

Submission	
To:	Otago Regional Council, Waitaki District Council
Date:	29 May 2020
Applicant:	OceanaGold (New Zealand) Limited
Description:	Applications for resource consent associated with the proposed Deepdell North III Project at Macraes Mine
Submitters	Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou (referred to as Kā Rūnaka) neither supports nor opposes these applications for resource consent. We <u>do not</u> wish to be heard in support of this submission at a hearing.

1. SCOPE OF THE SUBMISSION

This submission relates to all of the resource consents sought by OceanaGold (New Zealand) Limited (OGL) for the proposed Deepdell North III Project (the Project) and Macraes Mine.

2. MANA WHENUA

Mana whenua are those who have mana (authority) over whenua (land) and this term is often used to refer to the whānau (families), hapū (sub-tribes) or iwi (tribes) of a particular area who are recognised as holding the traditional rights and responsibilities within that area to manage and govern natural resources. Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou are mana whenua within the area of influence of the Deepdell North III Project. They whakapapa to the tribes of Waitaha, Kāti Mamoe and Kāi Tahu¹.

3. IWI STATUTORY FRAMEWORK

3.1 Ngāi Tahu Claims Settlement Act 1998

The Ngāi Tahu Claims Settlement Act (NTCSA) included as cultural redress several mechanisms to recognise and give practical effect to Ngāi Tahu mana over taoka resources and cultural landscapes. Included among these are statutory acknowledgements.

The aim of statutory acknowledgments is to improve the effectiveness of Ngāi Tahu participation under the Resource Management Act in decisions affecting taonga species, customary fish species, and acknowledged cultural landscapes. Taonga species recognised in the NTCSA that may be affected by the Project are discussed in Section 4.4 below.

¹ In the south of the South Island, the local Māori dialect uses a 'k' interchangeably with 'ng'.

3.2 Kāi Tahu ki Otago Natural Resource Management Plans

The Kāi Tahu ki Otago Natural Resource Management Plans 1995 and 2005 are the principal resource management planning documents for Kāi Tahu ki Otago.

The Natural Resource Management Plans express Kāi Tahu ki Otago values, knowledge and perspectives on natural resource and environmental management issues. The plans are an expression of kaitiakitaka. While the plans are first and foremost planning documents to assist Kāi Tahu ki Otago in carrying out their kaitiaki roles and responsibilities, they are also intended to assist others in understanding mana whenua values and policy.

The following objectives are articulated in the NRMP:

- The rakatirataka and kaitiakitaka of Kāi Tahu ki Otago is recognised and supported.
- Ki Uta Ki Tai management of natural resources is adopted within the Otago region.
- The mana of Kāi Tahu ki Otago is upheld through the management of natural, physical and historic resources in the Otago Region.
- Kāi Tahu ki Otago have effective participation in all resource management activities within the Otago Region.
- The waters of the Otago Catchment are healthy and support Kāi Tahu customs
- Contaminants being discharged directly or indirectly to water are reduced
- Habitats and the wider needs of mahika kai, taoka species and other species of importance to Kāi Tahu are protected.
- Mahika kai resources are healthy and abundant within the Otago Region.
- Mahika kai is protected and managed in accordance with Kāi Tahu ki Otago tikaka.
- Indigenous plant and animal communities and the ecological processes that ensure their survival are recognised and protected to restore and improve indigenous biodiversity within the Otago Region.

The following mining activities are identified as issues:

- Groundwater discharges
- Treated mine water discharges
- Stormwater runoff
- Diversion of watercourses upstream and downstream of mines

The following issues are articulated in the NRMP:

- The cumulative effects of discharges
- The inability to address indirect and/or cumulative effects means that many issues of significance to Kāi Tahu are not addressed during resource management processes.
- Loss of wetlands within the East Otago Catchments

- Loss of indigenous biodiversity in the region
- Loss of species of particular importance
- Kā Papatipu Rūnaka believe that inappropriate use and development will adversely impact on:
 - the diversity & abundance of terrestrial and aquatic species;
 - the ability to access & gather mahika kai resources; and
 - the ability to educate future generations in significant mahika kai practices

The following policies are articulated in the NRMP:

- To protect and restore the mauri of all water
- To require that all practical measures are taken to minimise sedimentation or discharge of sedimentation
- To oppose the draining of wetlands. All wetlands are to be protected.
- To protect and enhance existing wetlands, support the reinstatement of wetlands and promote assistance for landowners for fencing-off wetlands.
- To require Kāi Tahu ki Otago participation in the management of mahika kai, both introduced and indigenous.
- To require that all assessments of effects on the environment include an assessment of the impacts of the proposed activity on mahika kai
- Land use change, in particular land use intensification impacts the abundance of, diversity, and access to mahika kai species
- To require all applications for mining or quarrying to include:
 - site rehabilitation plans that include the planting of indigenous species and address long term concerns
- To require all earthworks, excavation, filling or the disposal of excavated material to:
 - Avoid adverse impacts on significant natural landforms and areas of indigenous vegetation;
 - Avoid, remedy, or mitigate soil instability; and accelerated erosion;
 - Mitigate all adverse effects

4. SUBMISSION

4.1 Mauri

All things possess a mauri or life force. The primary resource management principle for Kā Rūnaka is the protection of the mauri of an ecosystem. If the mauri of the natural environment is degraded it no longer has the capacity to support cultural uses and values.

Kā Rūnaka have determined that adverse effects on mauri are not addressed by the mitigation measures proposed by OGL. While the measures go some way to addressing effects on mauri, the Project will forever alter the mauri of the Project area. Mauri cannot be replaced or created. It must be protected and enhanced. The Project is likely to have adverse effects on the mauri of wai Māori, mahika kai and taoka in particular.

4.2 Cumulative effects

He taura whiri kotahi mai ano te kopuka tai no i te pu au / From the source to the mouth of the sea all things are joined together as one

In accordance with tikaka Māori, a holistic approach should be taken to the management of the natural environment. This world view is articulated by the philosophy of 'ki uta ki tai', which is a holistic natural resource management framework. A ki uta ki tai approach recognises the interconnectedness of all things. Kā Rūnaka have concerns with the way the statutory framework views projects one at a time, without considering their part in an overall whole – in this case, by looking at the Project without considering it as part of the Macraes Gold Project. This makes it difficult to assess and address cumulative effects of the Macraes Gold Project on cultural values as each component is consented one at a time. While this is not something that can be addressed by OGL or through the consenting process, it is important to recognise this context when considering this submission.

4.3 Kaitiakitaka and rakatirataka

Kaitiakitaka is an inherited responsibility of those who hold mana whenua to ensure that the mauri of the natural resources of their takiwā is sustained. Kā Rūnaka have this kaitiaki responsibility for the Project area and are responsible for ensuring that its natural resources are available for Kāi Tahu whānau to use now and in the future. Kā Rūnaka therefore have an intergenerational perspective and are concerned about the long-term effects of the Project after its completion.

Kaitiakitaka is an expression of rakatirataka.

Rakatirataka is customary authority over natural resources, including mahika kai and other taoka tuku iho (treasures passed down through generations). Rakatirataka is inextricably linked to kaitiakitaka.

The statutory framework does not allow mana whenua to fully exercise rakatirataka and kaitiakitaka, because it does not allow mana whenua to assess applications holistically in accordance with ki uta ki tai. Mana whenua do not have the authority to decline applications that negatively affect cultural values – that authority rests with Councils. While this issue is not something that can be addressed by OGL or the consent authorities, it is important to recognise this context when considering this submission.

Kaitiakitaka and rakatirataka will be negatively affected if Kā Rūnaka are not able to address their concerns with the application prior to a decision being made on the granting of resource consents.

Outcome sought: that Kā Rūnaka and OGL work together to address potential effects of the application. Ideally this will occur before the hearing and/or granting of any resource consents to allow the opportunity for any proposed measures to be incorporated into consent conditions. That terms of consent are no longer than 25 years.

4.4 Mahika kai and Taoka Species

Mahika kai is the cornerstone of Kāi Tahu identity. Mahika kai is a term that literally means “food workings”. It refers to the places where food is gathered and also embodies the traditions, customs and collection methods, and the gathering of natural resources for cultural use.

Taoka species are those species that are treasured by Kāi Tahu. Some of these have been recognised in the Ngāi Tahu Claims Settlement Act, but several important species were excluded. There is much overlap between mahika kai and taoka species as many species are treasured for their value as food. Kā Rūnaka also note that ecosystems and habitats can be considered taonga, an example being wetlands.

The Project will have a significant negative effect on mahika kai and taoka species through:

- The removal of approximately 54.79ha of indigenous vegetation. This will affect:
 - 71 indigenous plant species (including 13 threatened and two Taonga species)
 - 9 indigenous bird species (including one threatened and seven Taonga species)
 - 4 indigenous reptile species (including three threatened species)

- A largely unknown invertebrate community
- Negative effects on ecosystems valued by Kā Rūnaka such as:
 - Destruction of 0.32ha of ephemeral wetland containing threatened species
 - Destruction of 0.07ha of seepage wetland containing threatened species
 - Destruction of 3.73ha of shrubland containing threatened species

Taonga species recognised in the NTCSA that are potentially affected by the application are listed in Table 1 below:

Species name	Common name	Māori name
<i>Anas gracilis</i>	Grey teal	Tete
<i>Larus dominicanus</i>	Black-backed gull	Karoro
<i>Anthus novaeseelandiae</i>	Pipit	Pīhoihoi
<i>Circus approximans</i>	Harrier hawk	Kāhu
<i>Gerygone igata</i>	Grey warbler	Riroriro
<i>Tadorna variegata</i>	Paradise shelduck	Pūtakitaki
<i>Hemiphaga novaeseelandiae</i>	Kererū	Kererū
<i>Juncus distegus</i>	Two-storey rush	Wīwī
<i>Juncus pusillus</i>	Dwarf rush	Wīwī

Table 1: Taonga species potentially affected by the Deepdell North III Project

Kā Rūnaka are concerned about the lack of information available to determine what the potential negative effects on some species might be e.g. very little information is provided on potential effects on lizards and invertebrates. Where this is the case, Kā Rūnaka support the use of the precautionary principle.

Kā Rūnaka also note that the application has emphasised addressing effects on threatened species. Kā Rūnaka believe that it is preferable and easier to look after indigenous species before they are threatened rather restoring species after they have been negatively affected.

Kā Rūnaka also have concerns about the use of the biobanking approach and creation of Ecological Enhancement Areas (EEAs). Kā Rūnaka do not have a full understanding of the biobanking system that has been proposed, and would like to have a greater understanding and some input into the system before they can support its use. EEAs are areas of high mahika kai and biodiversity value that already exist, which has led to them being selected as

the preferred means of offsetting. The increased legal protection and enhancement of existing mahika kai and taoka species is supported by Kā Rūnaka, but it is not the same as creating new areas of ecological significance to replace those that will be destroyed by the Project.

Kā Rūnaka also acknowledge and support the other proposed measures including creation of artificial habitat for species. However it is difficult to be certain that artificial habitat is equally as good as natural habitat for species, and Kā Rūnaka prefer that mahika kai and taoka species are able to inhabit good quality natural habitats.

Outcome sought: That Kā Rūnaka are involved in the drafting of the Ecological Management Plan and any Ecological Enhancement Area Management Plans (EEAMPs) for Deepdell North III to support identification of any further opportunities to address adverse effects on mauri, mahika kai and taoka species. Ideally these plans would be written before resource consents were granted. Should consents be granted, Kā Rūnaka would also like to see the inclusion of a condition requiring OGL to comply with any Ecological Management Plan and EEAMP written for the Project.

Ancestral landscapes

The Macraes district is part of a wider ancestral landscape of significance to Kā Rūnaka.

The East Otago area is important as a place of settlement, a burial place and as an ancestral landscape that embodies the ancestral, spiritual and religious traditions of all the generations prior to European settlement. East Otago is therefore an important taoka tuku iho for Kā Rūnaka.

The Project will affect the ancestral landscape it is located within through visual effects on landscape, and potential effects on any sites of significance in the Project area. Although there are no archaeological sites recorded in the area of the project, there may be sites in the area that are unknown.

Outcome sought: Kā Rūnaka support the restoration of the landscape as specified in the AEE, and would like to continue to work with OGL to ensure that long term effects of the whole Macraes Gold Project on the ancestral landscape are avoided, or appropriately addressed where this is not possible. Kā Rūnaka support the inclusion of an Accidental Discovery Protocol in the conditions of consent should consent be granted.

Wai Māori

Ko te wai te ora ngā mea katoa / Water is the life giver of all things

Water plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. The condition of water is seen as a reflection of the health of Papatūānuku. The loss and degradation of this resource is a significant issue for Kāi Tahu.

The main surface water bodies in the vicinity of the Deepdell North Stage III Project are part of the Deepdell Creek catchment. Deepdell Creek is a tributary of the Waihemo River, which is of great significance to Kā Rūnaka.

Freshwater crayfish (*Paranephrops zealandicus*, at risk: declining) and Taieri flathead galaxids (*Galaxias depressiceps*, threatened: nationally vulnerable), are present in the project area. These are mahika kai and taoka species that will be adversely affected by the Project. Wai Māori in the Project area may also be negatively affected by excavation of the pit resulting in decreased surface and subsurface flow of water into some water courses and sediment runoff entering the waterway affecting water quality.

Kā Rūnaka are not confident that the mitigation measures proposed adequately address negative effects of the Project on wai Māori due to a lack of information on potential hydrological impacts on the Deepdell Creek catchment. Kā Rūnaka support the mitigation measures that have been proposed i.e. adherence to best practice and Standard Operating Procedures throughout the mining activities occurs to prevent sedimentation, and creation of freshwater crayfish habitat in the western clean water drain. However it is not clear whether these measures will adequately address all potential negative impacts on wai Māori.

Outcome sought: that Kā Rūnaka and OGL work together to address potential effects on wai Māori. Ideally this will occur before the hearing and/or granting of any resource consents to allow the opportunity for any proposed measures to be incorporated into consent conditions.

5. OUTCOMES SOUGHT

Kā Rūnaka seek the following outcomes:

1. That the consenting authorities apply the precautionary principle where effects are not well understood. The precautionary principle is a strategy for approaching issues of potential harm when adequate knowledge on the matter is lacking. Kā Rūnaka understand this principle to mean in a resource management context that applications should only proceed when there is evidence that effects can be appropriately managed. If it is unclear whether effects can be managed, applications should not proceed until there is sufficient evidence to suggest that there are no adverse effects, or that adverse effects of the activity are acceptable. Kā Rūnaka support the use of this approach when assessing resource consent applications.
2. That Kā Rūnaka are involved in the drafting of the Ecological Management Plan and any EEAMPs for Deepdell North III to support identification of any further opportunities to address adverse effects on mauri, mahika kai and taoka species.
3. Ideally these plans would be written before resource consents were granted.
4. There should be a condition requiring OGL to comply with any Ecological Management Plan and EEAMP written for the Project.
5. That the Heritage New Zealand Accidental Discovery Protocol is included in consent conditions to ensure that any unidentified culturally significant sites are protected
6. That if resource consent is granted, consent conditions include controls that ensure that at the closure of the project the site is managed appropriately e.g. managing long term discharges and geological stability.
7. That terms of consent are no longer than 25 years.

Kā Rūnaka also acknowledge their existing relationship with OGL, which has been formalised most recently through a Protocol of Engagement signed in 2017.

OceanaGold acknowledges in the Protocol of Engagement that the areas of operation of the Macraes Gold Project have significance to Kā Rūnaka, and that the operation of the Macraes Gold Project can potentially have adverse impacts on the interests of Kā Rūnaka.

Both parties have agreed to commit to progressing solutions to the environmental and cultural concerns of Kā Rūnaka, and have agreed to work collaboratively in developing and implementing initiatives to address any adverse impacts of the Macraes Gold Project on the cultural values in the receiving environment.

Kā Rūnaka will work with OGL to develop an appropriate package to address adverse effects on cultural values of the Deepdell North III Project.

Submission lodged on behalf of Kāti Huirapa Rūnanga ki Puketeraki and Te Rūnanga o Ōtākou.

Address for Service:

Kathryn Gale
Kairangahau Wai Māori
Aukaha
PO Box 446
Dunedin 9054
Phone Number: (03) 477 0071
E-mail: kathryn@aukaha.co.nz