



23 June 2023

Otago Regional Council

P O Box 1954

DUNEDIN 9054

Tēnā koutou, ko tēnei mihi atu ki a koutou, ngā mema o te komiti, ngā kaiwhakawa o ngā mea e pa ana tēnei kaupapa taumaha, me ki, o tātou nei rohe moana, he taoka o tātou nei whānau, hapū me te iwi. Ki a rātou kua whetu rangitia, te hunga wairua, haere, moe mai, oki oki mai, kati.

RE: Resource Consent Application RM22.434 – Cold Gold Clutha Limited

To take and use surface water from the Clutha River / Mata-Au (non-consumptive), disturb the bed of the Clutha River / Mata-Au and discharge contaminants (sediment) to the surface water of the Clutha River / Mata-Au for the purpose of operating a suction dredge; and to disturb the bed of the Clutha River / Mata-Au for the construction of two slipways. The proposal is a discretionary activity under Rule 12.1.5.1, 12.C.3.2(i) and 13.5.3.1, of the Regional Plan: Water for Otago.

Applications have also been made to the Queenstown Lakes District Council RM220834 and the Central Otago District Council RC220255 for this activity.

This is a submission on a publicly notified resource consent application pursuant to Section 95A of the Resource Management Act 1991.

Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Kāi Tahu) **oppose** this application.

We **do wish** to be heard in support of this submission at a hearing.

1. SCOPE OF THE SUBMISSION

1.1 This submission relates to the application by Cold Gold Clutha Limited in its entirety.

2. INTRODUCTION

2.1 The takiwā of Te Rūnanga o Moeraki centres on Moeraki and extends from Waitaki to Waihemo and inland to the Main Divide.

2.2 The takiwā of Kāti Huirapa Rūnaka ki Puketeraki centres on Karitane and extends from the Waihemo River/Shag River to Purehurehu/north of Heywards Point.

2.3 The takiwā of Te Rūnanga o Ōtākou centres on Muaūpoko/Otago Peninsula and extends from Purehurehu Point/north of Heyward Point to the Clutha River/Mata-au River.

2.4 The takiwā of Hokonui Rūnanga centres on the Hokonui region and includes a shared interest in the lakes and mountains between Whakatipu-Waitai and Tawhitarere and other Murihiku Rūnanga and those located from Waihemo southwards.

2.5 The takiwā of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Kāi Tahu ki Otago) extends to the inland lakes and mountains of Otago. Our interests in the inland area and along the Mata-Au are shared with Ngāi Tahu ki Murihiku.

2.6 The upper reaches of the Mata-au between Luggate and the top of Lake Dunstan are within the takiwā of Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku.

3. TE RŪNANGA O NGĀI TAHU AND THE NGĀI TAHU CLAIMS SETTLEMENT ACT 1998

3.1 Te Rūnanga o Ngāi Tahu is the governing iwi authority established by the Te Rūnanga o Ngāi Tahu Act 1996 and is recognised as the representative of Ngāi Tahu / Kāi Tahu Whānui.

- 3.2 Te Rūnanga o Ngāi Tahu is made up of 18 papatipu rūnaka. Papatipu rūnaka are a contemporary focus for whānau and hapū (extended family groups). Through this tribal council structure Te Rūnanga o Ngāi Tahu is accountable to the tribal members. In practice, Te Rūnanga o Ngāi Tahu encourages consultation with the papatipu rūnaka and defers to the views of kā rūnaka when determining its own position.
- 3.3 The Ngāi Tahu Claims Settlement Act 1998 (Settlement Act) gives effect to the Deed of Settlement signed by the Crown and Te Rūnanga o Ngāi Tahu on 21 November 1997. The purpose of these documents was to:
- Confirm the Treaty relationship, obligations and responsibilities between Kāi Tahu and the Crown;
 - Achieve a final settlement of Kāi Tahu historical claims against the Crown; and
 - Confirm Kāi Tahu tino rakatirataka. This includes an express acknowledgement (in both the Settlement Act and the earlier Deed) that:
“The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.”
- 3.4 The Deed of Settlement and Settlement Act also acknowledges and enables Ngāi Tahu / Kāi Tahu to express its traditional relationship with the natural environment and to exercise its kaitiaki responsibilities.
- 3.5 The Ngāi Tahu Claims Settlement Act included as cultural redress mechanisms to recognise and give practical effect to Ngāi Tahu mana over taoka resources and cultural landscapes, including a statutory acknowledgment of the association of Ngāi Tahu with the Mata-au.¹
- 3.6 To acknowledge the association with the district and its resources, Māori words are used within this document and a translation is provided in Appendix 1.

4. THE WHAKAPAPA OF FRESHWATER

- 4.1 Nā te Pō ko te Ao,

¹ Ngāi Tahu Claims Settlement Act 1998, Schedule 40.

tana ko te Ao-marama,`
tana ko te Aoturoa,
tana ko Kore-te-whiwhia,
tana ko Kore-te-rawea,
tana ko Kore-te-tamaua,
tana Ko Kore-te-matua,
tana ko Māku.

Ka noho a Māku ia mahora-nui-a-tea, ka puta ko Raki.

[From the Night comes the Day, the Daylight, the Longstanding Day, the Intangible Voids through to the Parentless Realm who create Moisture. Moisture couples with the Inner Space and gave birth to Raki – the sky].

- 4.2 For Kāi Tahu Whānui when Te Māku (moisture) mated with Mahoranuiatea (a cloud that grew from the dawn), Raki (or Ranginui in some accounts) (the Sky Father) was born of that union. Raki coupled with a number of wives, including Papatūanuku (Mother Earth). Today, all water is seen to have originated from the separation of Raki and Papatūanuku and their continuing tears for one another. Rain is Raki's tears for his beloved Papatūanuku and mist is generally regarded as Papatūanuku's tears for Raki.
- 4.3 From Raki's many unions came the offspring, who together were responsible for creating the elements that constitute our total world today, both animate and inanimate, including the mountains, rivers, forests and seas, and all fish, bird and animal life. Kāi Tahu claim the same descent from Raki and his wives and are therefore connected to all things by whakapapa.
- 4.4 Whakapapa describes bonds, relationships, and connections, and binds Kāi Tahu to the lands, waters and all life supported by them. Tribal whakapapa thus links the cosmological world of the gods to the present generation, giving rise to a spiritual relationship and respect for the mauri (life force) evident in the tribal landscape, and to the rights inherent in rakatirataka and the associated and fundamental duties of kaitiakitaka.
- 4.5 Similarly, whakawhanaukataka (kinship, relationships, connectedness) is expressed in the resource management approach "Ki Uta Ki Tai", which emphasises the holistic

management of the interrelated elements within the natural environment.

- 4.6 Water plays a significant role in our 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 through dredging is a significant issue for Kāi Tahu.

5. MAURI AND CULTURAL HEALTH

- 5.1 The cultural landscape holds many values for our people, from the celestial home of Rakinui to the earthly home of Papatūānuku and all things in between. This connectedness from the beginning of time is imbued with a life force often referred to as the “mauri” evident in all objects animate or inanimate.

- 5.2 Mauri is a critical element of the spiritual relationship of Kāi Tahu with wai māori. Water bodies with an intact mauri are characterised by good quality waters that flow with energy and life, that will sustain healthy ecosystems and that support mahika kai and other cultural values.

- 5.3 The primary management principle for Kāi Tahu is the protection of the mauri of a resource from desecration. If mauri is viewed in the context of life, energy and vitality it is easier to understand how activities can change and degrade the mauri of rivers. This can be done by altering the food or energy sources, the water quality, the habitat, the flow, and the biotic interactions of the river ecosystem.

- 5.4 While there are many intangible qualities of mauri, there are also elements of physical health that enable Kā Rūnaka to assess the cultural health of a water body, including:

- Aesthetic qualities e.g. natural character
- The diversity and abundance of indigenous flora and fauna.
- Life supporting capacity and ecosystem robustness; and
- Fitness for cultural use.

- 5.5 However, the mauri of a waterway is unable to protect itself against unnatural actions and interventions such as damming, diversions, altered flow regimes, discharges, and activities that impact on the riverbed. Kā Rūnaka have seen this pattern take place over and over throughout the history of European settlement in Te Waipounamu, with many behaviours and actions that undermine and degrade the mana and the mauri of our waterways still in evidence today. For the Mata-au, this history is

implicitly linked to the impacts of mining, damming, abstraction, and land use practices.

6. RAKATIRATAKA AND KAITIAKITAKA

- 6.1 Rakatirataka is about having the mana or authority to give effect to Kāi Tahu culture and traditions in the management of the natural world. Wai māori is a taoka that is governed under the domain of rakatirataka, in accordance with Kāi Tahu tikaka.²
- 6.2 Kaitiakitaka is an expression of Rakatirataka and is the intergenerational right and responsibility to care and look after our environment handed to us by our ancestors mō tātou, ā, mō kā uri ā muri ake nei, for us and for future generations – our children and grandchildren.
- 6.3 Kā Rūnaka have responsibilities through whakapapa to act as kaitiaki and care for catchments as a whole. The right of Kāi Tahu to oversee land, resources, aspirations and wellbeing was protected under the Treaty of Waitangi, and this right still exists today, as recognised by the Ngāi Tahu Claims Settlement Act.
- 6.4 The Kāi Tahu ki Otago Natural Resource Management Plan 2005 is the principal resource management planning document for Kāi Tahu ki Otago and is an expression of kaitiakitaka. The kaupapa of the plan is 'Ki Uta ki Tai' (Mountains to the Sea), which reflects the holistic Kāi Tahu ki Otago philosophy of resource management.
- 6.5 The plan expresses Kāi Tahu ki Otago values, knowledge and perspectives on natural resource and environmental management issues. While the plan is first and foremost a planning document to assist Kāi Tahu ki Otago in carrying out their kaitiaki roles and responsibilities, the plan is also intended to assist others in understanding tākata whenua values and policy.
- 6.6 The Natural Resource Management Plan is divided into catchments, with specific provisions for the whole Otago area and each catchment. The current proposal is located within the Clutha/Mata-au Catchment.

² Customary system of values and practices

7. MAHIKA KAI

7.1 Mahika kai practices underpin the Kāi Tahu relationship with Otago’s rivers, lakes, wetlands, moana and the broader environment. Our cultural identity as whānau and hapū is tied to our resources. Fundamental to our culture is our ability to learn and practise customary gathering of food and other resources, to put kai on the table at the marae and at home and to ensure that the knowledge of customary practices is passed on from generation to generation.

7.2 Our unrelenting cultural imperative is to keep the mahika kai intact, to preserve its productivity and the diversity of species, and to restore habitat for mahika kai species where this is degraded.

7.3 For mahika kai to be sustained, populations of species must be present across all life stages and must be plentiful enough for long term sustainable harvest. Safe access to mahika kai sites must be available, kai must be safe to gather, safe to harvest and safe to eat and management and harvesting practices must be able to be carried out in accordance with tikaka.

8. KĀI TAHU RELATIONSHIP WITH THE CATCHMENT

8.1 Kāi Tahu has a cultural, spiritual, historic and traditional relationship with the Mata-au .

8.2 The wai that descends from the mountains to the great inland lakes is tapu, reflecting the mana of the mountains and carrying an intact mauri. The Mata-au, linking the pure waters of the Upper Lakes with the bountiful coastal environment, is an awa of status and significance for Kāi Tahu. The awa as it flows from Lake Wānaka to the outlets of the Matau and Kōau branches at Tauhinu is joined by significant tributaries, including the Ōrau, Paetarariki, Lindis, Kawarau, Ōtewhata, Manuherekia, Poumahaka, Tuapeka, Waitāhuna and the Waiwera, which increase its size and volume.

8.3 The Mata-au is a significant component of an integrated cultural landscape. The awa was an ara tawhito that provided access from the coast to the upper lakes of Wānaka, Hāwea, and Whakatipu-wai-māori. The entire system acted as a significant wāhi

mahika kai. Weka, kōura, and tuna were key food sources collected along its length, and there were bountiful stands of tī kōuka from which to source kāuru.

- 8.4 Because of the long history of use of the Clutha/Mata-au Catchments as a mahika kai, supporting permanent and temporary settlements, there are numerous urupā and wāhi tapu associated with the streams, rivers and wetlands across the catchment.

9. DECISION SOUGHT

- 9.1 Kāi Tahu submits that the application should be declined.

10. REASON FOR DECISION SOUGHT

- 10.1 Terramark commissioned a cultural impact assessment of the dredging proposal on behalf of the applicant. This assessment is included as part of the notified application. Kāi Tahu notes that the notified application has not been updated to address the cultural impact assessment.

- 10.2 The Mata-au is a significant waterway for Kāi Tahu, connecting the mountainous regions of the inland area with the life-giving ecosystems of the coast. Mana whenua associations with the Mata-au are found all along its length, including stories and memories, original placenames, and archaeological evidence of the long history and occupation of this area. The awa has its own whakapapa, is a source of life and well-being, a wellspring of knowledge, memory, and connection, and is a focus for identity.

- 10.3 Kāi Tahu believes there is insufficient evidence on the effects of gold mine dredging on instream benthic environments and therefore, on taoka species and their survival. Hokonui Rūnanga have taken the firm stance of opposing any suction dredge mining due to the unknown effects on benthic species, including ammocoetes (juvenile kanakana that live 3-4 years in the sediment after their larval stages), Kākahi from spat to adult, eggs of multiple fish species including kanakana and galaxiids and also migrating elvers.

- 10.4 The National Policy Statement for Freshwater Management (NPSFM)³ embeds Te Mana o te Wai as a fundamental concept in freshwater management. The Environment Court has emphasized that the concept of Te Mana o te Wai introduced

³ National Policy Statement for Freshwater Management 2020 (Amended February 2023).

in the NPSFM 2017 and strengthened in the NPSFM 2020 represents a significant paradigm shift in freshwater management:

“As a matter of national significance, the health and wellbeing of water are to be placed at the forefront of discussion and decision-making. Only then can we provide for hauora by managing natural resources in accordance with ki uta ki tai. This is our second key understanding. ...”

“We interpret 'also' as meaning 'in addition', thus in using water you must in addition provide for the health of the environment, of the waterbody and of the people. ... this direction appears in line with the Treaty principle of active protection and would impose a positive obligation on all persons exercising functions and powers under the Act to ensure that when using water people also provide for health. ... This direction juxtaposes with the usual line of inquiry as to how health will be impacted by a change in water quality (i.e. the effects of the activity on the environment).”⁴

- 10.5 The objective of the NPSFM 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); and
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- 10.6 Kāi Tahu is unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai. The application is focused on the economic benefits of gold dredging and does not address the effects of this activity on the health and wellbeing of the Mata-au. Further, inadequate information has been provided to enable mana whenua to assess whether the effects of dredging on wāhi tūpuna and ara tawhito, ecology and biodiversity, and archaeology will be addressed. Overall, Kāi Tahu are concerned that the current dredging proposal perpetuates existing inequities in environmental outcomes.

⁴ *Aratiatia Livestock Limited and Ors v Southland Regional Council* [2019] NZEnvC 208, paragraphs 59 – 62.

E noho ora mai

Address for Service

Aukaha

PO Box 446

Dunedin 9054

[REDACTED]
[REDACTED]

Appendix 1 - Glossary

Ara tawhito	Ancient trails
Hapū	Sub-tribe
Hukuwai	Type of water
Ika	Fish
Inaka/Inanga	Whitebait
Iwi	Tribe
Kaitiaki/Kaitiakitaka	Guardian / to exercise guardianship
Kāi Tahu	Descendants of Tahu, the tribe
Kanakana	Lamprey
Kaupapa	Topic, plan
Ki uta ki tai	Mountains to the Sea
Kōkōpu	Cockabully
Mahika kai	Places where food is produced or procured.
Mana Whenua	Customary authority or rakātirataka exercised by an iwi or hapū in an identified area
Manawhenua	Those who exercise customary authority or rakātirataka
Manu	Bird
Mātauraka	Knowledge, wisdom, understanding, skill
Mauka	Mountain
Mauri	Essential life force or principle, a metaphysical quality inherent in all things both animate and inanimate
Ngā Rūnanga/Kā Rūnaka	Local representative group of Otago
Noa	Use
Papatipu Rūnanga	Traditional Kāi Tahu Rūnanga
Papatūānuku	Earth Mother
Puna	Spring (of water)
Rakātirataka	Chieftainship, decision-making rights
Rakinui	Sky Father
Rohe	Boundary
Roto	Lake
Takiwā	Area, region, district
Tākata whenua	Iwi or hapu that holds mana whenua (customary authority) in a particular area
Taoka	Treasure
Tapu	Restriction, sacred
Te Mana o te Wai	Concept for fresh water that encompasses the mauri of a water body
Tikaka	The customary system of values and practices that have developed over time and are deeply embedded in the Māori social context.
Tino Rakātirataka	Self-determination, autonomy, self-government

Tuna	Eel
Urupā	Burial place
Wāhi Tapu	Places sacred to takata whenua
Wai māori	Fresh water
Whakapapa	Genealogy
Whānau	Family