

IN THE MATTER

of an application made under the Fast-Track Approvals Act 2024 by Matakanui Gold Limited (Santana Minerals)

**MEMORANDUM OF COUNSEL FOR KĀTI HUIRAPA RŪNAKA KI
PUKETERAKI, TE RŪNANGA O MOERAKI, TE RŪNAKA O ŌTĀKOU, AND
HOKONUI RŪNANGA IN RESPONSE TO PANEL CONVENER
DIRECTIONS**

16 January 2026



HOLM | MAJUREY

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INTRODUCTION

1. This case management memorandum is filed on behalf of Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Moeraki, Te Rūnaka o Ōtākou, and Hokonui Rūnanga (**Kā Rūnaka**) in response to the Panel Convener's directions dated 18 December 2025.
2. Kā Rūnaka are relevant iwi authorities and relevant Treaty settlement entities in relation to this application.¹
3. The Minute of the Panel Convener dated 18 December 2025 invites all participants to provide the following:²
 - (a) comment on the extent of engagement by the Applicant both before and following lodgement of the application;
 - (b) record processes agreed with the applicant to narrow or reduce any issues relevant to the substantive application and the decision that the panel is required to make;
 - (c) comment on the level of complexity including any novel or difficult legal issues, any evidential complexity, or any factual complexity;
 - (d) identify, as a feature of this complexity, the principal issues in contention or other disputed matters;
 - (e) state whether the drafting of proposed consent conditions (including any draft management plan filed) is accepted;
 - (f) propose efficient processes to enable the panel to understand, resolve or narrow the scope of any likely

¹ See Schedule 3, Minute of the Panel Convener (18 December 2025).

² At [7], [9], [14], and Schedule 2.

issues and indicate how these processes may be accounted for under the decision timeframe;

- (g) views on the skills, knowledge and expertise of the persons to be appointed to the panel;
- (h) advise whether tikanga is relevant to the application, how the panel might receive assistance on those matters, and the time required for this to occur; and
- (i) seek guidance on any requirement to protect sensitive information.

4. At this stage, Kā Rūnaka is unable to provide detailed comments on the legal, evidentiary, and factual complexity of this application. Accordingly, Kā Rūnaka addresses these matters as far as it is able, however emphasises the need for the ability to provide in-depth legal submissions and evidence later in this process.

BROAD OVERALL COMMENT

5. For Kā Rūnaka, effects on their cultural values or te taiao are incapable of being “offset” or being otherwise mitigated – those effects are there, regardless of the wording which may be placed around them to make them appear less. In Kā Rūnaka's view, the effects arising from this application are significant, and permanent.
6. Particular concerns arise regarding effects on water, ecology, landscape and whenua, and the risks arising from long-term storage of hazardous substances in proximity to land and water with ongoing risk of serious and irreversible contamination.
7. Accordingly, Kā Rūnaka hold deep and immutable concern regarding the breadth, depth, and timeframe of effects arising, and do not consider that the Applicant has provided any evidence that these effects are able to be avoided, or

reduced to an acceptable level, such that granting of consent is possible under the Fast-track Act.

APPROVALS

8. The approvals sought by the Applicant are set out in the application documents.

COMPLEXITY

9. As a preliminary comment, the effects from the proposal appear significant, and in many cases incapable of remediation. As such, a real question arises whether the application is capable of gaining consent under the Fast-track Act. Further consideration and evidence will be required by the Panel in order to form an opinion and assess the application as required under the Fast-track Act.
10. The Applicant's assertion that "granting the approvals would not breach Treaty settlements or recognised customary rights"³ is not accepted. The application may constitute an ineligible activity in terms of potential breaches of Treaty settlements. This is a complex issue, made more difficult by absence of any meaningful dialogue with the Applicant on this point.
11. The application for revocation of part of the Conservation Covenant from the Project site raises issues of legal complexity, given that this matter has not previously been considered in this context.
12. Further, there is uncertainty of enforcement mechanisms, both immediate and over time. The Panel will need to look at this carefully and take time to fully understand how this needs to be approached, likely assisted by experts.

³ Substantive Application, Appendix 1, at [95].

13. A key issue for Panel consideration will be the issue of long-term post mining maintenance of the mining site – in particular remediation and rehabilitation, the security and safety of the tailings dam and remedial funding should any accident or long-term failure lead to leakage of toxic material to local waterways, lakes and rivers.
14. These and other questions must be tested through evidence, legal submissions, and likely a hearing in which the Panel can be provided with information and have the opportunity to ask questions of the submitters.

ISSUES ON CONSULTATION

15. As set out in Ka Rūnaka's letter to the Environmental Protection Agency (**Appendix A**), the consultation undertaken by the Applicant prior to lodgement was inadequate to the point that the actions taken by the Applicant did not constitute consultation.
16. Kā Rūnaka rejects the claim that the pre-lodgement consultation requirements have been “robustly fulfilled”.⁴
17. Further discussions with Kā Rūnaka have been limited but continue.⁵ Kā Rūnaka does not agree that “communication remains active and collaborative”,⁶ due to the lack of timely and constructive communication exhibited by the Applicant in the lead up to and immediately post submission of the substantive application.
18. While heartened by the representation that “MGL is committed to working with Kā Rūnaka in good faith to ensure the BOGP is developed in a manner that is sensitive to cultural

⁴ Substantive Application, Appendix 1, at [44].

⁵ See representation in Substantive Application, Appendix 1, at [44] that there will be further discussions with Kā Rūnaka progressed following lodgement.

⁶ Substantive Application, Appendix 1, at [47].

requirements of Kā Rūnaka",⁷ Kā Rūnaka has yet to see evidence of this. Further, such "development" would now appear to be extremely difficult given that the substantive application is before the panel and noting the associated time constraints.

19. Furthermore, due to consultation and engagement being incomplete prior to submission of the substantive application, Kā Rūnaka is now faced with the insuperable technical task of analysing and assessing crucial technical information filed with the application but not shared transparently by MGL. Put briefly, Kā Rūnaka considers the approach taken by the Applicant does not fulfil consultation requirements, and any efforts made are insufficient gestures taken in order to ostensibly fulfil legislative requirements.

MĀTAURANGA AND TIKANGA

20. Tikanga is relevant to the application, and the Panel will need advice on the specific application. One way to achieve this is to ensure there are multiple persons familiar and competent with local tikanga on the Panel.
21. Any sensitive information provided by Kā Rūnaka in this matter, regardless of the format that it is provided in, will be required to be appropriately protected. As such, Kā Rūnaka will provide notice to the Panel prior to provision of any sensitive information.

PANEL MEMBERSHIP

22. Kā Rūnaka's concerns regarding effects on cultural values are broad and holistic. Concerns over effects on water, ecology, landscape and whenua, and long-term (intergenerational) contamination risks do not exist in a vacuum, and must be considered as part of the whole consideration. Put simply, te

⁷ Substantive Application, Appendix 1, at [49].

ao Māori must be a lens through which all effects are considered. For the Panel to properly achieve this, multiple panel members will be required to have competency in cultural matters alongside other specialist knowledge.

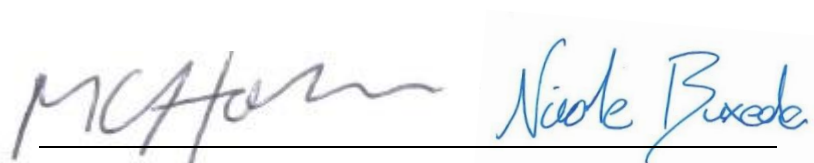
PROCEDURAL REQUIREMENTS

23. Kā Rūnaka is willing to engage directly with the Panel as necessary.
24. Kā Rūnaka considers that a hearing process would benefit the Panel in terms of cultural evidence and legal issues. It may well be that the complexity of Treaty Settlement and environmental impacts warrants a hearing as well.

COST RECOVERY

25. Kā Rūnaka seeks recovery for preparation and attendance at this conference.

DATE: 16 January 2026

The image shows two handwritten signatures in blue ink. The signature on the left is 'Mike Holm' and the signature on the right is 'Nicole Buxeda'. Both signatures are written in a cursive, flowing style.

Mike Holm / Nicole Buxeda

Counsel for Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Moeraki,
Te Rūnaka o Ōtākou, and Hokonui Rūnanga

APPENDIX A – LETTER TO EPA REGARDING CONSULTATION

19 November 2025

Environmental Protection Agency
366 Lambton Quay
WELLINGTON

Attn: Christina Smits

Tēnā koe Christina

SANTANA FAST-TRACK APPLICATION

1. We write on behalf of Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Moeraki, Te Rūnaka o Ōtākou, and Hokonui Rūnanga (**Kā Rūnaka**), in relation to the application made under the Fast-track Approvals Act 2024 (**FTAA**) by Santana Minerals (**Bendigo-Ophir Gold Project**). This application is to establish, operate, and remediate a new open pit and under ground gold mine.
2. The FTAA requires the Applicant to consult any relevant iwi authorities, hapū, and Treaty settlement entities before lodging a substantive application for a listed project.¹
3. As you will be aware, case law has provided principles as to what constitutes proper consultation:²
 - (a) Consultation includes listening to what others have to say and considering the responses.
 - (b) The consultative process must be genuine and not a sham.
 - (c) Sufficient time for consultation must be allowed.
 - (d) The party obliged to consult must provide enough information to enable the person consulted to be adequately informed so as to be able to make intelligent and useful responses.

¹ Fast-track Approvals Act 2024 s29.

² *Wellington International Airport Ltd v Air New Zealand Ltd* [1993] 1 NZLR 671, as described by Asher J in *Diagnostic Medlab Ltd v Auckland District Health Board* [2007] 2 NZLR 832 at [258].

- (e) The party obliged to consult must keep an open mind and be ready to change and even start afresh, although it is entitled to have a work plan already in mind.
4. When undertaking consultation the party obliged to consult "must keep its mind open and be ready to change and even start afresh".³
 5. Kā Rūnaka has concerns that the communication undertaken by Santana Minerals does not fulfil the above parameters, and accordingly does not constitute proper consultation.
 6. While draft preliminary information was provided to Kā Rūnaka, Kā Rūnaka has not received any evidence or further engagement after providing initial responses. Kā Rūnaka was not provided with updated or final documents prior to the substantive application being lodged. Kā Rūnaka has no confidence that Santana Minerals has genuinely taken any of Kā Rūnaka's feedback into consideration, nor that Sanatan Minerals retained an open mind.
 7. Kā Rūnaka inevitably has serious concerns over the long-term potential for cumulative and long-term environmental effects of mining at this location and scale.

Yours faithfully

HOLM MAJUREY



Mike Holm / Nicole Buxeda

Director / Director

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³ *Port Louis Corporation v Attorney-General of Mauritius* [1965] AC 1111 cited in *Wellington International Airport Ltd v Air New Zealand* [1992] ELHNZ 67 at pg 28, with the need for an open mind emphasised at pg 35.