

Written Submission on Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021

Submissions must be received by Otago Regional Council by 3 pm Tuesday 29 November 2022

To: Otago Regional Council

1. **Name of submitter** *(full name of person/persons or organisation making the submission. Note: The submissions will be referred to by the name of the submitter)*

Oceana Gold (New Zealand) Limited

2. This is a submission on the **Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021**.
3. I **could not** gain an advantage in trade competition through this submission.
4. I **am** directly affected by an effect of the subject matter of the submission that
- adversely affects the environment; and
 - does not relate to trade competition or the effects of trade competition
5. I **wish** to be heard in support of my submission
6. If others make a similar submission, I **will** consider presenting a joint case with them at a hearing
7. **Submitter Details**

- a. **Signature of submitter** *(or person authorised to sign on behalf of submitter)*



- b. **Signatory name, position, and organisation** *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

Name Alison Paul

Position GM Corporate & Legal Affairs

Organisation Oceana Gold (New Zealand) Limited

- c. **Date**

29 November 2022

Address for service of submitter *(This is where all correspondence will be directed)*

d. Contact person *(name and designation, if applicable)*

Alison Paul

e. Email:

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g. Postal address *(or alternative method of service under [section 352](#) of the Act):*

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8. My submission is:

Please see the attached table in Appendix 1 which sets out the provisions being submitted on, the reasons for the submission and specific amendments sought. OceanaGold also seeks any other or further consequential amendments which are not specifically set out in the table but which will address its concerns.

Appendix 1 – Oceana Gold’s specific submissions on PORPS freshwater provisions

Provision	Position	Reasons	Relief sought (or other such similar outcome that has the same effect as the relief sought)
SRMR-15 – Freshwater demand exceeds capacity in some places	Support	The explanation to this issue identifies that there are environmental, economic and social impacts from freshwater abstraction. It is important that any amendments to this issue recognise and provide for the economic benefits of use when allocating resources.	No amendments sought.
SRMR-16 – Declining water quality has adverse effects on the environment, our communities, and the economy	Support	The explanation to this issue identifies that there are environmental, economic and social impacts and components to declining water quality. It is important that any amendments to this issue continue to take these into account, and recognise that matters to address declining water quality may have consequential effects. For example reducing the number or amount of discharges which are direct to water may lead to an increased number or amount of discharges to land.	No amendments sought.
LF-WAI-O1 Te Mana o te Wai The mauri of Otago’s water bodies and their health and well-	Support in part and amend.	OceanaGold would like to see this objective amended to promote the protection - or where degraded, improvement –	“The mauri of Otago’s water bodies and their health and well-being is protected, and restored

<p>being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:</p> <p>(1) water is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,</p> <p>(2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,</p> <p>(3) each water body has a unique whakapapa and characteristics,</p> <p>(4) water and land have a connectedness that supports and perpetuates life, and</p> <p>(5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.</p>		<p>of significant water resources so that there is improved consistency with 'Te mana o te Wai' as set out in the NPSFM.</p>	<p><u>improved</u> where it is degraded ...”</p>
<p>LF-WAI-P1- Prioritisation In all management of fresh water in Otago, prioritise:</p> <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,</p> <p>(2) second, the health and well-being needs of people, te hauora</p>	<p>Oppose in part and amend.</p>	<p>OceanaGold submits that this policy should be amended to provide clarity on priorities where there is a conflict between them e.g. housing development and water needed for drinking water with potential effects on the health and well being of a water body.</p>	<p>Amendments to give effect to the submission.</p>

<p>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 (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>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: (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 (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>Support in part and amend.</p>	<p>OceanaGold submits that amendments are required to ensure this policy reflects the requirements of the NPS-FM.</p>	<p>Amendments to give effect to the submission.</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> <p>(a) prevails over any limit or action plan developed for the FMU for the same attribute, unless explicitly stated to the contrary, and</p> <p>(b) must be no less stringent than any limit set for the parent FMU for the same attribute, and</p> <p>(c) must not conflict with any limit set for the underlying FMU for attributes that are not the same, and</p> <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-VM-O3 – North Otago FMU vision</p> <p>By 2050 in the North Otago FMU:</p> <p>(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,</p>	<p>Support in part and amend.</p>	<p>A focus on natural migration does not provide for trap and transfer which can be an effective option for providing for migration.</p> <p>Water body is defined in s 2 RMA as “means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal</p>	<p>(4) <u>provision is made for indigenous species can to migrate easily and as naturally as possible</u> to and from the coastal environment,</p> <p>(5) land management practices reduce discharges of nutrients and other contaminants to water bodies so that <u>where water bodies are intended for human</u></p>

<p>(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,</p> <p>(3) healthy riparian margins, wetlands, estuaries and lagoons support thriving mahika kai, indigenous habitats and downstream coastal ecosystems,</p> <p>(4) indigenous species can migrate easily and as naturally as possible to and from the coastal environment,</p> <p>(5) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(6) innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.</p>		<p>marine area”. To avoid any suggestion that this includes pit lakes or water which form on top of tailings dams, which are not intended for contact recreation or stock drinking, and may be fenced off, OceanaGold suggests an amendment to exclude these from the higher water quality standards.</p>	<p><u>contact</u> ,they are safe for human contact, and ...</p>
<p>LF-FW-O8 – Fresh water In Otago’s water bodies and their catchments:</p> <p>(1) the health of the wai supports the health of the people and thriving mahika kai,</p> <p>(2) water flow is continuous throughout the whole system,</p>		<p>It is unclear what is meant by “continuous” and whether this concept provides for diversions and dams which are commonly employed across the Otago region. An amendment is sought to provide for continuous water flow “where practicable”. Sub-paragraph (4) refers to migration occurring “easily and</p>	<p>LF-FW-O8 – Fresh water In Otago’s water bodies and their catchments:</p> <p>(1) the health of the wai supports the health of the people and thriving mahika kai,</p> <p>(2) <u>where practicable</u>, water flow is continuous throughout the whole system,</p>

<p>(3) the interconnection of fresh water (including groundwater) and coastal waters is recognised, (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and (5) the significant and outstanding values of Otago’s outstanding water bodies are identified and protected.</p>		<p>as naturally as possible”. This does not provide for trap and transfer, although requires intervention and is not natural, can be very effective at providing for migration. An amendment is also proposed to requirement maintenance and enhancement as opposed to protection of habitats.</p>	<p>(3) the interconnection of fresh water (including groundwater) and coastal waters is recognised, (4) native fish <u>migration is provided for and the values of their habitat are maintained and enhanced</u> can migrate easily and as naturally as possible and taoka species and their habitats are protected, and (5) the significant and outstanding values of Otago’s outstanding water bodies are identified and protected.</p>
<p>LF-FW-09 – Natural wetlands Otago’s natural wetlands are protected or restored so that: (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>	<p>Oppose in part and amend.</p>	<p>OceanaGold would like to see this objective amended to promoting the restoration, rather than restoration as an absolute objective. This will ensure better consistency with the NPS-FM. It is also unclear in (1) what the “range” or values is, what needs to be enhanced, to what level and what the endpoint of enhancement is? It is submitted that the desire to see no decrease in the range and diversity of indigenous ecosystem types and habitats, or health etc are unachievable. Even without any intentional drainage or removal of wetlands, climatic conditions (including as a result of long-term climate change) and pest problems will</p>	<p>“Otago’s natural wetlands are protected, <u>improved</u> or restored so that:” OceanaGold would also like to see further amendments address it’s concerns.</p>

		<p>see effects and this needs to be acknowledged in this objective. Similarly in (3) it is unclear what end point there is for improvement or why amenity values has been included in this objective.</p>	
<p>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) fresh water is allocated within environmental limits and used efficiently.</p>	<p>Oppose in part and amend.</p>	<p>The drafting of this policy is too absolute and could mean that the environmental outcomes, attribute states and limits must protect any habitat of a single (or multiple) indigenous plant or animal that is associated with a water body, whether in it or near it.</p>	<p>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 <u>significant</u> indigenous species associated with water bodies are <u>maintained and enhanced</u>protected, including by providing for fish passage,</p>

<p>LF-FW-P9 – Protecting Natural Wetlands</p> <p>Protect natural wetlands by:</p> <ol style="list-style-type: none"> 1. avoiding a reduction in their values or extent unless: <ol style="list-style-type: none"> (a) the loss of values or extent arises from: <ol style="list-style-type: none"> i. the customary harvest of food or resources undertaken in accordance with tikata Maori, 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 of operation of specific infrastructure, or other infrastructure, vii. natural hazards works, or (b) the Regional Council is satisfied that: <ol style="list-style-type: none"> i. the activity is necessary for the construction or upgrade of specified infrastructure, ii. the specified infrastructure will provide significant natural 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 	<p>Oppose and amend.</p>	<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 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>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>
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<p>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 2. not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that: (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 for the effects management hierarchies in (1)(b)(iv) and (1)(b)(v).</p>		<p>OceanaGold understands that the Government will initiate amendments to the regulations 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>LF-FW-P10 Improve the ecosystem health, hydrological functioning, water quality and extent of natural wetlands that have been degraded or lost by requiring, where possible: (1) an increase in the extent and quality of habitat for indigenous species, (2) the restoration of hydrological processes,</p>	<p>Support in part and amend.</p>	<p>OceanaGold supports the inclusion of "where possible". It submits that the "restoration" of hydrological processes is aspirational and not easily achieved or measurable. Achieving the other matters in (1), (3) and (4) will have positive consequential effects on wetland hydrological processes and accordingly (2) can be removed.</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: (1) an increase in the extent and quality of habitat for indigenous species, (2) the restoration of hydrological processes,</p>

<p>(3) control of pest species and vegetation clearance, and (4) the exclusion of stock.</p>			<p>(3) control of pest species and vegetation clearance, and (4) the exclusion of stock.</p>
<p>LF-FW-P15 – Stormwater and wastewater discharges Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by: (1) except as required by LF-VM-O2 and LF-VM-O4, 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: (a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available, (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,</p>	<p>Support in part and amend.</p>	<p>It is unclear whether this policy is intended to apply to industrial discharges which contain contaminants, but may or may not be mixed with stormwater or waste water. To the extent that it does apply to industrial discharges, OceanaGold requests amendments which recognise that there may be functional or locational constraints or other reasons of practicability as to why industrial discharges may be made to water, and to allow for direct irrigation to land with nitrate or sulphate rich water.</p>	<p>Amendments which address OceanaGold's concerns.</p>

<p>(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,</p> <p>(e) stormwater and wastewater discharges to meet any applicable water quality standards set for FMUs and/or rohe, and</p> <p>(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</p> <p>(3) promoting the reticulation of stormwater and wastewater in urban areas.</p>			
<p>LF-LS-P18 – Soil erosion</p> <p>Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from land use activities by:</p> <p>(1) implementing effective management practices to retain topsoil in-situ and minimise the potential for soil to be discharged to water bodies, including by controlling the timing, duration, scale and location of soil exposure,</p> <p>(2) maintaining vegetative cover on erosion-prone land, and</p>	<p>Oppose in part and amend.</p>	<p>There is an element of practicability in implementing methods to minimise soil erosion, for example climatic conditions. It is important to recognise this in the policy.</p>	<p>Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from land use activities by, <u>to the extent practicable</u>:</p> <p>(1) implementing effective management practices to retain topsoil in-situ and minimise the potential for soil to be discharged to water bodies, including by controlling the timing, duration, scale and location of soil exposure,</p> <p>(2) maintaining vegetative cover on erosion-prone land, and</p>

(3) promoting activities that enhance soil retention.			(3) promoting activities that enhance soil retention.
<p>LF-LS-P21- Land use and fresh water</p> <p>Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</p> <p>(1) reducing direct and indirect discharges of contaminants to water from the use and development of land, and</p> <p>(2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</p>	<p>Oppose in part and amend,</p>	<p>Direct and indirect discharges may not result in adverse effects and therefore a reduction may not be a necessary requirement.</p>	<p>Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</p> <p>(1) <u>where practicable</u> reducing direct and indirect discharges of contaminants to water from the use and development of land, and</p> <p>(2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</p>