

**BEFORE THE COMMISSIONERS APPOINTED ON BEHALF OF THE OTAGO
REGIONAL COUNCIL, CENTRAL OTAGO DISTRICT COUNCIL, AND
QUEENSTOWN LAKES DISTRICT COUNCIL**

UNDER	The Resource Management Act 1991
IN THE MATTER	of an application for resource consents for Suction Dredge Gold Mining on the Clutha River / Mata Au
BETWEEN	COLD GOLD CLUTHA LIMITED Applicant
AND	OTAGO REGIONAL COUNCIL (RM22.434) QUEENSTOWN LAKES DISTRICT COUNCIL (RM220834) CENTRAL OTAGO DISTRICT COUNCIL (RC220255) Consent Authorities
AND	TE RŪNANGA O MOERAKI KĀTI HUIRAPA RŪNAKA KI PUKETERAKI TE RŪNANGA O ŌTĀKOU HOKONUI RŪNANGA Submitters (Collectively Kā Rūnaka)

**SUMMARY OF THE PLANNING EVIDENCE OF TIM VIAL
ON BEHALF OF KĀ RŪNAKA**

14 November 2023

INTRODUCTION

1. My name is Tim Vial, and I am the Senior Planner – Wai Māori at Aukaha.
2. My evidence addresses the submissions of Kā Rūnaka on the resource consent applications lodged by Cold Gold Clutha Limited for suction dredging of the Clutha River / Mata-au.
3. The cultural impact assessment and the submission of Kā Rūnaka highlight mana whenua concerns that the application does not appropriately protect the mauri of the Clutha River / Mata Au nor does it give effect to Te Mana o te Wai.

MANA WHENUA RELATIONSHIP WITH WAI MĀORI AND WITH THE CLUTHA/ MATA-AU¹

4. Mr Parata and Mr Edwards discuss the relationship of mana whenua with the Mata-au. The Mata-au, linking the pure waters of the Upper Lakes with the coastal environment, is an awa of status and significance for Kāi Tahu.

RELEVANT STATUTORY DIRECTION

Recognition and provision for Kāi Tahu interests and values in Part 2 RMA

5. The concerns underlying the mana whenua submissions relate directly to Part 2 of the RMA. In my view, it is evident that giving effect to sections 6(e), 7(a) and (8) of the RMA requires active protection of the relationship of Kāi Tahu with the Mata-au.

National Policy Statement for Freshwater Management 2020 (Updated 2023) and Te Mana o te Wai

6. Te Mana o te Wai is a fundamental concept in the NPSFM that “..recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai.”²
7. I do not agree with Ms Irving that Te Mana o te Wai is not intended to operate as a strict hierarchy. The NPSFM at clause 1.3(5) states that
“There is a hierarchy of obligations in Te Mana o te Wai 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,

¹ Cultural Impact Assessment: Cold Gold Clutha Suction Dredging on the Mata-au

² National Policy Statement for Freshwater Management 2020, at 1.3(1)

economic, and cultural well-being, now and in the future.

8. While I accept that clause 1.3 of the NPSFM refers to “restoring and preserving the balance between the water, the wider environment, and the community”, it uses this phrasing to describe the outcome of applying the Te Mana o te Wai hierarchy.
9. The concept of Te Mana o Wai represents a paradigm shift in freshwater management. The Environment Court in the Aratiatia case noted that: “the usual RMA focus on the scale and significance of effects of resource use [is redirected] onto the mauri or lifeforce of water and the enquiry becomes how do users of resources protect the water's mauri and health?”³
10. The Environment Court has further confirmed that:
 - (a) Te Mana o te Wai is not a Māori centric but a water centric approach.⁴
 - (b) While expressed in te reo Māori, Te Mana o te Wai benefits all New Zealanders.
 - (c) Te Mana o te Wai is a concept that requires natural and physical resources to be managed in a way that recognises that by protecting the health of freshwater, the health and well-being of the wider environment is also protected.
11. In my opinion, Mr Sycamore has interpreted Te Mana o Wai too narrowly as a Māori concept rather than a water centric concept and has not demonstrated that the current proposal protects the mauri and the health and wellbeing of the Mata-Au.

Operative Regional Policy Statement 2019 (RPS 2019) and Proposed Regional Policy Statement

12. The RPS 2019 was made fully operative on 15 March 2021.
13. The Proposed Otago Regional Policy Statement 2021 has been the subject of extensive community consultation and hearings on the non-freshwater and freshwater provisions closed in October 2023.
14. I do not agree with Ms Irving that little weight should be given to the provisions of the Proposed RPS. The Proposed RPS sets out the current direction for resource management in Otago and gives effect to the NPSFM

³ *Aratiatia Livestock Limited and Ors v Southland Regional Council* [2019] NZEnvC 191 at [7]

⁴ Waitangi Tribunal (2019) *The Stage 2 Report on the National Freshwater and Geothermal Resources Claims* (Report No. Wai 2358) at 355

2020 (as amended). The Proposed RPS includes long-term freshwater visions for Freshwater Management Units in Otago, including the Mata-au, as required by the NPSFM.

15. In my opinion, there is insufficient information to conclude that the proposed suction dredging activity is consistent with the relevant objectives and policies of the PRPS, including the Te Mana o te Wai objective (LF-WAI-01), which requires the protection of the mauri and the health and well-being of Otago's water bodies.
16. Accordingly, I suggest that a precautionary approach is required towards the proposed suction dredging activity, as directed by policy IM-P15, as the effects of dredging the bed of the Clutha River / Mata-au are unknown.

CONCLUSION

17. In my opinion, the application is narrowly focused on the individual effects of suction dredging rather than on protecting and safeguarding the health and wellbeing and the mauri of the Clutha River / Mata-Au. Further, the proposal does not safeguard the relationship of mana whenua with this significant awa.

Tim Vial

14 November 2023