



Fish and Game New Zealand Submission

Fast-track Consent Application – Waihi North Gold Mine Project

To: The Expert Consenting Panel

Submitter: Fish and Game New Zealand

Application: Fast-track Consent Application – Waihi North Gold Mine Project

Applicant: OceanaGold New Zealand Ltd (Waihi North Project)

Email submission to: substantive@fasttrack.govt.nz

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A handwritten signature in black ink, appearing to read "R Cosgrove".

on behalf of
Richie Cosgrove, CEO
New Zealand Fish and Game Council

I confirm that I am not a trade competitor for the purposes of section 30B of the Resource Management Act 1991.

This submission is that: Fish and Game opposes the application.

Fish and Game request to be heard.

Dated 25th August 2025.

1. Summary

Fish and Game New Zealand submits this response to the Fast-track Consent Application for the Waihi North Gold Mine Project (WNP), proposed by OceanaGold New Zealand Ltd. Our submission focuses on the significant adverse effects the project is expected to have on trout spawning habitat, aquatic ecosystem health, and water quality in the Ohinemuri catchment, particularly within and around the Mataura Stream and its tributaries.

The specific parts of the application that this submission relates to are:

- The reclamation, diversion, and modification of over 4 kilometres of natural stream habitat, that are tributaries of trout spawning habitat.
- The proposed discharge of high levels of suspended sediments into the Mataura Stream and its tributaries, which provide trout spawning habitat.
- The failure to appropriately recognise, assess, or provide for the habitat of trout and associated values, as required under section 7(h) of the Resource Management Act 1991 (RMA).
- The inadequacy of proposed mitigation measures to avoid, remedy or offset adverse effects on freshwater ecosystems.
- The reliance on previously consented discharges as a baseline for determining the acceptability of new or expanded discharges, contrary to best practice environmental effects assessment.

2. The Statutory Functions of Fish and Game: Fish and Game is a statutory body under the Conservation Act 1987, responsible for the management and enhancement of sports fish and game bird resources in New Zealand. In accordance with our statutory functions under section 26Q of the Act, we represent the interests of anglers and hunters in the statutory planning process (s26Q(1)(e)), advocate for the protection of fish and game habitats (s26Q(1)(e)(vii)) and monitor ecosystems for their suitability as fish and game habitats (s26Q(1)(a)(iii)).

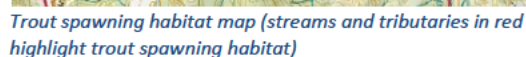
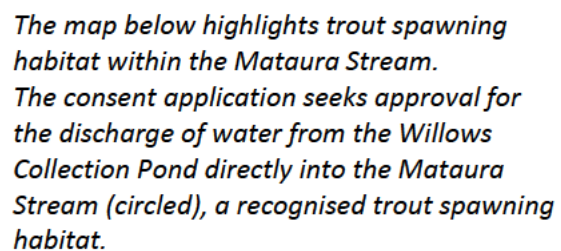
2.1 In carrying out the statutory functions, Fish and Game recognises the intrinsic value of sports fish and game birds as a public resource, working to ensure the sustainability and diversity of their populations and habitats, safeguard the public's right to access and enjoy freshwater angling and game bird hunting, manage resources to maintain or improve the quality of these experiences, promote the wise use of natural resources, and encourage environmental stewardship among hunters, anglers, and the wider community.

3. Key Issues and Concerns

3.1 Stream Habitat Loss and Inadequate Compensation: The WNP proposes to reclaim 4,112 metres of natural streams and replace them with only 3,469 metres of new channel, resulting in a net habitat loss of approximately 16%. Although 10 km of other stream enhancements are proposed, these do not replace the functional, established habitat essential for trout spawning and survival.

3.2 Failure to Recognise Sensitive Trout Habitat: The proposed conditions fail to recognise or provide for trout habitat and trout spawning habitat. The consent application seeks approval for the discharge of water from the Willows Collection Pond directly into the Mataura Stream, a recognised trout spawning habitat. Under the proposed conditions, discharges may have turbidity levels up to 110 NTU during rainfall events with an AEP greater than 50%. However, as this discharge is into a trout spawning stream, turbidity should not exceed 15 NTU. Compliance with this threshold is necessary to protect spawning habitat and is consistent with best practice and the requirements of the NPS-FM and RMA.

3.3.2 Despite the ecological assessments provided, the application fails to adequately assess, avoid, or address the adverse effects of these diversions on sensitive spawning areas, inconsistent with the NPS-FM and does not give effect to the purpose and principles of the Resource Management Act 1991, in particular section 5, which requires the safeguarding of the life-supporting capacity of freshwater, and section 7(h), which requires particular regard to be given to the protection of the habitat of trout and salmon.



¹ P.2 3.1.4 Recreational Fishing (Trout), Waihi North Project: Freshwater Ecological Assessment (Boffa Miskell).

3.4 Inadequate Discharge Controls for Trout Habitat: Fish and Game requests that discharge limits be reframed to focus on instream outcomes, with clear standards that ensure the protection of aquatic ecosystem health. The renewal of the proposed discharge limits poses a significant risk to aquatic life-supporting capacity. Specific concerns include:

- Excessive proposed limits for Total Suspended Solids (TSS) (up to 2,080 kg/day) and turbidity (up to 110 NTU during rainfall events), which are well above levels safe for trout spawning.
- Failure to focus on post-mixing instream concentrations, which are more ecologically relevant than discharge values alone.
- The use of outdated, previously consented discharges as baselines, contrary to the RMA requirement where the baseline environment must be considered.

3.5 Previously Consented Discharges Should Not Form the Baseline for Future Consent Limits:

Fish and Game strongly oppose the use of previously consented discharge levels as the baseline from which to assess or justify proposed future consent limits in this application. Fish and Game argue that the existing environment should be assessed on the basis of current physical conditions and permitted activities, not on the assumption that past discharges will continue. Discharges must be reassessed in light of current policy direction, and the effects on ecological and habitat values.

3.5.1 Under the Resource Management Act 1991 (RMA), the baseline environment must be considered with careful reference to its legal and physical status at the time of consent consideration. While operative consents form part of the environment in some contexts, their effects should not be presumed acceptable for future discharge scenarios, especially when those existing effects may already be contributing to environmental degradation or conflict with current policy direction, such as that under the NPS-FM ².

3.5.2 No such exceptional conditions apply to the WNP. On the contrary, the NPS-FM requires that all new consents (including variations or expansions) be assessed, with an emphasis on improving water quality and protecting the health of water bodies, including habitat

² The permitted activity baseline - <https://www.qualityplanning.org.nz/node/850>

for trout and other native species. Fish and Game argues that:

- The existing discharge regime should not automatically establish an acceptable environmental baseline.
- The effects of new discharges, or the expansion of existing discharges, must be assessed afresh under current standards, especially where discharge to trout spawning streams is proposed.
- If historic or previously consented discharges have caused or contributed to degradation of the receiving environment, they must not be used to justify ongoing or greater discharges.
- The precautionary principle and policy direction under the NPS-FM require new discharges to meet much stricter instream limits, particularly in sensitive receiving environments like the Mataura Stream.

3.5.3 The following Environment Court decisions demonstrate why this assumption is problematic:

- In *Bay of Plenty Regional Council v Fonterra Co-operative Group Ltd*, the Court held that the expiry or renewal of existing consents should not be presumed. Rather, the consent authority must consider the environment as it exists at the time of the application, which includes operative consents, but only permits consideration of unimplemented or future activities at the consent authority's discretion. The case underscores that reliance on anticipated re-consenting is not appropriate when determining the effects of a new activity ³.
- In *Port Gore Marine Farms v Marlborough District Council*, the Court went further, finding that in assessing a renewal application, it must imagine the environment as if the existing activity did not occur. The Court emphasised that taking the continued presence of an activity for granted could improperly undermine affected parties' rights to object. This principle is highly relevant to Fish and Game's concern that the effects of mining

³ 25, pg. 7 LEGAL SUBMISSIONS BY COUNSEL FOR CONSENT AUTHORITY: of an application for resource consents by OPEN COUNTRY DAIRY LTD to the Waikato Regional Council to discharge contaminants to air and treated wastewater to the Waitoa River.

discharges must be treated as new effects, not extensions of already compromised baselines⁴.

3.6 Inadequacy of Proposed Mitigation: The proposed mitigation is insufficient to offset the impacts on trout spawning habitat, including stream diversion, sedimentation, and habitat fragmentation. Measures such as stream and wetland enhancements fail to provide long-term ecological equality for damage to spawning reaches caused by increased sediment.

4 Recommended Mitigation and Offsets: Fish and Game recommends the following measures to achieve meaningful mitigation.

- a. Dam Removal or Modification:** Abandoned gold mining infrastructure has had significant adverse effects on the ecological health of the Ohinemuri River catchment. In particular, the historic masonry dam presents a major barrier to both native fish and trout migration. While this structure is heritage-listed, modification or partial removal could enable fish passage (for example, through a flume bypass) while retaining heritage values.
- b. Recreational Fishery as an Alternative Offset:** If dam modification is not viable, a put-and-take trout fishery could be established in a purpose-built or existing pond within the catchment. While this does not replace ecological function, it offers a recreational benefit and may partially offset habitat loss.
- c. Stricter Discharge Limits:** Fish and Game considers that the proposed discharge limits are inadequate to protect sensitive trout spawning habitat. Fish and Game argue that all discharges into trout spawning streams must not exceed 15 NTU and ideally should meet the more conservative thresholds detailed below. These standards are necessary to safeguard the life-supporting capacity of freshwater, protect spawning success, and avoid further degradation of aquatic ecosystems.

⁴ 26, pg. 8 LEGAL SUBMISSIONS BY COUNSEL FOR CONSENT AUTHORITY: of an application for resource consents by OPEN COUNTRY DAIRY LTD to the Waikato Regional Council to discharge contaminants to air and treated wastewater to the Waitoa River.

5 Relief Sought: Fish and Game seeks the following to be incorporated into WNP consent conditions:

- a)** Full recognition of trout spawning habitats within the Mataura Stream and wider Ohinemuri catchment.
- b)** Inclusion of enforceable water quality limits within the Mataura Stream in the consent conditions:
 - Turbidity should not exceed 5 NTU above background levels when background is ≤ 50 NTU;
 - Turbidity increases should not exceed 10% above background where background is > 50 NTU;
 - These thresholds should be measured after reasonable mixing in the receiving water, not solely at the discharge point.
 - No increased in deposited sediment related to discharge/activities listed in the consent within the Ohinemuri catchment, particularly within and around the Mataura Stream and its tributaries.
- c)** Rejection of the use of previously consented discharges as a baseline for determining the acceptability of proposed discharges.
- d)** Avoidance of stream reclamation and diversion of tributaries to high-value trout spawning habitats, or where unavoidable, the inclusion of physical habitat improvements (e.g. downstream dam removal) as true mitigation.
- e)** Real-time monitoring of discharge quality when discharging into the Mataura Stream (pH, turbidity, and flow), with data publicly available and tied to consent compliance.
- f)** Removal or bypass of the historic masonry dam on the Ohinemuri River as meaningful mitigation for habitat loss and to improve fish passage; or alternatively, the establishment of a recreational put-and-take fishery in a constructed pond within the affected catchment.

- 6 Conclusion:** The WNP poses substantial risks to the ecological health of the Ohinemuri catchment, particularly to trout spawning streams such as the Mataura Stream.
- 6.3** The proposed total suspended solids and turbidity levels are likely to impair trout survival and spawning success, and the potential impacts of stream diversions and habitat loss are inadequately addressed through the mitigation proposed.
- 6.4** Proposed conditions are required to recognise or provide for trout habitat and trout spawning habitat and effective mitigation should focus on meaningful ecological restoration, rather than token enhancements.
- 6.5** Fish and Game therefore urges the Panel to adopt a precautionary, ecosystem-based approach to ensure that all consent conditions are tightly aligned with the protection and enhancement of sensitive freshwater habitats.