



Submission on Notified Resource Consent Application

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Name of submitters: Te Rūnanga o Ngāi Tahu (Te Rūnanga)

1. This is a submission on Resource Consent Applications to the Otago Regional Council and Central Otago District Council to construct and operate an alluvial gold mine adjacent to the Mata-au (Clutha River) at 1346 – 1536 Teviot Road, Millers Flat by Hawkeswood Mining Limited. The application numbers for the regional and district applications are RM23.819 and RC230325 respectively.
2. This submission by Te Rūnanga submission relates to the whole of the proposal as outlined in **Attachment A**.
3. Te Rūnanga wishes to be heard in support of its submission.
4. Te Rūnanga **opposes** the granting of this application.
5. Te Rūnanga is not a trade competitor for the purposes of [section 308B](#) of the Resource Management Act 1991 (RMA 1991).
6. A copy of this submission has been sent to the applicant.

Signed for and on behalf of Te Rūnanga o Ngāi Tahu

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1 Introduction

- 1.1 This is a submission on behalf of Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) for resource consent applications by Hawkeswood Mining Limited to construct and use an alluvial gold mine at or about the Mata-au (Clutha River). The Mata-au (Clutha River) is a Statutory Acknowledgement Area under the Ngāi Tahu Claims Settlement Act 1998, and the location of the proposal is 1346/1536 Teviot Road, Roxburgh.
- 1.2 The applicant has applied to the Otago Regional Council for the following:
- a) To construct a bore and take groundwater for the purpose of mine pit pond dewatering (partially retrospective) with an annual volume of 1,967,846 cubic metres (62.4 L/s);
 - b) to discharge water containing sediment to water in a bore and to land in a manner that may enter water;
 - c) to discharge water containing sediment to land for the purpose of trialling pit dewatering (retrospective); and
 - d) to discharge contaminants to air from the operation of an alluvial gold mine, for the purpose of operating an alluvial gold mine.
- 1.3 The applicant has applied to the Central Otago District Council for the following:
- a) To construct temporary and permanent dwellings that are non-complying with prescribed design standards;
 - b) Earthworks, soil disturbance the construction of haul roads, the battering of mine ramps and storage of stockpiled materials; and
 - c) The generation of traffic, noise and the restriction of access to existing transportation networks.
- 1.4 A duration of 10 years is sought by the applicant.

2 Background

- 2.1 Te Rūnanga is the statutorily recognised representative tribal body of Ngāi Tahu whānui (as provided by section 15 of the Te Rūnanga o Ngāi Tahu Act 1996 (**TRONT Act**)) and was established as a body corporate on 24 April 1996 under section 6 of the TRONT Act.
- 2.2 Te Rūnanga encompasses five hapū, Kati Kurī, Ngāti Irakehu, Kati Huirapa, Ngāi Te Ruahikihiki, Ngāi Tūāhuriri and 18 Papatipu Rūnanga, who uphold the mana whenua and mana moana of their rohe. Te Rūnanga is responsible for managing, advocating and protecting, the rights and interests inherent to Ngāi Tahu as mana whenua.
- 2.3 Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses.
- 2.4 Te Rūnanga respectfully requests that Otago Regional Council and Central Otago District Council accord this submission with the status and weight of the tribal collective of Ngāi Tahu whānui comprising over 80,000 registered iwi members, in a takiwā comprising the majority of Te Waipounamu. A map of the takiwā of Te Rūnanga is included at **Appendix One**.

- 2.5 Notwithstanding its statutory status as the representative voice of Ngāi Tahu Whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter. Te Rūnanga supports the submissions of Aukaha on behalf of Papatipu Rūnanga in their takiwā.

Te Tiriti o Waitangi

- 2.6 The contemporary relationship between the Crown and Ngāi Tahu is defined by three core documents: Te Tiriti o Waitangi (**the Treaty**), the Ngāi Tahu Deed of Settlement 1997 (**Deed of Settlement**) and the Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**). These documents form an important legal relationship between Ngāi Tahu and the Crown.
- 2.7 Of significance, the Deed of Settlement and NTCSA confirmed the rangatiratanga of Ngāi Tahu and its relationship with the natural environment and whenua within the takiwā.
- 2.8 As recorded in the Crown Apology to Ngāi Tahu (see **Appendix Two**), the Ngāi Tahu Settlement marked a turning point, and the beginning for a “new age of co-operation”. In doing so, the Crown acknowledged the ongoing partnership between the Crown and Ngāi Tahu and the expectation that any policy or management regime would be developed and implemented in partnership with Ngāi Tahu.

3 Ngāi Tahu Interests in Relation to Resource Consent Application

- 3.1 Ngāi Tahu note the following particular interests in the Application(s):

Treaty Relationship

- Ngāi Tahu have an expectation that the Crown (and their delegated authorities) will honour Te Tiriti o Waitangi and the principles upon which it was founded. All persons undertaking duties and responsibilities in accordance with the purpose this document shall recognise and respect the Crown's responsibility to give the principles of the Treaty.

Kaitiakitanga

- In keeping with the kaitiaki responsibilities of Ngāi Tahu whānui, Ngāi Tahu has an interest in ensuring sustainable management of natural resources, including protection of taonga and mahinga kai for future generations.
- Ngāi Tahu whānui are both users of natural resources, and stewards of those resources. At all times, Ngāi Tahu are guided by the tribal whakataukī: “mō tātou, ā, mō kā uri ā muri ake nei” (*for us and our descendants after us*).

Whanaungatanga

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.

- 3.2 Statutory Acknowledgements are an instrument included in the NTCSA. Statutory Acknowledgements are areas acknowledged by the Crown of particular significance to Ngāi

Tahu that recognise the mana of tangata whenua in relation to specific areas. The acknowledgements relate to 'statutory areas', which include geographic features, lakes, wetlands, rivers, areas of land and coastal marine areas. Statutory Acknowledgments particularly relate to the cultural, spiritual, historical and traditional associations with the area.

3.3 The relevant Statutory Acknowledgements in respect of this application is the Mata-au (Clutha River)¹.

3.4 The NTCSA describes the Ngāi Tahu associations with Mata-au (Clutha River) (refer to Appendix Three for a full description). These associations are material to decision making under the RMA 1991 and to this specific consent application.

4 General Position, Reasons for Submission

4.1 Ngāi Tahu opposes the application for the following reasons:

Planning Matters

- Applications for resource consent have been lodged under Sections 9, 13, 14 and 15 of the RMA 1991 separately to the Otago Regional Council and Central Otago District Council. Both councils have asserted that the activity status of the proposal is discretionary. Given the scale of the activity, Te Rūnanga requests that the applications are heard jointly, and subsequently, a joint decision is issued by the relevant consent authorities under Section 102 of the RMA 1991.

Effects on Mahinga Kai and Cultural Values

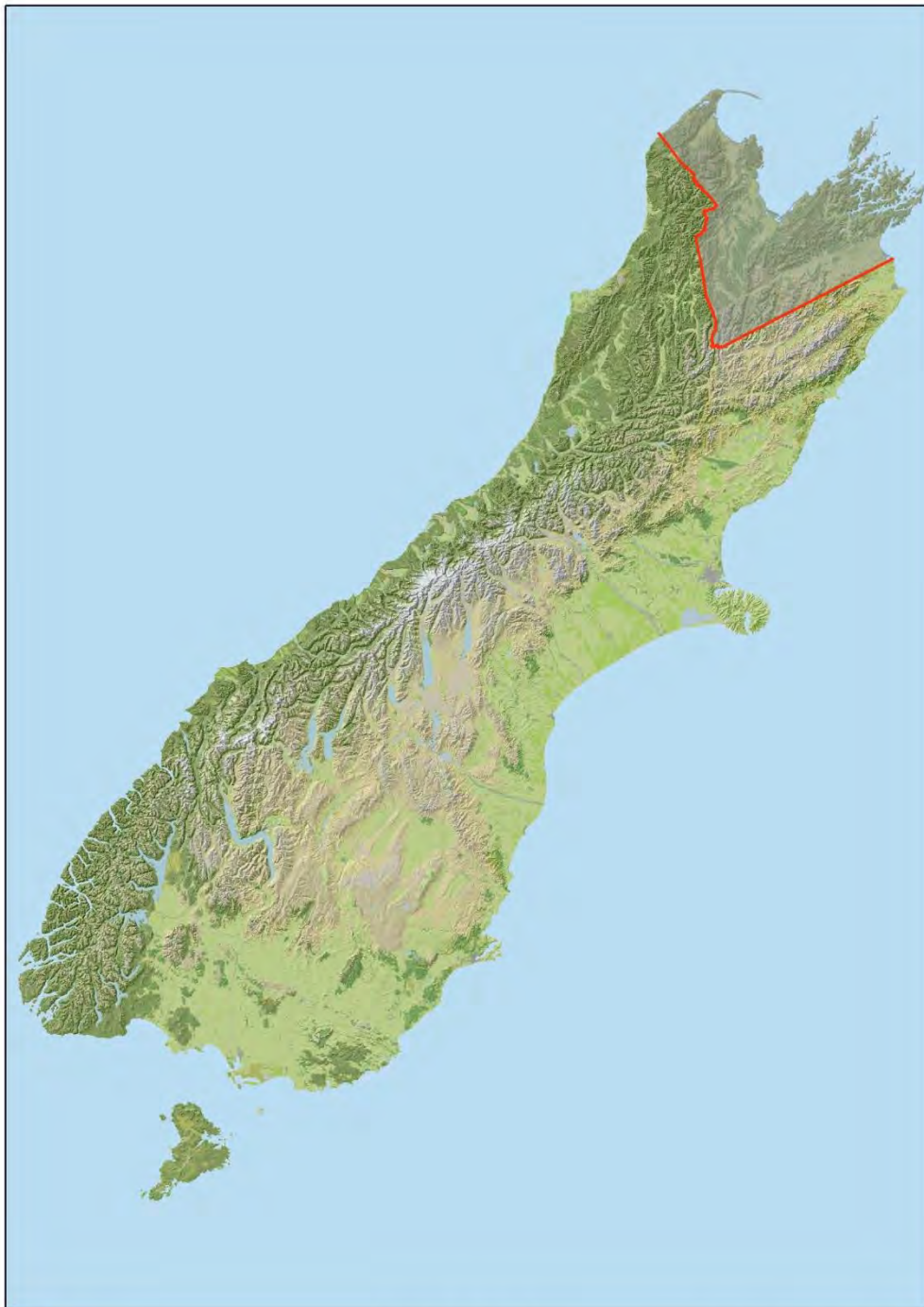
- The Mata-au (Clutha River) is a wāhi taoka (treasured resource) for Kāi Tahu whānui. The Mata-au was a significant ara tawhito. The mouth of Mata-au has always been heavily populated with many permanent and temporary kāika (settlements) located throughout the lower stretches of the river. Murikauhaka, a kāika near the mouth of the Mata-au, was at one stage home to an estimated two hundred people. The river itself was an important trail, providing direct access home from lakes Wānaka, Hāwea and Whakatipu-wai-Māori (Lake Wakatipu) to coastal Otago.
- Mahinga kai is key to Ngāi Tahu identity and part of who they are. Mahinga kai activities are an expression of cultural identity. And Ngāi Tahu are responsible for the continuation of traditional mahinga kai practices. This includes the passing values and knowledge on to current and future generations. Mana whenua, as kaitiaki, are responsible for protecting the mana and mauri of waterbodies. The mauri should not be desecrated by the actions of man. Te Rūnanga are concerned that the mauri of sacred waterbodies will be adversely affected by the application(s).

5 Decision Sought

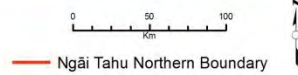
¹ Schedule 40 of the Ngāi Tahu Settlement Act 1998

- 5.1 Te Rūnanga supports the submission from Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui (Kā Rūnaka). Te Rūnanga supports and adopts the decision sought by Kā Rūnaka that the resource consent applications are **declined**.

APPENDIX ONE: NGĀI TAHU TAKIWĀ



Ngāi Tahu Takiwā



APPENDIX TWO: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

Part One – Apology by the Crown to Ngāi Tahu

Section 6 Text in English

The text of the apology in English is as follows:

1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb “He mahi kai takata, he mahi kai hoaka” (“It is work that consumes people, as greenstone consumes sandstone”). The Ngāi Tahu understanding of the Crown’s responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name.

2. The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.
3. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu’s use, and to provide adequate economic and social resources for Ngāi Tahu.
4. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu’s use and ownership of such of their land and valued possessions as they wished to retain.
5. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying “Te Hapa o Niu Tireni!” (“The unfulfilled promise of New Zealand”). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb “Te mate o te iwi” (“The malaise of the tribe”).
6. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand

has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

7. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.
8. 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 fulfillment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.
9. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.”

Appendix Three: Text of Statutory Acknowledgement Areas from the Ngāi Tahu Claims Settlement Act 1998 – Schedule 40 for Statutory acknowledgement for Mata-au (Clutha River)

Statutory area

The statutory area to which this statutory acknowledgement applies is the river known as Mata-au (Clutha River), the location of which is shown on Allocation Plan MD 122 (SO 24727).

Preamble

Under [section 206](#), the Crown acknowledges Te Rūnanga o Ngāi Tahu's statement of Ngāi Tahu's cultural, spiritual, historic, and traditional association to the Mata-au, as set out below.

Ngāi Tahu association with the Mata-au

The Mata-au river takes its name from a Ngāi Tahu whakapapa that traces the genealogy of water. On that basis, the Mata-au is seen as a descendant of the creation traditions. For Ngāi Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi.

On another level, the Mata-au was part of a mahinga kai trail that led inland and was used by Ōtākou hapū including Ngāti Kurī, Ngāti Ruahikihiki, Ngāti Huirapa and Ngāti Tuahuriri. The tūpuna had considerable knowledge of whakapapa, traditional trails and tauranga waka, places for gathering kai and other taonga, ways in which to use the resources of the river, the relationship of people with the river and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. All of these values remain important to Ngāi Tahu today.

The river was also very important in the transportation of pounamu from inland areas down to settlements on the coast, from where it was traded north and south. Thus there were numerous tauranga waka (landing places) along it. The tūpuna had an intimate knowledge of navigation, river routes, safe harbours and landing places, and the locations of food and other resources on the river. The river was an integral part of a network of trails which were used in order to ensure the safest journey and incorporated locations along the way that were identified for activities including camping overnight and gathering kai. Knowledge of these trails continues to be held by whānau and hapū and is regarded as a taonga. The traditional mobile lifestyle of the people led to their dependence on the resources of the river.

The Mata-au is where Ngāi Tahu's leader, Te Hautapunui o Tū, established the boundary line between Ngāi Tahu and Ngāti Mamoe. Ngāti Mamoe were to hold mana (authority) over the lands south of the river and Ngāi Tahu were to hold mana northwards. Eventually, the unions between the families of Te Hautapunui o Tū and Ngāti Mamoe were to overcome these boundaries. For Ngāi Tahu, histories such as this represent the links and continuity between past and present generations, reinforce tribal identity, and document the events which shaped Ngāi Tahu as an iwi.

Strategic marriages between hapū further strengthened the kupenga (net) of whakapapa, and thus rights to travel on and use the resources of the river. It is because of these patterns of activity that the river continues to be important to rūnanga located in Otago and beyond. These rūnanga carry the responsibilities of kaitiaki in relation to the area, and are represented by the tribal structure, Te Rūnanga o Ngāi Tahu.

Urupā and battlegrounds are located all along this river. One battleground, known as Te Kauae Whakatoro (downstream of Tuapeka), recalls a confrontation between Ngāi Tahu and Ngāti Mamoe that led to the armistice established by Te Hautapunui o Tū. Urupā are the resting places of Ngāi Tahu tūpuna and, as such, are the focus for whānau traditions. These are places holding the memories, traditions, victories and defeats of Ngāi Tahu tūpuna, and are frequently protected by secret locations.

The mauri of Mata-au represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the river.

Purposes of statutory acknowledgement

Pursuant to [section 215](#), and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- a) to require that consent authorities forward summaries of resource consent applications to Te Rūnanga o Ngāi Tahu as required by regulations made pursuant to [section 207](#) (clause 12.2.3 of the deed of settlement); and
- b) to require that consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Mata-au, as provided in [sections 208 to 210](#) (clause 12.2.4 of the deed of settlement); and
- c) to empower the Minister responsible for management of the Mata-au or the Commissioner of Crown Lands, as the case may be, to enter into a Deed of Recognition as provided in [section 212](#) (clause 12.2.6 of the deed of settlement); and
- d) to enable Te Rūnanga o Ngāi Tahu and any member of Ngāi Tahu Whānui to cite this statutory acknowledgement as evidence of the association of Ngāi Tahu to the Mata-au as provided in [section 211](#) (clause 12.2.5 of the deed of settlement).

Limitations on effect of statutory acknowledgement

Except as expressly provided in [sections 208 to 211](#), [213](#), and [215](#),—

- a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under any statute, regulation, or bylaw, may give any greater or lesser weight to Ngāi Tahu's association to the Mata-au (as described in this statutory acknowledgement) than that person or entity would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement did not exist in respect of the Mata-au.

Except as expressly provided in this Act, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in this Act, this statutory acknowledgement does not, of itself, have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Mata-au.

Attachment A

Schedule 40: amended, on 20 May 2014, by [section 107](#) of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).