰ Page 149 of the PORPS.

biodiversity provisions will also be required to occur through district plans via the identification of SNAs and land use controls within those. These matters may also be broader than a Freshwater Panel's required expertise and I therefore consider it appropriate that such provisions are considered via the Part 1, Schedule 1 process.

SWORN at Dunedin this 20th)
day of December 2021 before me)



Claire Elizabeth Hunter



A solicitor of the High Court of New Zealand

Linda Morag Mulholland
Solicitor
Dunedin

EXHIBIT – CH-1

**Table indicating which of the Proposed Otago Regional Policy Statement 2021
“Freshwater Chapters” Provisions give effect to the National Policy Statement
for Freshwater 2020.**

This is the document marked and referred to as Exhibit CH-1 in the annexed affidavit of Claire Elizabeth Hunter, Planner of Dunedin, sworn at Dunedin this 29th day of December 2021 before me:

**Linda Morag Mulholland
Solicitor
Dunedin**

A Solicitor of the High Court of New Zealand.

PORPS June 2021

Gives Effect to Which Provisions Under NPS-FM 2020

Land and Freshwater

LF-WAI – Te Mana o te Wai

Objective LF-WAI-O1 – Te Mana o te Wai

The mauri of Otago’s water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:

1. water is the foundation and source of all life - na te wai ko te hauora o ngā mea katoa,
2. there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,
3. each water body has a unique whakapapa and characteristics,
4. water and land have a connectedness that supports and perpetuates life, and
5. Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.

Policy LF-WAI-P1 – Prioritisation

In all management of fresh water in Otago, prioritise:

Section 1.3 Fundamental Concept

Concept

- (1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.
- (2) Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

2.1 Objective

- (1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

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|---|---|
| <p>1. first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,⁴⁷</p> <p>2. second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and</p> <p>3. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p> | <p>(a) first, the health and well-being of water bodies and freshwater ecosystems</p> <p>(b) second, the health needs of people (such as drinking water)</p> <p>(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p> |
| <p>Policy LF-WAI-P2 – Mana whakahaere</p> <p>Recognise and give practical effect to Kai Tahu rakaŕirataka in respect of fresh water by:</p> <ol style="list-style-type: none"> 1. facilitating partnership with, and the active involvement of, mana whenua in freshwater management and decision-making processes, 2. sustaining the environmental, social, cultural and economic relationships of Kai Tahu with water bodies, 3. providing for a range of customary uses, including mahika kai, specific to each water body, and 4. incorporating mātauraka into decision making, management and monitoring processes. | <p>Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.</p> |
| <p>Policy LF-WAI-P3 – Integrated management / ki uta ki tai</p> <p>Manage the use of fresh water and land in accordance with tikaka and kawa, using an integrated approach that:</p> <ol style="list-style-type: none"> 1. recognises and sustains the connections and interactions between water bodies (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral), | <p>Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.</p> |

| | |
|---|---|
| <p>2. sustains and, wherever possible, restores the connections and interactions between land and water, from the mountains to the sea,</p> <p>3. sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including taoka species associated with the water body,</p> <p>4. manages the effects of the use and development of land to maintain or enhance the health and well-being of fresh water and coastal water,</p> <p>5. encourages the coordination and sequencing of regional or urban growth to ensure it is sustainable,</p> <p>6. has regard to foreseeable climate change risks, and</p> <p>7. has regard to cumulative effects and the need to apply a precautionary approach where there is limited available information or uncertainty about potential adverse effects.</p> | <p>Policy LF-WAI-P4 – Giving effect to Te Mana o te Wai</p> <p>All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that <u>LF-WAI-O1</u>, <u>LF-WAI-P1</u>, <u>LF-WAI-P2</u> and <u>LF-WAI-P3</u> are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting fresh water, including when interpreting and applying the provisions of the LF chapter.</p> |
| <p>Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.</p> | <p>LF-VM – Visions and Management</p> |
| <p>Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.</p> <p>Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.</p> | <p>Objectives</p> <p>LF-VM-O2 – Clutha Mata-au FMU vision</p> <p>In the Clutha Mata-au FMU:</p> <ol style="list-style-type: none"> management of the FMU recognises that: <ol style="list-style-type: none"> the Clutha Mata-au is a single connected system ki uta ki tai, and |

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| <p>b. the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,</p> <p>2. fresh water is managed in accordance with the <u>LF-WAI</u> objectives and policies,</p> <p>3. the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</p> <p>4. water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</p> <p>5. indigenous species migrate easily and as naturally as possible along and within the river system,</p> <p>6. the national significance of the Clutha hydro-electricity generation scheme is recognised,</p> <p>7. in addition to (1) to (6) above:</p> <p>a. in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,</p> <p>b. in the Dunstan, Manuherekia and Roxburgh rohe:</p> <p>i. flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and</p> <p>ii. innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>iii. sustainable abstraction occurs from main stems or groundwater in preference to tributaries,</p> <p>c. in the Lower Clutha rohe:</p> | <p>Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.</p> <p>Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.</p> <p>Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.</p> <p>Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.</p> |
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- i. there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible,
 - ii. the ecosystem connections between fresh water, wetlands and the coastal environment are preserved and, wherever possible, restored,
 - iii. land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and
 - iv. there are no direct discharges of wastewater to water bodies, and
8. the outcomes sought in (7) are to be achieved within the following timeframes
- a. by 2030 in the Upper Lakes rohe,
 - b. by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and
 - c. by 2050 in the Manuherekia rohe.

LF-VM-O3 - North Otago FMU vision

By 2050 in the North Otago FMU:

1. fresh water is managed in accordance with the LF-WAI objectives and policies, while recognising that the Waitaki River is influenced in part by catchment areas within the Canterbury region,
2. the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained and Kāi Tahu maintain their connection with and use of the water bodies,
3. healthy riparian margins, wetlands, estuaries and lagoons support thriving mahika kai, indigenous habitats and downstream coastal ecosystems,
4. indigenous species can migrate easily and as naturally as possible to and from the coastal environment,

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5. land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and
6. innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.

LF-VM-O4 – Taieri FMU vision

By 2050 in the Taieri FMU:

1. fresh water is managed in accordance with the LF-WA objectives and policies,
2. the ongoing relationship of Kāi Tahu with wāhi tupuna is sustained,
3. healthy wetlands are restored in the upper and lower catchment wetland complexes, including the Waipori/Waihola Wetlands, Tunaheketaka/Lake Taieri, scroll plain, and tussock areas,
4. the gravel bed of the lower Taieri is restored and sedimentation of the Waipori/Waihola complex is reduced,
5. creative ecological approaches contribute to reduced occurrence of didymo,
6. water bodies support healthy populations of galaxiid species,
7. there are no direct discharges of wastewater to water bodies, and
8. innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

1. fresh water is managed in accordance with the LF-WA objectives and policies,
2. the ongoing relationship of Kāi Tahu with wāhi tupuna is sustained,

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3. healthy estuaries, lagoons and coastal waters support thriving mahika kai and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,
4. there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible, and
5. discharges of contaminants from urban environments are reduced so that water bodies are safe for human contact.

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

1. fresh water is managed in accordance with the LF-WAI objectives and policies,
2. the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,
3. water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai,
4. the high degree of naturalness and ecosystem connections between the forests, fresh water and coastal environment are preserved,
5. water bodies and their catchment areas support the health and well-being of coastal water, ecosystems and indigenous species, including downstream kaimoana, and
6. healthy, clear and clean water supports opportunities for recreation and sustainable food production for future generations.

Objective LF-VM-O7 – Integrated management

Land and water management apply the ethic of ki uta ki tai and are managed as integrated natural resources, recognising the connections and interactions

Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.

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between fresh water, land and the coastal environment, and between surface water, groundwater and coastal water.

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

Policy LF-VM-P5 – Freshwater Management Units (FMUs) and rohe

Otago's fresh water resources are managed through the following freshwater management units or rohe which are shown on MAP1:

Table 3 – Freshwater Management Units and rohe

| Freshwater Management Unit | Rohe |
|----------------------------|---|
| Clutha/Mata-au | Upper Lakes Dunstan Manuharekia Roxburgh Lower Clutha |
| Taiari | n/a |
| North Otago | n/a |
| Dunedin & Coast | n/a |
| Catlins | n/a |

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

Policy LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

1. environmental outcomes must be developed for the FMU within which the rohe is located,
2. if additional environmental outcomes are included for rohe, those environmental outcomes:

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| <p>a. set target attribute states that are no less stringent than the parent FMU environmental outcomes if the same attributes are adopted in both the rohe and the FMU, and</p> <p>b. may include additional attributes and target attribute states provided that any additional environmental outcomes give effect to the environmental outcomes for the FMU,</p> <p>3. limits and action plans to achieve environmental outcomes may be developed for the FMU or the rohe or a combination of both,</p> <p>4. any limit or action plan developed to apply within a rohe:</p> <ol style="list-style-type: none"> a. prevails over any limit or action plan developed for the FMU for the same attribute, unless explicitly stated to the contrary, and b. must be no less stringent than any limit set for the parent FMU for the same attribute, and c. must not conflict with any limit set for the underlying FMU for attributes that are not the same, and <p>5. the term “no less stringent” in this policy applies to attribute states (numeric and narrative) and any other metrics and timeframes (if applicable).</p> | |
| <p>LF-FW Freshwater</p> | |
| <p>Objective LF-FW-O8 – Freshwater</p> <p>In Otago’s water bodies and their catchments:</p> <ol style="list-style-type: none"> 1. the health of the wai supports the health of the people and thriving mahika kai, 2. water flow is continuous throughout the whole system, 3. the interconnection of freshwater (including groundwater) and coastal waters is recognised, | <p>2.1 Objective</p> <p>(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:</p> <ol style="list-style-type: none"> (a) first, the health and well-being of water bodies and freshwater ecosystems (b) second, the health needs of people (such as drinking water) |

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| <p>4. native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and</p> <p>5. the significant and outstanding values of Otago's outstanding water bodies are identified and protected.</p> | <p>(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future</p> <p>Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai</p> <p>Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.</p> <p>Policy 8: The significant values of outstanding water bodies are protected.</p> <p>Policy 9: The habitats of indigenous freshwater species are protected.</p> |
| <p>Objective LF-FW-O9 – Natural Wetlands</p> <p>Otago's natural wetlands are protected or restored so that:</p> <ol style="list-style-type: none"> 1. mahika kai and other mana whenua values are sustained and enhanced now and for future generations, 2. there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands, 3. there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and 4. their flood attenuation capacity is maintained. | <p>Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.</p> <p>Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</p> |
| <p>Objective LF-FW-O10 – Natural Character</p> <p>The natural character of wetlands, lakes and rivers and their margins is preserved and protected from inappropriate subdivision, use and development.</p> | <p>Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</p> <p>Policy 7: The loss of river extent and values is avoided to the extent practicable.</p> <p>Policy 8: The significant values of outstanding water bodies are protected.</p> |

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Policy LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target attribute states) and limits ensure that:

1. the health and well-being of water bodies is maintained or, if degraded, improved,
2. the habitats of indigenous species associated with water bodies are protected, including by providing for fish passage,
3. specified rivers and lakes are suitable for primary contact within the following timeframes:
 - a. by 2030, 90% of rivers and 98% of lakes, and
 - b. by 2040, 95% of rivers and 100% of lakes, and
4. mahika kai and drinking water are safe for human consumption,
5. existing over-allocation is phased out and future over-allocation is avoided, and
6. freshwater is allocated within environmental limits and used efficiently.

2.1 Objective

- (1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:
 - (a) first, the health and well-being of water bodies and freshwater ecosystems
 - (b) second, the health needs of people (such as drinking water)
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

Policy LF-FW-P8 – Identifying natural wetlands

Identify and map natural wetlands that are:

1. 0.05 hectares or greater in extent, or

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

2. of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral wetland) and known to contain threatened species.

Policy LF-FW-P9 – Protecting natural wetlands

Protect natural wetlands by:

1. avoiding a reduction in their values or extent unless:
 - a. the loss of values or extent arises from:
 - i. the customary harvest of food or resources undertaken in accordance with tikaka Māori,
 - ii. restoration activities,
 - iii. scientific research,
 - iv. the sustainable harvest of sphagnum moss,
 - v. the construction or maintenance of wetland utility structures,
 - vi. the maintenance or operation of specific infrastructure, or other infrastructure,
 - vii. natural hazard works, or
 - b. the Regional Council is satisfied that:
 - i. the activity is necessary for the construction or upgrade of specified infrastructure,
 - ii. the specified infrastructure will provide significant national or regional benefits,
 - iii. there is a functional need for the specified infrastructure in that location,
 - iv. the effects of the activity on indigenous biodiversity are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and
 - v. the other effects of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the effects management hierarchy, and

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

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| <p>2. not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:</p> <ol style="list-style-type: none"> a. the application demonstrates how each step of the effects management hierarchies in (1)(b)(iv) and (1)(b)(v) will be applied to the loss of values or extent of the natural wetland, and b. any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b)(iv) and (1)(b)(v). | |
| <p>Policy LF-FW-P10 – Restoring natural wetlands</p> <p>Improve the ecosystem health, hydrological functioning, water quality and extent of natural wetlands that have been degraded or lost by requiring, where possible:</p> <ol style="list-style-type: none"> 1. an increase in the extent and quality of habitat for indigenous species, 2. the restoration of hydrological processes, 3. control of pest species and vegetation clearance, and 4. the exclusion of stock. | <p>Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</p> |
| <p>Policy LF-FW-P11 – Identifying outstanding water bodies</p> <p>Otago's outstanding water bodies are:</p> <ol style="list-style-type: none"> 1. the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997, 2. Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973, 3. any water bodies identified as being wholly or partly within an outstanding natural feature or landscape in accordance with <u>NFL-P1</u>, and 4. any other water bodies identified in accordance with <u>APP1</u>. | <p>Policy 8: The significant values of outstanding water bodies are protected.</p> |

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Policy LF-FW-P12 – Protecting outstanding water bodies

The significant and outstanding values of outstanding water bodies are:

1. identified in the relevant regional and district plans, and
2. protected by avoiding adverse effects on those values.

Policy 8: The significant values of outstanding water bodies are protected.

Policy LF-FW-P13 – Preserving natural character

Preserve the natural character of lakes and rivers and their beds and margins by:

1. avoiding the loss of values or extent of a river, unless:
 - a. there is a functional need for the activity in that location, and
 - b. the effects of the activity are managed by applying:
 - i. for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and
 - ii. for other effects, the effects management hierarchy,
2. not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:
 - a. the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and
 - b. any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b),
3. establishing environmental flow and level regimes and water quality standards that support the health and well-being of the water body,
4. wherever possible, sustaining the form and function of a water body that reflects its natural behaviours,
5. recognising and implementing the restrictions in Water Conservation Orders,

Policy 7: The loss of river extent and values is avoided to the extent practicable.

Policy 8: The significant values of outstanding water bodies are protected.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

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| <p>6. preventing the impounding or control of the level of Lake Wanaka,</p> <p>7. preventing modification that would reduce the braided character of a river, and</p> <p>8. controlling the use of water and land that would adversely affect the natural character of the water body.</p> | |
| <p>Policy LF-FW-P14 – Restoring natural character</p> <p>Where the natural character of lakes and rivers and their margins has been reduced or lost, promote actions that:</p> <ol style="list-style-type: none"> 1. restore a form and function that reflect the natural behaviours of the water body, 2. improve water quality or quantity where it is degraded, 3. increase the presence, resilience and abundance of indigenous flora and fauna, including by providing for fish passage within river systems, 4. improve water body margins by naturalising bank contours and establishing indigenous vegetation and habitat, and 5. restore water pathways and natural connectivity between water systems. | <p>Policy 7: The loss of river extent and values is avoided to the extent practicable.</p> <p>Policy 8: The significant values of outstanding water bodies are protected.</p> <p>Policy 9: The habitats of indigenous freshwater species are protected.</p> <p>Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.</p> <p>Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.</p> |
| <p>LF-FW-P15 – Stormwater and Wastewater discharges</p> <p>Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</p> <ol style="list-style-type: none"> 1. except as required by <u>LF-VM-O2</u> and <u>LF-VM-O4</u>, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and 2. requiring: <ol style="list-style-type: none"> a. all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available, | <p>Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.</p> |

- b. *all stormwater to be discharged into a reticulated system, where one is available,*
 - c. *implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,*
 - d. *on-site wastewater systems to be designed and operated in accordance with best practice standards,*
 - e. *stormwater and wastewater discharges to meet any applicable water quality standards set for FMUs and/or rohe, and*
 - f. *the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and*
3. *promoting the reticulation of stormwater and wastewater in urban areas.*

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This is the document marked and referred to as Exhibit CH-2 in the annexed affidavit of Claire Elizabeth Hunter, Planner of Dunedin, sworn at Dunedin this 25th day of December 2021 before me:

Linda Morag Mulholland
Solicitor
Dunedin

A Solicitor of the High Court of New Zealand.

EXHIBIT CH-2

**ACCOMPANYING SUBMISSION POINTS BY OCEANAGOLD (NEW ZEALAND) LIMITED
ON SPECIFIC PROVISIONS IN THE PROPOSED OTAGO REGIONAL POLICY STATEMENT**

| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
|---|-----------------|---|--|---|
| DEFINITIONS <i>Primary Production</i> | Support in part | OceanaGold notes that the definition of primary production specifically includes "mining" activities. This is appropriate and consistent with the National Planning Standards. OceanaGold is concerned however that the PORPS as a whole lacks appropriate regard to the benefits of mining activities. In a number of places the PORPS makes a brief mention of the significance of the mining industry in Otago (e.g. on Page 6 where it states that Otago's economy centres around agriculture, tourism, mining and education and again on Page 83 where it recognises that mining provides the region with 4.5% of its GDP), however there is no specificity within the corresponding objectives and policies and instead it appears to have been broadly captured in reference to provisions which relate to "primary production". Such provisions also appear to be skewed toward the agricultural and horticultural aspects of primary production, rather than mining or quarrying activities for example. | Retain the definition but also make changes to objectives and policies (LS- LF Land and Soil Chapter) to better recognise that mining is a valuable form of primary production that needs access to the key land that hosts valuable minerals. | No. |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
|---|-----------------------|--|---|---|
| <p>Rural area Means any area of land that is not an urban area.</p> | <p>Oppose</p> | <p>OceanaGold is unsure as to the purpose of this or what is meant by this definition and how this would work in practice with regard to special purpose zones such as the Macraes Mineral Zone in the Waitaki District Plan. Land that has been designated for mining is not strictly urban nor is it arguably rural land. All land which is not defined as "urban" is therefore not necessarily rural and it is too simplistic to assume this. This definition is likely to lead to implementation difficulties as it is too simplistic in its approach.</p> | <p>Delete this definition as it is not necessary, or in the alternative amend to exclude areas which are subject to a special purpose zone.</p> | <p>No.</p> |
| <p>Urban area Means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that is, or is intended to be, predominately urban in character. This includes but is not limited to any land identified in District Plans as being within any urban growth boundary or equivalent however described, any residential zone, commercial and mixed use zone, industrial zone, and future urban zone as listed in the National Planning Standards or its present District Plan zone equivalent. Urban</p> | <p>Oppose in part</p> | <p>Similar to the above, OceanaGold is concerned that the urban and rural definitions that have been included in the PORPS potentially confuse and/or limit other zones, particularly special purpose zones such as the Macraes Mineral Zone which does not neatly fit within either.</p> | <p>Delete this definition as it is not necessary, or in the alternative amend to exclude areas which are subject to a special purpose zone.</p> | <p>No.</p> |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <i>environments are a subset of urban areas.</i> | | | | |
| ISSUES | | | | |
| Part 2 – SRMR Significant Resource Management Issues for the Region Overview/introduction | Oppose in part | OceanaGold notes that the figure on page 64 shows mineral extraction on the "Users side", but it should also be recognised that minerals are an important natural resource within the region and therefore represented on the right hand side of this figure as well. | Include "minerals" as a natural resource on Figure 2. This chapter of the PORPS also needs to better recognise and provide for mining which is a significant issue for the region because of the economic benefits it brings. | No. |
| SRMR-110 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause. | Oppose in part | OceanaGold submits that the PORPS overall does not adequately recognise and provide for existing physical resources such as the Macraes mining operation, which provides significant economic benefit to the region. While OceanaGold agrees that it is important to balance these activities with effects on natural resources, the PORPS as a regionally strategic document also needs to recognise and provide for the benefits of such industry in the region and ensure that it can be continued within appropriate environmental parameters. While the context section of this issue statement refers to the region's important economic activities (including mining contributing 4.5% of the regional | Include greater recognition and support of the mining industry in Otago throughout the PORPS. Include provisions recognise that the need to provide for future mining in Otago and at Macraes in particular is a significant resource management issue for the region and which: - Recognise the significant economic and social benefits from mineral extraction. - Protect an ability to access these significant natural resources. - Recognise the finite nature of minerals. | No. |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| | <p>GDP), the issue focuses on the adverse effects that can be associated with these activities. This needs to be better balanced with an issue also identifying that economic activities, like mining, are important to the region and these need to be similarly recognised and provided for in the PORPS so that the enabling purpose of the RMA is also achieved.</p> <p>The Macraes mining operation is also a significant activity within the Waitaki District and wider Otago region. It is of such significance that the Waitaki District Plan currently includes a designated zone for mining, referred to as the "Macraes Mining Zone". On the basis that the Waitaki District Plan is required to give effect to the PORPS, without any recognition of the importance of the mining industry, and/or its unique local and functional constraints and requirements, OceanaGold is concerned that this draws into question the ongoing existence and future of the Macraes Mining Zone in the District Plan in accordance with section 32 of the RMA. This is not appropriate and is of concern particularly as national direction with regard to the National Planning Standards specifically refers to the Macraes Mining Zone as</p> | <ul style="list-style-type: none"> - Protect existing mineral assets from reverse sensitivity activities. - Enable a regime whereby further development of the region's minerals can occur while the effects on the natural environment are appropriately managed. | | |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| RMIA-WAI-11 – Land use activities have resulted in disturbance and degradation of wāhi tapu and wāhi taoka sites and the cultural and spiritual values associated with these areas. | Oppose in part | <p>being a clear example of when a special purpose zone is a good fit¹.</p> <p>Mining activity has been identified under this issue statement as being “culturally inappropriate”. OceanaGold does not believe that it operates its Macraes mine in a way which is “culturally inappropriate”, this is evidenced via the relationship OceanaGold has with the mana whenua of the area and the approach that it adopts to managing its activities on the physical and cultural environment within which it exists.</p> | Delete the generalised statement to mining activities being ‘culturally inappropriate’. | No. |
| RMIA-WAI-15 – Poor integration of water management, across agencies and across a catchment, hinders effective and holistic freshwater management | Oppose in part | <p>The water quality impacts of discharges from mining activities have been identified as being of particular concern under this issue.</p> <p>There appears to be no clear evidential basis for this, particularly with regard to the Macraes operations. With regard to the Deepdell North Stage III hearing, water quality experts including those for the Otago Regional Council, agreed that with appropriate management the impacts of the discharges on both an individual project and wider cumulative basis from the mining operation would be no more than minor.</p> | Delete reference to water quality being adversely impacted by mining activities. Where poor land management practices associated with mining (as with all other land uses) causes a deterioration in water quality this is already addressed in the first bullet point under this heading | Freshwater management is addressed in this provision. However, it also seeks to address broader matters such as land use activities which affect or influence freshwater management in the region. |

¹ Ministry for the Environment – Step by Step Guide to ‘rehousing’ a policy statement and/or plan under the National Planning Standards, page 7.

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
|--|-----------------|---|--|---|
| IM INTEGRATED MANAGEMENT | | | | |
| IM-P2- Decision Priorities <i>Unless expressly stated otherwise, all decision making under this RPS shall:</i> 1. <i>Firstly, secure the long term life support capacity and mauri of the natural environment,</i> 2. <i>Secondly, promote the health and safety needs of people, and</i> 3. <i>Thirdly, safeguard the ability of people and communities to provide for their social, economic and cultural well being now and in the future.</i> | Oppose | This direction is derived from the National Policy Statement for Freshwater Management 2020. Applying this hierarchy as mandatory to all decision making within Otago effectively usurps the requirement to promote sustainable management (or inappropriately implies that promoting sustainable management and following this hierarchy are the same thing) and is likely to cause implementation difficulties as in certain circumstances there will need to be a more nuanced approach taken to resource management within Otago. | Delete. In the alternative if this default hierarchy is retained extensive changes elsewhere in the RPS would need to be made to recognise that promoting sustainable management will often require a more nuanced approach | Freshwater management is addressed via this provision but is intended to apply more broadly to all natural and physical resources. It is noted that its origins are derived from the NPSFM 2020, but it is not limited to freshwater management as I have noted above. |
| IM- P10 – Climate Change Adaptation and Mitigation <i>Identify and implement climate change adaptation and mitigation methods for Otago that:</i> (1) <i>Minimise the effects of climate change processes or risks to existing activities;</i> | Support in part | OceanaGold submits that it is appropriate for the PORPS to address climate change risks, adaptation and mitigation. In doing so however OceanaGold also seeks to ensure that there is suitably policy to support initiatives that land owners may wish to pursue to assist in mitigating or offsetting carbon emissions. For example, carbon forestry initiatives on private land. | Insert new provisions or policy which support and encourage landowners / individuals climate change mitigation / decarbonisation initiatives. | No. |

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| <p>(2) <i>Prioritise avoiding the establishment of new activities in areas subject to risk from the effects of climate change, unless those activities reduce, or are resilient to, those risks, and</i></p> <p>(3) <i>Provide Otago's communities, including Kai Tahu, with the best chance to thrive, even under the most extreme climate change scenarios.</i></p> | | | | |
| <p>IM-P14- Human Impact <i>Preserve opportunities for future generations by:</i></p> <ol style="list-style-type: none"> <i>Identifying limits to both growth and adverse effects of human activities beyond which the environment will be degraded,</i> <i>requiring that activities are established in places, and carried out in ways, that are within those limits and are compatible with the natural capabilities and capacities of the resources they rely on, and</i> | Oppose | <p>OceanaGold opposes the uncertainty that is inherent within the drafting of this policy. There is no certainty provided within the RPS as to what is meant by the term "limits" and how these are intended to be developed or operate. For example, are these "limits" intended to be used as consenting triggers, or are they intended to act as "environmental limits" or bottom lines.</p> <p>OceanaGold is also concerned that this provision is inconsistent with the section 5 of the RMA. Section 5(2)(a) explicitly recognises that mineral extraction consumptively uses natural resources and by their very nature these cannot be preserved for future generations.</p> | Delete. | No. |

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| 3. regularly assessing and adjusting limits and thresholds for activities over time in light of the actual and potential environmental impacts. | | | | |
| AIR | | | | |
| AIR-P4- Avoiding Certain Discharges | Oppose in part | OceanaGold submits that this policy is too uncertain. Because there will be varying degrees of tolerance, it is very likely that there will be a certain degree of subjectivity in assessing whether a discharge to air, for example, may be objectionable or offensive. OceanaGold is further concerned that this policy is too onerous in that it requires all such discharges to be avoided, and does not allow for the effects of such discharges to be otherwise addressed or managed such as via remediation, mitigation or offsetting / compensatory means. | Delete or amend as follows: <i>Avoid-<u>Manage</u> discharges to air so that they do <u>not</u> cause offensive, objectionable, noxious or dangerous effects.</i> | No. |
| LAND AND FRESHWATER | | | | |
| LF – FW- P13 Preserving Natural Character | Oppose in part | OceanaGold is concerned with the references to ECO-P3 and ECO-P6 within this policy. As outlined in submissions below, OceanaGold is concerned that the limits as to how and when biodiversity offsetting and compensation can be applied under ECO-P3, ECO-P6 and consequently APP 3 and APP4 are likely to be quite broad reaching and as a result mean that a number of development | Amend this policy as follows: <i>Preserve the natural character of lakes and rivers and their beds and margins by: (1) avoiding the loss of values or extent of a river, unless:</i> | Yes. |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>(a) There is functional need for the activity in that location, and</p> <p>(b) The effects of the activity are managed by applying:</p> <p>i. For effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and</p> <p>ii. For other effects, the effects management hierarchy</p> <p>...</p> | <p>proposals are not able to work through the effects management hierarchy and avoidance of effects will be the only option available.</p> <p>OceanaGold submits that it would be more appropriate for the policy to only reference the effects management hierarchy as it is set out in the NPSFM with regard to freshwater resources and their management in the region.</p> <p>OceanaGold is also concerned that this policy seeks to sustain (or restore) the form and function of a water body that reflects its natural behaviours. Clause (4) seeks for this to occur "wherever possible". It is always "possible" to achieve this by not allowing the activity as the preferred option.</p> | <p>(a) there is a functional need for the activity in that location, and</p> <p>(b) the effects of the activity are managed by applying:</p> <p>(i) for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and</p> <p>(ii) for other effects, the effects management hierarchy,</p> <p>(2) not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:</p> <p>(a) the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and</p> <p>(b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b),</p> <p>(3) establishing environmental flow and level regimes and water quality standards that support the</p> | <p>Does this provision relate to Freshwater?</p> | |

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| | | | <p>health and well-being of the water body,</p> <p>(4) wherever possible, sustaining the form and function of a water-body that reflects its natural behaviours;</p> <p>(5) recognising and implementing the restrictions in Water Conservation Orders,</p> <p>(6) preventing the impounding or control of the level of Lake Wanaka,</p> <p>(7) preventing modification that would reduce the braided character of a river, and</p> <p>(8) controlling the use of water and land that would adversely affect the natural character of the water body.</p> | |
| <p>LF-FW-P9 – Protecting Natural Wetlands</p> <p>Protect natural wetlands by:</p> <p>1. avoiding a reduction in their values or extent unless:</p> <p>(a) the loss of values or extent arises from:</p> <p>i. the customary harvest of food or resources</p> | Oppose | <p>OceanaGold understands that this policy is to give effect to the National Policy Statement for Freshwater Management 2020 and the Regulations relating to Freshwater Management (NESFW). However, OceanaGold is concerned that this policy does not provide a consenting pathway for other activities which are also locationally or functionally constrained such as mining activities. This matter has been raised with regard to these higher order national documents and OceanaGold</p> | <p>Amend the policy to recognise that changes to the NESFW are imminent and provide a broader scope of opportunity for activities such as mining to access the effects management hierarchy.</p> | Yes. |

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| <p><i>undertaken in accordance with tikata Maori,</i></p> <p><i>ii. restoration activities,</i></p> <p><i>iii. scientific research,</i></p> <p><i>iv. the sustainable harvest of sphagnum moss,</i></p> <p><i>v. the construction or maintenance of wetland utility structures,</i></p> <p><i>vi. the maintenance of operation of specific infrastructure, or other infrastructure,</i></p> <p><i>vii. natural hazards works,</i></p> <p><i>or</i></p> <p><i>(b) the Regional Council is satisfied that:</i></p> <p><i>i. the activity is necessary for the construction or upgrade of specified infrastructure,</i></p> <p><i>ii. the specified infrastructure will</i></p> | <p>has written confirmation on behalf of the Minister for the Environment (a copy of which has been provided to the ORC), that industries such as quarries, waste management and mining have a clear case for providing a consenting pathway for these sectors through the national freshwater regulations relating to wetlands. This correspondence further advised that the Government accepts that there are constraints on where these activities/operations can be located, and that they provide necessary materials or services.</p> <p>OceanaGold understands that the Government will initiate amendments to the regulations by December 2021 to provide a consenting pathway for mining activities as a result of this. It is likely that mining activities would be treated in the same or similar way as 'specified infrastructure'. This would mean that mining activities would be able to apply the effects management hierarchy. This is considered to be appropriate and has been shown to be successful in the recently consented Deepdell North Stage III project where the management hierarchy was adopted and positive environmental outcomes will arise as a result.</p> <p>As outlined in submissions below, OceanaGold is also concerned that even if the effects</p> | | | |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>provide significant natural or regional benefits,</p> <p>iii. there is a functional need for the specified infrastructure in that location,</p> <p>iv. the effects of the activity on indigenous biodiversity are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and</p> <p>v. the other effects of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the effects management hierarchy, and</p> <p>2. not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:</p> <p>(a) the application demonstrates how each step of the effects</p> | | <p>management hierarchy was available to mining activities, the limits as to how and when this can be applied under ECO-P3, ECO-P6 and APP 3 and APP4 are unlikely to result in positive environmental and economic outcomes. This is discussed further with respect to these matters specifically.</p> | | |

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| <p>management hierarchies in (1)(b)(iv) and (1)(b)(v) will be applied to the loss of values or extent of the natural wetland, and (b) any consent is granted subject to conditions that apply for the effects management hierarchies in (1)(b)(iv) and (1)(b)(v).</p> | | | | |
| <p>LF-LS-O11 – Land and Soil The life supporting capacity of Otago's soil resources is safeguarded and the availability and productive capacity of highly productive land for primary production is maintained now and for future generations.</p> | Oppose | OceanaGold notes that the definition of "primary production" includes mining activities. Whilst OceanaGold is supportive of safeguarding land for mining, this objective does not suitably recognise nor enable mining in any way. Mineral extraction is by its very nature exhaustive of the minerals recovered and while highly productive, the mineral resource being recovered will not be able to be preserved for future generations. This is recognised in section 5 of the RMA, which specifically excludes minerals from the purpose of sustainable management. | Amend this objective and/or introduce new objectives and policies to specifically recognise the significance of mining in the Otago region and specifically the Macraes operation. Ensure the provisions suitably recognise the finite nature of this resource. | No. |
| <p>LF-LS-P19 – Highly productive land Maintain the availability and productive capacity of highly productive land by:</p> | Support in part | OceanaGold supports this policy insofar as it seeks to prioritise the use of high productive land for primary production (which includes mining activities) ahead of other land uses. OceanaGold submits that it is necessary to recognise the significant economic benefits that are derived | Amend this policy and/or insert new objectives and policies (preferable option) to specifically recognise the significance of mining in the Otago region and specifically the Macraes operation. These provisions are | No. |

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| <p>(1) Identifying highly productive land based on the following criteria:</p> <ul style="list-style-type: none"> (a) the capability and versatility of the land to support primary production based on the Land Use Capability classification system, (b) the suitability of the climate for primary production, particularly crop production, and (c) the size and cohesiveness of the area of land for use of primary production, and <p>(2) prioritising the use of highly productive land for primary production ahead of other land uses, and</p> <p>(3) managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD-P4, UFD-P7 and UFD-P8.</p> | <p>from the use of land for mining purposes. As set out in the covering submission the economic activity that is enabled from the Macraes operation is significant within the Otago region (4.5% of the GDP) and it is necessary to recognise this suitably in the RPS as a significant resource management issue for the region.</p> <p>OceanaGold is however concerned that this policy is directed only at maintaining land for a limited number of “primary production” activities such as agricultural and/or horticultural activities and does therefore not adequately provide for other primary production activities such as mining or quarrying activities.</p> <p>OceanaGold notes that the Phase 3 (Reference Groups) summary report included as Appendix 4 to the section 32 report states in the draft policy direction on Energy, Infrastructure and Transport that “Mining provision will be broadened to apply to all extractive industries. It is likely that these provisions will be included in the Land and Freshwater chapter.” (page 25). OceanaGold is concerned that this provision has not been made in the notified version of the PORPS, neither in the Land and Freshwater chapter nor anywhere else.</p> | <p>necessary to achieve LF-LS-O11 and to support the current zoning provisions in the Waitaki District Plan and likely future plans which will continue to recognise the Macraes operation as a special purpose land use zone which suitably recognises, provides for and enables mining activities within acceptable environmental parameters.</p> <p>Proposed policy wording could be based on Policy 5.3.4 from the partially operative Otago RPS which says: “Recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.”</p> <p>Further, it needs to be recognised that ‘highly productive land’ means different things for different parts of the primary production sector. While the Land Use Classification system may be useful in identifying highly productive land for horticulture and agriculture, it is not a useful classification system for identifying highly productive land for mining. Similarly, climate suitability is not an important factor for mining. The policy</p> | <p>relate to Freshwater?</p> | |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>ECO-P2- Identifying significant natural areas and taoka Identify:</p> <p>(1) <i>the areas and values of significant natural areas in accordance with APP2, and</i></p> <p>(2) <i>indigenous species and ecosystems that are taoka in accordance with ECO-M3.</i></p> | <p>Oppose in part</p> | <p>OceanaGold is concerned that this policy combined with the criteria in APP2 will result in a large portion of the Otago region, and in particular within the Macraes Ecological District, being identified as an SNA. This policy does not require any areas to be clearly mapped or scheduled in any lower order plans, instead it requires SNA to be identified in accordance with the criteria set out in APP2. This approach lacks necessary precision.</p> <p>The criteria set out in APP2 also differs from the criteria that was recommended to the ORC by its consultants, Wildlands (refer Appendix 17 to the section 32 report). It appears that the Wildlands criteria was used for informing the section 32 analysis, however there is no clear understanding provided in the documentation as to why there has been a shift to what was subsequently</p> | <p>therefore needs to recognise the land requirements for all primary production activities, not just a subset. For mining, highly productive land is that which holds the region's best economically recoverable mineral resources, such as that around the Hyde Macraes Shear Zone. For these areas the policy needs to provide that that priority above all other uses of land is given to mining.</p> | |
| <p>ECO-P2- Identifying significant natural areas and taoka Identify:</p> <p>(1) <i>the areas and values of significant natural areas in accordance with APP2, and</i></p> <p>(2) <i>indigenous species and ecosystems that are taoka in accordance with ECO-M3.</i></p> | <p>Oppose in part</p> | <p>OceanaGold is concerned that this policy combined with the criteria in APP2 will result in a large portion of the Otago region, and in particular within the Macraes Ecological District, being identified as an SNA. This policy does not require any areas to be clearly mapped or scheduled in any lower order plans, instead it requires SNA to be identified in accordance with the criteria set out in APP2. This approach lacks necessary precision.</p> <p>The criteria set out in APP2 also differs from the criteria that was recommended to the ORC by its consultants, Wildlands (refer Appendix 17 to the section 32 report). It appears that the Wildlands criteria was used for informing the section 32 analysis, however there is no clear understanding provided in the documentation as to why there has been a shift to what was subsequently</p> | <p>therefore needs to recognise the land requirements for all primary production activities, not just a subset. For mining, highly productive land is that which holds the region's best economically recoverable mineral resources, such as that around the Hyde Macraes Shear Zone. For these areas the policy needs to provide that that priority above all other uses of land is given to mining.</p> | <p>This provision is applicable to all areas defined as comprising a significant natural areas and indigenous species and ecosystems that are taoka. This could include but is not limited to freshwater environments.</p> |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| | | <p>notified. OceanaGold is therefore concerned that the criteria as set out in APP2 has not been tested and found to be suitably robust under section 32 of the RMA.</p> <p>OceanaGold is also concerned that the only significant mapping which was submitted as part of the supporting documentation relates to faunal SNA values. Mapping of flora SNAs has not yet been undertaken, and as noted OceanaGold is concerned that by applying the criteria in APP2 large areas of the region would trigger one or more of the criteria and become an SNA. The extent of SNAs in the region is therefore currently unknown. As evidenced in other regions such as Northland, approximately 42% of the Far North District contains SNAs. This is almost half of the land area within the district. Assigning half the land area to SNA within the Otago region (in conjunction with the associated ECO policies) is likely to result in significant developmental constraints. And as a corollary the costs of applying a policy suite that could effectively curtail significant development opportunities in such areas is therefore also unknown. These costs should have been properly accounted for in section 32 terms.</p> | <p><u>local authorities in accordance with ECO-M3, and these areas will be mapped in the relevant regional and district plans.</u></p> | |

| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| | | <p>As an example, seepage and ephemeral wetlands which are classified as being 'historically rare and nationally endangered ecosystem' were found within the Deepdell North Stage III project area. The mapping exercise that has been undertaken within the Macraes Ecological District has shown that there are at least 1,360 examples of such wetlands greater than 1 ha. There is an unknown number of similar features that are less than 1 ha area. There are also other known examples of this type of wetland throughout the Otago Region, reports of at least 3000. In comparison the recently consented Deepdell mining project affected only approximately 0.38ha of these wetland types, and provides an offset/enhancement area of over 5ha. Under this suite of provisions, the loss of these habitats would have to be avoided, without any regard being able to be had to the significance of the physical effects on these habitats, the economic benefits of the proposal, or the overall biodiversity improvements that were being offered.</p> | | |
| <p>ECO-P3- Protecting Significant Natural Areas and taoka <i>Except as provided for by ECO-P4 and ECO-P5, protect significant natural areas and indigenous</i></p> | Oppose | <p>OceanaGold is concerned that Policy ECO-P3 effectively acts as a veto to an otherwise meritorious proposal. This policy requires all SNAs to be protected by avoiding adverse effects that result in <u>any reduction of the area or value</u> (even if those values are not in themselves significant). The way this policy is drafted if there is simply a</p> | Delete. | This provision is applicable to all areas defined as comprising a significant natural areas and indigenous species and ecosystems that are |

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| <p>species and ecosystems that are taoka by:</p> <p>(1) <i>Avoiding adverse effects that result in:</i></p> <p>(a) <i>any reduction of the area or values (even if those values are not themselves significant) identified under ECO-P2(1), or</i></p> <p>(b) <i>any loss of Kai Tahu values, and</i></p> <p>(2) <i>after (1), applying the biodiversity effects management hierarchy in ECO-P6, and</i></p> <p>(3) <i>prior to significant natural areas and indigenous species and ecosystems that are taoka being identified in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with IM-P15.</i></p> | <p>physical reduction in the area of SNA (regardless of the significance of that reduction on that species, the surrounding area or the ecological district or wider region) there is no ability for remediation, mitigation, offsetting or compensation to be offered and considered as required under section 104(1)(ab) of the RMA. For this reason alone, the policy is unlawful.</p> <p>This policy is therefore highly likely to constrain significant development within the Otago region. This blanket approach to avoiding activities and effects within all SNA (regardless of the significance of the area or the severity of effect) is unduly onerous. It does not enable circumstances where adverse effects on SNAs cannot be avoided however on a merits assessment may be acceptable having regard to methods of remediation, mitigation and/or offsetting or compensation.</p> <p>OceanaGold submits that the resulting costs of the effects of this policy on significant industry and other activities in Otago has not been properly accounted for and evaluated in terms of section 32 of the RMA.</p> <p>This policy is inconsistent with the sustainable management purpose in section 5, and by</p> | <p>taoka. This could include but is not limited to freshwater environments.</p> | | |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>ECO-P4 – Provision for new activities <i>Maintain Otago's indigenous biodiversity by following the sequential steps in the effect management hierarchy set out in ECO-P6 when making decisions on plans, applications for resource consents or notices of requirements for the following activities in significant natural areas, or where they may adversely affect indigenous species and ecosystems that are taoka:</i></p> <p>(1) <i>The development or upgrade of nationally and regionally significant infrastructure that has a functional or operational need to locate within the relevant significant natural area(s) or where they may adversely affect</i></p> | <p>Oppose</p> | <p>purporting to proscribe the use of offsets and compensation to achieve biodiversity gains fails to protect biodiversity that is otherwise in decline or under threat.</p> <p>OceanaGold is concerned that this policy will be inconsistent with national direction such as the Draft NPSIB. Policy 3.9(2) of the Draft NPSIB recognises the need to retain a 'consenting pathway' for mineral extraction and provides these activities an ability to access the effects management hierarchy, where such proposals will affect medium SNAs. It is not clear why the PORPS has retained a consenting pathway for other activities recognised in the Draft NPSIB (e.g. nationally and regionally significant infrastructure, development of papakaika, and use of Maori land), but it has removed any reference to mineral extraction and mining activities which are similarly (if not more) constrained locationally and functionally. Whilst OceanaGold acknowledges that the NPSIB is not yet operative, the supporting section 32 documentation refers to adopting the Draft NPSIB approach in various circumstances throughout the PORPS, however there is no explanation provided as to why its approach to mining has not been followed. OceanaGold submits that the PORPS is flawed in this regard.</p> | <p>Delete this policy or amend as follows: <i>Maintain Otago's indigenous biodiversity by following the sequential steps in the effect management hierarchy set out in ECO-P6 when making decisions on plans, applications for resource consents or notices of requirements for the following activities in significant natural areas, or where they may adversely affect indigenous species and ecosystems that are taoka:</i></p> <p>(1) <i>The development or upgrade of nationally and regionally significant infrastructure that has a functional or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,</i></p> | <p>This provision is applicable to all areas defined as comprising a significant natural areas and indigenous species and ecosystems that are taoka. This could include but is not limited to freshwater environments.</p> |

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| <p>indigenous species or ecosystems that are taaka.</p> <p>(2) the development of papakaika, marae and ancillary facilities associated with customary activities on Maori land,</p> <p>(3) the use of Maori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of takata whenua,</p> <p>(4) activities that are for the purpose of protecting, restoring or enhancing a significant indigenous species or ecosystems that are taaka, or</p> <p>(5) activities that are for the purpose of addressing a severe and immediate risk to public health and safety.</p> | | <p>The approach that has been adopted in ECO-P4 therefore fails to recognise the locationally constrained nature of mining, a regionally important activity which cannot be re-directed to other areas. Minerals are only located in certain areas and in some instances (in our experience quite often) mineral resources may be co-located with areas of indigenous biodiversity classified as SNAs under this RPS. The PORPS needs to recognise in these instances there is a need to strike a balance and that avoidance of activities which may have adverse effects on SNAs, may not always be the optimal solution and may not always lead to the protection of significant biodiversity or the maintenance of indigenous biodiversity generally. Measures to manage these effects such as remediation, mitigation, offsetting and/or compensation, can lead to positive net outcomes for biodiversity while also enabling important economic and social outcomes.</p> <p>Without the ability to access the full effects management hierarchy it is very likely that these developments cannot proceed. With regard to the Macraes operation, the result will be early closure of the mine, loss of hundreds of jobs, loss of local and regional economic contributions, loss of economic benefit of investment in biodiversity.</p> <p>The counter-factual is that these areas will be</p> | <p>(1)(a) <u>The construction, operation, maintenance and rehabilitation of any mineral and aggregate extraction activity,</u></p> <p>(2) the development of papakaika, marae and ancillary facilities associated with customary activities on Maori land,</p> <p>(3) the use of Maori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of takata whenua,</p> <p>(4) activities that are for the purpose of protecting, restoring or enhancing a significant natural area or indigenous species or ecosystems that are taaka, or</p> <p>(5) activities that are for the purpose of addressing a severe and immediate risk to public health and safety.</p> | |

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| | | <p>either unused or used for low value farming, and biodiversity values will continue to decline.</p> <p>There will be no incentive or upside for private landowners or developers to protect or enhance areas of biodiversity. Applying a broad-brush avoidance policy is therefore likely to result in a lose – lose situation for both economic development and biodiversity in the Otago region.</p> <p>In the context of the Deepdell North Stage III project, which was recently consented by OceanaGold, the consent authorities (including ORC) determined through their decision makers that by enabling OceanaGold to develop a strategy using a combination of the effects management hierarchy, there would overall be biodiversity gains as a result of the project. This outcome was supported by the ecological evidence.</p> | | |
| <p>ECO-P5 – Existing Activities in Significant Natural Areas <i>Except as provided for by ECO-P4, provide for existing activities within significant natural areas and that may adversely affect indigenous species and ecosystems that are taoka, if:</i></p> | <p>Oppose in part</p> | <p>OceanaGold submits that the intention of this policy is not clear. Existing activities are not defined in the PORPS and there is uncertainty as to whether “existing activities” would refer to those that have section 10 and section 20 rights under the RMA, or for example with regard to the Macraes mining operation whether it would apply to areas zoned for that purpose. There is no certainty as to whether this policy would only</p> | <p>Delete or amend this policy so that it provides more certainty that all activities (new and existing) could be able to be developed within an appropriately zoned area.</p> | <p>This provision is applicable to all areas defined as comprising a significant natural areas and indigenous species and ecosystems that are taoka. This could include but is not</p> |

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| <p>(1) <i>the continuation of an existing activity will not lead to the loss (including through cumulative loss) of extent of degradation of the ecological integrity of any significant natural area or indigenous species or ecosystems that are taoka, and</i></p> <p>(2) <i>the adverse effects of an existing activity are no greater in character, spatial extent, intensity, or scale than they were before this RPS became operative.</i></p> | | <p>relate to general ongoing continuation of a legally authorised activity or whether it would be applicable to the development of new activities (e.g. a new mine) in an appropriately zoned area.</p> | | <p>limited to freshwater environments.</p> |
| <p>ECO-P6 – Maintaining indigenous biodiversity <i>Maintain Otago's indigenous biodiversity (excluding the coastal environment and areas managed under ECO-P3) by applying the following biodiversity effects management hierarchy in decision making on applications for resource consents and notices of requirement:</i></p> <p>(1) <i>Avoid adverse effects as the first priority.</i></p> | <p>Oppose in part</p> | <p>OceanaGold supports the ability to utilise the effects management hierarchy as outlined in Policy ECO-P6. This is considered to be consistent with section 17 and section 104(1)(ab) of the RMA. OceanaGold is concerned however that the effects management hierarchy is not available to mineral extraction and mining activities where significant biodiversity is unavoidably impacted. The reasons for this have been set out above and in the overriding cover submission. Given the locational and functional constraints associated with mineral extraction and mining activities, the contribution mining makes to Otago, the clear</p> | <p>Amend this policy (and/or corresponding provisions) so that it enables other regionally significant activities such as mineral extraction to have access to the effects management hierarchy. Amendments to APP3 and APP4 are also necessary as set out below.</p> | <p>This provision is applicable to all areas defined as comprising a significant natural areas and indigenous species and ecosystems that are taoka. This could include but is not limited to freshwater environments.</p> |

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| <p>(2) Where adverse effects demonstrably cannot be avoided, they are remedied,</p> <p>(3) Where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,</p> <p>(4) Where there are residual adverse effects after avoidance, remediation and mitigation, then the residual adverse effects are offset in accordance with APP3, and</p> <p>(5) if biodiversity offsetting of residual adverse effects is not possible, then:</p> <p>(a) the residual adverse effects are compensated for in accordance with APP4, and</p> <p>(b) if the residual effects cannot be compensated for in accordance with APP4, the activity is avoided.</p> | <p>requirements of national policy and the evidence that avoidance does not necessarily protect significant biodiversity values but that well designed and implemented actions can, OceanaGold submits that it should have an ability to have full access to the effects management hierarchy. Evidence has been provided which also demonstrates that OceanaGold is able to use these strategies to achieve positive environmental outcomes for biodiversity, while also significantly supporting economic growth and development within the Otago region.</p> <p>While OceanaGold generally agrees with the cascading approach that has been developed within this policy on a principled basis, OceanaGold submits that when this policy is considered alongside the limits or constraints which are set out in APP3 and APP4 as to when offsetting and compensation are available, the policy becomes unworkable in certain circumstances. APP3 and APP4 contain a set of criteria as to when both offsetting and compensation is not available. This criterion effectively acts as a bottom line or limit and if triggered offsetting and/or compensation will no longer be available to be used as part of any effects management strategy and adverse effects</p> | | | |

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| | | <p>default back to the first management tier of avoidance.</p> <p>It is also important that the policy recognise that what is most important is the biodiversity outcome that is achieved. Applying the hierarchy in strict order may not always deliver the best outcome, and in complex proposals the best outcome is often delivered by a suite of actions that encompass all or most of the elements in the hierarchy.</p> <p>These issues were traversed at the Deepdeell North Stage III hearing as discussed in the cover submission. Despite resounding agreement between all of the relevant experts at the hearing that the measures that were being offered by OceanaGold to address adverse effects on lizards via compensatory measures were appropriate and would suitably achieve a no net loss, this component of the proposal did not align with Policy 5.4.6A (of the partially operative Otago RPS) as compensation was not available if the activity resulted in the removal of habitat for a threatened or at risk indigenous species of fauna or flora. As discussed during that hearing by various parties, there was concern that this approach fails to best meet the purpose of the RMA, and also fails to deliver the best ecological outcomes. It is</p> | | |

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| | | <p>concerning that despite the clear evidence in the Deepdell Stage III application that the compensation policy was flawed it has been incorporated into the notified PORPS 2021 without correction.</p> <p>OceanaGold submits that policy ECO – P6 and its references to APP3 and APP4 are inconsistent with national direction such as the Draft NPSIB and NPSFW as to when and under what circumstances the full effects management hierarchy can be considered. It is also inconsistent with section 104(1)(ab) of the RMA which requires a decision maker to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.</p> | | |
| <p>APP2 – Significance Criteria <i>An area is considered to be a significant natural area if it meets any one or more of the criteria below:</i> (a) <i>An area that is an example of an indigenous vegetation type or habitat that is typical or characteristic of the original</i></p> | Oppose in part | <p>OceanaGold is concerned that this set of significance criteria is similar to but differs to that which is contained in anticipated national direction (i.e. the Draft NPSIB). The criteria also differ to the set which was recommended by Wildlands in Appendix 17 of the supporting documentation to the PORPS (refer to the green highlighting). There is uncertainty therefore that this set of criteria that appears in the notified version has been properly evaluated in section 32 terms.</p> | <p>Make amendments so that the significance criteria aligns with national direction as set out in the (currently Draft) NPSIB.</p> | <p>This relates to freshwater management but it also applies more broadly and includes terrestrial, freshwater and marine based ecosystems and species.</p> |

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| <p>natural diversity of the relevant ecological district or coastal marine biogeographic region. This may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>(c) An indigenous marine ecosystem, or habitat of indigenous marine fauna (including both intertidal and sub-tidal habitats, and including both faunal and floral components), that is</p> | <p>OceanaGold is also concerned that the application of this criteria will mean a large proportion of the Otago region will be identified as an SNA. This issue has arisen in other parts of New Zealand where similar criteria have been used to determine SNAs. The Far North District Council identified 42% of its district as SNAs. This created a significant amount of controversy with members of the public, tangata whenua and farmers concerned that the proposal undermined their sovereignty and property rights. On 27th July 2021, the Far North District Council confirmed that it would no longer include SNAs in the proposed district plan. A similar situation arose on the West Coast when an ecological report identified 95% of all private land on the West Coast as comprising SNAs. In that situation, the Tai o Poutini Plan Committee rejected the report, instead preferring to work on a simpler version of provisions, similar to Westland District Council's current regulations, with general rules across all native vegetation with permitted activities and resource consents required for most land clearance.</p> | | | |



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| <p>characteristic or typical of the natural marine ecosystem diversity of Otago.</p> <p>(d) An area that supports:</p> <p>(i) An indigenous species that is threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region, or</p> <p>(ii) Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land environment, ecological district, coastal marine biogeographic region or freshwater environment including wetlands, or</p> <p>(iii) Indigenous vegetation and habitats within originally rare ecosystems, or</p> <p>(iv) [REDACTED] [REDACTED] [REDACTED]</p> | | | | |

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| <p><i>[Redacted]</i></p> <p><i>[Redacted]</i></p> <p><i>[Redacted]</i></p> <p>(e) An area that supports a high diversity of indigenous ecosystem types, indigenous taxa or has changes in species composition reflecting the existence of diverse natural features or gradients.</p> <p>(f) An area that supports or provides habitat for:</p> <p>(i) Indigenous species at their distributional limit within Otago or nationally, or</p> <p>(ii) Indigenous species that are endemic to the Otago region, or</p> <p>(h) Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors.</p> <p>(i) The relationship of the area with its surroundings (both</p> | | | | |

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| <p><i>within Otago and between Otago and the adjoining regions), including:</i></p> <p><i>(i) An area that has important connectivity value allowing dispersal of indigenous flora and fauna between different areas, or</i></p> <p><i>(ii) An area that has an important buffering function that helps to protect the values of an adjacent area or feature, or</i></p> <p><i>(iii) An area that is important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation, or</i></p> <p><i>(i) A wetland which plays an important hydrological, biological or ecological role in</i></p> | | | | |

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| <p><i>the natural functioning of a river or coastal ecosystem.</i></p> | | | | |
| <p>APP3 – Criteria for Biodiversity Offsetting</p> <p><i>(1) Biodiversity offsetting is not available if the activity will result in:</i></p> <p><i>(a) the loss of any individuals of Threatened taxa, other than kānuka (Kunzea robusta and Kunzea serotina), under the New Zealand Threat Classification System (Townsend et al, 2008), or</i></p> <p><i>(b) reasonably measurable loss within the ecological district to an At Risk-Declining taxon, other than manuka (Leptospermum scoparium), under the New Zealand Threat Classification System (Townsend et al, 2008).</i></p> <p>...</p> | <p>Oppose</p> | <p>OceanaGold submits that these limits as to when biodiversity offsetting is not available for use as part of an overall effects management strategy are not appropriate. These circumstances are mostly those that would apply where offsetting needs to be utilised.</p> <p>The proposed approach sets the threshold as to when offsetting can be considered too high and as a result this is not likely to lead to beneficial ecological or biodiversity outcomes.</p> <p>The approach assumes that offsetting to achieve no net loss or better cannot be assured in circumstances where the 'limits' are in play. That is incorrect. Whether or not a particular impact is able to be offset to achieve no net loss or better should be determined on a case-by-case basis using expert ecological advice and the various offsetting calculation tools that are available. The approach at present seems to assume that if an offset is considered it will inevitably be accepted. That is incorrect. For major development proposals that seek to use offset and compensation techniques there will inevitably be discretionary decision making on resource</p> | <p>Remove limits as to when offsetting can be offered in clause (1). Or otherwise align to achieve consistency with national direction via the Draft NPSIB.</p> <p>Amend the offsetting requirements and outcomes so as to achieve consistency with recommended best practice for offsetting and/or national direction via the Draft NPSIB.</p> | <p>This provision applies more broadly and includes terrestrial, freshwater and marine based ecosystems and species.</p> |

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| | | <p>consent applications. That is the place to determine whether any proffered offset is appropriate.</p> <p>The approach taken in APP3 and APP4 in their entirety (limits and outcomes required) are also not consistent with national direction such as that contained within the (currently) Draft NPSIB. Comparatively the Draft NPSIB sets out that biodiversity offsetting is not an appropriate option where:</p> <ul style="list-style-type: none"> (i) <i>Residual adverse effects cannot be offset because of the irreplacability or vulnerability of the indigenous biodiversity affected.</i> (ii) <i>There are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes.</i> (iii) <i>Effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.</i> <p>This sets more realistic outcomes-focused criteria for when offsets are not appropriate and does not pre-empt the outcome.</p> <p>The section 32 report states that APP3 and APP4 align with the relevant Environment Court decisions on similar provisions in the 2010 RPS.</p> | | |

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| | | <p>OceanaGold notes that this Environment Court drafting of the compensation criteria was considered in the preparation of the Draft NPSIB. The NPSIB discussion document specifically invited stakeholders to consider the Environment Court version as an alternative approach to that which was being promulgated in the Draft NPSIB Appendices 3 and 4. It is understood that this alternative approach was not favoured by the majority of the submitters with most submitters supporting the Draft NPSIB's approach. This support was strongest amongst regional/unitary councils and territorial authorities (See the Summary of Submissions on the Proposed NPSIB, MFE 2020, p124 - 128). It is therefore highly unlikely that these alternative provisions will ultimately be preferred by the Government in its final drafting of the NPSIB.</p> <p>The Environment Court provisions incorporated in APP 3 and 4 have also not provided the precedence for SNA provisions recently developed elsewhere in New Zealand. The West Coast RPS which was made operative in July 2020 aligns more closely to the Draft NPSIB as to when offsetting and compensation proposals are appropriate.</p> | | |

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| | | <p>OceanaGold is also concerned that APP3 and APP4 have not been thoroughly evaluated and tested in terms of section 32 of the RMA. These appendices still come within the definition of "provisions" of the PORPS which must be evaluated under section 32. For the purpose of its analysis under section 32 the authors have considered "provisions" to be limited to the policies and the methods of the PORPS. OceanaGold considers this to be an error and the section 32 reporting is flawed as a result.</p> | | |
| <p>APP4 – Criteria for Biodiversity Compensation</p> <p>(1) Biodiversity compensation is not available if the activity will result in:</p> <p>(a) the loss of an indigenous taxon (excluding freshwater fauna and flora) or of any ecosystem type from an ecological district or coastal marine biogeographic region,</p> <p>(b) removal or loss of viability of habitat of a Threatened or At Risk indigenous species of fauna or flora under the New Zealand</p> | <p>Oppose</p> | <p>OceanaGold submits that these limits as to when biodiversity compensation is not available for use as part of an overall effects management strategy are not appropriate. These circumstances are mostly those that would apply where compensation needs to be utilised.</p> <p>This was evident in the Deepdell North Stage III Project regarding the projects impact on lizard species. As explained in the cover submission all ecological experts agreed in that case, that the effects on lizards could be compensated to achieve a no net loss outcome, however based on the policy framework (Policy 5.4.6A) compensation was not available to the project on the basis that the project was impacting on the habitat of an 'at risk' lizard species. The proposed approach is therefore not likely to lead to beneficial ecological</p> | <p>Remove limits as to when biodiversity compensation can be offered in clause (1). Or otherwise align to achieve consistency with national direction via the Draft NPSIB.</p> <p>Amend the compensation requirements and outcomes so as to achieve consistency with recommended best practice for compensation and/or national direction via the Draft NPSIB.</p> | <p>This provision applies more broadly and includes terrestrial, freshwater and marine based ecosystems and species.</p> |

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| <p>Threat Classification System (Townsend et al, 2008),</p> <p>(c) removal or loss of viability of a naturally rare or uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna, or</p> <p>(d) worsening of the New Zealand Threat Classification System (Townsend et al, 2008) conservation status of any Threatened or At Risk indigenous fauna</p> | <p>or biodiversity outcomes and is not consistent with national direction such as that contained within the (currently) Draft NPSIB.</p> <p>The section 32 report states that APP3 and APP4 align with the relevant Environment Court decisions on similar provisions in the 2010 RPS. OceanaGold notes that this Environment Court drafting of the compensation criteria was considered in the preparation of the Draft NPSIB. The NPSIB discussion document specifically invited stakeholders to consider the Environment Court version as an alternative approach to that which was being promulgated in the Draft NPSIB Appendices 3 and 4. It is understood that this alternative approach was not favoured by the majority of the submitters with most submitters supporting the Draft NPSIB's approach. This support was strongest amongst regional/unitary councils and territorial authorities (See the Summary of Submissions on the Proposed NPSIB, MfE 2020, p124 - 128). It is therefore highly unlikely that these alternative provisions will ultimately be preferred by the Government in its final drafting of the NPSIB.</p> <p>The Environment Court provisions incorporated in APP 3 and 4 have also not provided the precedence for SNA provisions recently</p> | | | |

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| | | <p>developed elsewhere in New Zealand. The West Coast RPS which was made operative in July 2020 aligns more closely to the Draft NPSIB as to when offsetting and compensation proposals are appropriate.</p> <p>OceanaGold is also concerned that APP3 and APP4 have not been thoroughly evaluated and tested in terms of section 32 of the RMA. These appendices still come within the definition of “provisions” of the PORPS which must be evaluated under section 32. For the purpose of its analysis under section 32 the authors have considered “provisions” to be limited to the policies and the methods of the PORPS.</p> <p>OceanaGold considers this to be an error and the section 32 reporting is flawed as a result.</p> | | |
| HAZ-NH – Natural Hazards | | | | |
| HAZ-NH-01 – Natural Hazards <i>Levels of risk to people, communities, and property from natural hazards within Otago do not exceed a tolerable level.</i> | Support | <p>OceanaGold agrees that it is appropriate to manage natural hazards in the region to ensure they do not exceed tolerable or acceptable risks.</p> | <p>Retain this objective. However, OceanaGold wishes to confirm that “tolerable” is consistent with the acceptable hazard risk which appears to be more commonly used in practice.</p> | No. |
| HAZ-NH-P3 – New Activities <i>Once the level of natural hazard risk associated with an activity</i> | Oppose in part | <p>OceanaGold is concerned that this does not adequately recognise that risks posed (including significant risks) can be appropriately managed by adopting conservative hazard risk assumptions in</p> | <p>Amend this policy so that it is clear that natural hazard risks may still exist (and at times be significant) but that</p> | No. |

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| <p>has been determined in accordance with HAZ-NH-P2, manage new activities to achieve the following outcomes:</p> <p>(1) When the natural hazard risk is significant, the activity is avoided,</p> <p>(2) When the natural hazard risk is tolerable, manage the level of risk so that it does not become significant, and</p> <p>(3) When the natural hazard risk is acceptable, maintain the level of risk.</p> | | <p>the design of structures and activities. For example, mining structures such as dams and tailing facilities can be designed so they will still function under significant seismic shaking.</p> | <p>activities can be managed in ways so as to reduce the effects of the natural hazard on the activity.</p> <p>Suggest amending as follows:</p> <p>Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ-NH-P2, manage new activities to achieve the following outcomes:</p> <p>(1) When the natural hazard risk <u>remains is-significant (despite mitigation or management of that risk)</u>, the activity is avoided,</p> <p>(2) When the natural hazard risk is tolerable (either with or without mitigation), manage the level of risk so that it does not become significant, and</p> <p>(3) When the natural hazard risk is acceptable (either with or without mitigation), maintain the level of risk.</p> | |
| HAZ-CL CONTAMINATED LAND | | | | |
| HAZ-CL-P15 – New Contaminated Land | Oppose in part. | OceanaGold notes that mining industries are including on the Ministry for the Environment's HAIL list. Mining activities such as those which | Delete this policy. | No. |

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| <p>Avoid the creation of new contaminated land or, where this is not practicable, minimise adverse effects on the environment and mana whenua values.</p> | | <p>occur within the Macraes operation will therefore create "new" contaminated land as a result of being scheduled as being of such a nature. Notwithstanding this, mining at Macraes can and is managed so as to not generate risks to human health or the environment as result of contamination. While OceanaGold acknowledges that this policy seeks to acknowledge that in some instances the creation of new contaminated land may not be practicable and instead requires 'minimisation'. OceanaGold submits that this is generally appropriate however there is some uncertainty as to what is required by "minimisation" and submits that this policy is not necessary when read in conjunction with HAZ-CL-P14 which requires contaminated land to be actively managed so that it does not pose an unacceptable risk to people and the environment. This is much more certain.</p> | | |
| HCV-HH- Historic Heritage | | | | |
| <p>HCV-HH-P5 – Managing historic heritage Protect historic heritage by: (1) requiring the use of accidental discovery protocols, (2) avoiding adverse effects on areas or places with special</p> | <p>Oppose</p> | <p>OceanaGold submits that this policy is likely to be overly restrictive and have the potential to significantly constrain the ability to develop sites which may be near to, or contain sites of historic heritage. HCV-HH-P3 recognises that Otago's heritage includes gold and other mining sites. Given the long-standing nature of the mining activity within the Macraes area, there are such</p> | <p>Amend this policy so that it recognises in some instances activities such as mining are locationally and functionally constrained and adverse effects on historic heritage cannot always be avoided. Insert a new suite of provisions to suitably recognise and importance of the mining in Otago.</p> | <p>No.</p> |

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| <p>or outstanding historic heritage values or qualities,</p> <p>(3) avoiding significant adverse effects on areas or places with historic heritage values or qualities,</p> <p>(4) avoiding, as the first priority, other adverse effects on areas or places with historic heritage values or qualities,</p> <p>(5) where adverse effects demonstrably cannot be completely avoided, remedying or mitigating them,</p> <p>and</p> <p>(6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).</p> | <p>historic sites within the Macraes operation. While OceanaGold seeks to enhance its early history where this is practicable and appropriate to do so, there may be some artefacts or sites which bear significance which may be affected by present day mining activities. If this is the situation, OceanaGold seeks where practicable to adopt measures such as the removal of significant artefacts, remediation and/or enhancement of other historic areas and features as part of its overall and ongoing site management. Often historic sites, artefacts or features are better preserved and recognised as a result of these actions. OceanaGold is concerned however that this policy which seeks as a priority to avoid adverse effects could adversely constrain its ability to continue to operate and develop mining sites at Macraes.</p> <p>Adverse effects can only be remedied or mitigated, if adverse effects "demonstrably cannot be completely avoided". It is not clear what this would require, especially as all adverse effects could be avoided by not undertaking the activity in the first instance.</p> | <p>similar to those provisions which have been developed for infrastructure activities and include reference to those provisions. Or amend the policy to achieve the following:</p> <p>Protect historic heritage by:</p> <p>(1) requiring the use of accidental discovery protocols,</p> <p>(2) avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities,</p> <p>(3) avoiding significant adverse effects on areas or places with historic heritage values or qualities, where adverse effects of any scale cannot be avoided due to functional or locational constraints of the activity, require adverse effects to be remedied and/or mitigated.</p> <p>(4) avoiding, as the first priority, other adverse effects on areas or places with historic heritage values or qualities,</p> <p>(5) where adverse effects demonstrably cannot be completely avoided, remedying or mitigating them, and</p> <p>(6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).</p> | <p>similar to those provisions which have been developed for infrastructure activities and include reference to those provisions. Or amend the policy to achieve the following:</p> <p>Protect historic heritage by:</p> <p>(1) requiring the use of accidental discovery protocols,</p> <p>(2) avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities,</p> <p>(3) avoiding significant adverse effects on areas or places with historic heritage values or qualities, where adverse effects of any scale cannot be avoided due to functional or locational constraints of the activity, require adverse effects to be remedied and/or mitigated.</p> <p>(4) avoiding, as the first priority, other adverse effects on areas or places with historic heritage values or qualities,</p> <p>(5) where adverse effects demonstrably cannot be completely avoided, remedying or mitigating them, and</p> <p>(6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).</p> | |

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| NFL – NATURAL FEATURES AND LANDSCAPES | | | | |
| NFL-P3 – Maintenance of highly valued natural features and landscapes <i>Maintain or enhance highly valued natural features and landscapes by:</i> (1) <i>Avoiding significant adverse effects on the values of the natural feature or landscape, and</i> (2) <i>Avoiding, remedying or mitigating other adverse effects.</i> | Oppose | <p>OceanaGold submits that there is uncertainty regarding the term “highly valued natural features and landscapes”. These are defined in the PORPS as being section 7(c) and 7(f) type landscapes, however OceanaGold is concerned that there appears to be little to distinguish these and the management of these types of landscapes from those recognised as being outstanding natural features and landscapes. For example, the criteria to identify both landscape types appear to be the same (refer APP9) and this policy is very similar to the requirements set out in NFL-P2. While this policy seeks to maintain and enhance highly valued landscapes, the management requirement is essentially the same as what is required in NFL-P2 which seeks instead to “protect” outstanding natural landscapes and features. Because these highly valued landscapes are not yet known, OceanaGold is concerned that this policy regime sets too high a bar for lesser valued landscapes.</p> | <p>Delete this policy, or amend so as to achieve the following:</p> <p><i>Maintain or enhance highly valued natural features and landscapes by</i></p> <p>(1) Avoiding significant adverse effects on the values of the natural feature or landscape, and</p> <p>(2) Avoiding, remedying or mitigating other adverse effects.</p> <p><u>ensuring development within such areas achieves appropriate integration with that landscape.</u></p> | No. |
| UFD – URBAN FORM AND DEVELOPMENT | | | | |
| UFD-04- Development in rural areas <i>Development in Otago's rural areas occurs in a way that:</i> | Oppose | <p>OceanaGold is concerned that this objective will act as a prohibition to a significant number of activities within the rural environment. It requires the avoidance of all impacts on significant values and features identified in this PORPS and does not allow for any ability to manage those impacts or</p> | <p>Delete this objective. Or alternatively, amend this objective to refer to “Urban development in Otago’s rural areas...”</p> | No. |

 

| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>(1) avoids impacts on significant values and features identified in this RPS,</p> <p>(2) avoids as the first priority, land and soils identified as highly productive by LF-LS-P19 unless there is an operational need for the development to be located in rural areas,</p> <p>(3) only provides for urban expansion, rural lifestyle, and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning or zoned within district plans as suitable for such development; and</p> <p>(4) outside of areas identified in (3) maintains and enhances the natural and physical resources that support the productive capacity, rural character, and long term viability of the rural sector and rural communities.</p> | <p>effects such as via mitigation, remediation, offsetting or compensation / enhancement type measures. A blanket "avoidance of impact approach" is not necessarily going to be the answer in every circumstance to achieving the best environmental and economic outcomes and this needs to be better recognised and balanced throughout the RPS.</p> <p>LF-LS-P19 refers to the use of land and soils for highly productive land use activities. The explanation attaching to this policy sets out that "highly productive land" is land used for primary production that provides economic and employment benefits. OceanaGold notes that the definition of primary production includes the use of land for mining. This is appropriate. However, the PORPS needs to better recognise that mining is a highly productive use of the land, instead of focussing on horticultural and agricultural uses as the only primary production activities that are to be prioritised.</p> | | | |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>UFD-P7- Rural Areas</p> <p>The management of rural areas:</p> <p>(1) provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS,</p> <p>(2) outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas,</p> <p>(3) enables primary production particularly on land or soils identified as highly productive in accordance with LF-LS-P19,</p> <p>(4) facilitates rural industry and supporting activities,</p> <p>(5) directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8,</p> <p>(6) restricts the establishment of residential activities, sensitive activities, and non-rural businesses which could adversely affect, including by way of reverse sensitivity, the</p> | <p>Oppose in part</p> | <p>OceanaGold is concerned that this policy is not sufficiently balanced in recognising the significant social and economic benefits that are generated from the use of rural land, particularly for primary production type uses and more specifically that of mineral extraction.</p> <p>OceanaGold submits that the PORPS should better provide for the Macraes mine operation. This is a significant industry in the Otago region, providing significant economic and social benefits. Like other regions around New Zealand which have significant mineral assets such as the West Coast and the Waikato region, the Otago RPS should suitably recognise this mineral resource which exists in its region and seek to protect an ability to access it and mine it, now and into the future.</p> | <p>Amend this policy and/or insert new provisions which suitably recognise and provide for significant existing industry activities such as the Macraes mine operation in the rural environment. The provisions need to suitably recognise that ongoing access to significant mineral resources within the Otago region is important in maintaining and enhancing the social and economic wellbeing of people and communities.</p> | <p>No.</p> |

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| PROVISION | POSITION | REASONS | RELIEF SOUGHT (or other such similar outcome that has the same effect as the relief sought) | Does this provision relate to Freshwater? |
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| <p>productive capacity of highly productive land, primary production and rural industry activities, and</p> <p>(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate an operational need to be located in rural areas.</p> | | | | |

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