Before the Panel Convener

FTAA-2608-1288

Under	Fast-track Approvals Act 2024
In the matter of	an application by Oceana Gold (New Zealand) Limited to expand the existing open pit and underground gold mining operations to enable output of approximately 130,000 ounces per annum in stages.

Memorandum of Counsel on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Aukaha (1997) Limited regarding Minute 3 of the Panel Convener

Date: 4 November 2026

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May it please the Panel Convener

1 This memorandum is filed on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Aukaha (1997) Limited.

2 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, and Te Rūnanga o Ōtākou (collectively **Kā Rūnaka**) with support from Aukaha (1997) Limited represent mana whenua in the East Otago area:

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

(b) The takiwā of Kāti Huirapa ki Puketeraki centres on Karitane and extends from Waihemo to Purehurehu and includes an interest in Ōtepoti and the greater harbour of Ōtākou. The takiwā extends inland to the Main Divide sharing an interest in the lakes and mountains to Whakatipu-Waitai with Runanga to the South.

(c) The takiwā of Te Rūnanga o Ōtākou centres on Ōtākou and extends from Pūrehurehu to Te Matau and inland, sharing an interest in the lakes and mountains to the western coast with Rūnanga to the North and to the South.

(d) Aukaha (1997) Limited is a mana whenua-based organisation that delivers services across the takiwā of Papatipu Rūnaka shareholders.

3 This memorandum is filed in advance of the Convener's conference, scheduled for 10am Monday 9 November 2026 and responds to Minute 3 of the Panel Convenor in relation to the application to expand the existing open pit and underground gold mining operations in the East Otago area to enable output of approximately 130,000 ounces per annum in stages (**Application**) by Oceana Gold (New Zealand) Limited (**Applicant**) under the Fast-track Approvals Act (**FTAA** or **Act**).[1]

4 This memorandum focuses on the matters identified in Minute 3 relating to:

(a) the steps and timing of the Panel decision; and

(b) the appointment of Panel members.

5 For Kā Rūnaka, this is an especially complex and significant Application. The Project affects the headwaters and connected downstream catchments of three awa, the Taiari, Waihemo and Waikouaiti, the Araiteuru coastline, and involves effects and management obligations extending well beyond

[1] Minute 3 of the Panel Convenor (Convenor's Conference) FTAA-2608-1288 dated 27 October 2026.

mine closure, including contaminant pathways operating over 400-plus years. The process engages rakatirataka and kaitiakitaka, the mauri of awa and whenua, mahika kai, customary fisheries and Treaty settlement redress, with consequences that will be inherited by future generations.

6 Kā Rūnaka have been engaging with the Applicant for some time with the intention of establishing an enduring relationship. However, the progressive nature of the consenting process, together with the ongoing updating of technical material, has still meant it has been challenging for Kā Rūnaka to undertake a holistic assessment of cumulative effects and to fully understand the proposed mitigations. A Treaty Settlement Impact Assessment has been prepared and provided to the Applicant in draft. It is intended that this Assessment will be finalised prior to the Conference.

7 Against that background, and while Kā Rūnaka have been actively engaged with the Project, legal counsel have only recently become involved and are continuing to come up to speed with the significant volume and complexity of the application material.

Steps and Timing of Panel Decision

8 Minute 3 identifies a number of requirements that conference participants are required to have regard to and address on the steps and timing of the Panel decision, specifically at [8], [10], [11], [13] and Schedule 2 of the Minute.

9 Kā Rūnaka have considered the steps and process that the Panel might follow to arrive at its final decision and the time that each step may require in accordance with the relevant matters set out in the Minute. Kā Rūnaka are of the view that greater than 90 days is required, and they are concerned that the Applicant's proposal for 100 days may not be sufficient, given the scale and complexity of the project. This can be contrasted with, for example:

(a) 112 working days for the Waihi North Project;

(b) 140 days for the Bendigo–Ophir Gold Project;

(c) 160 days being sought by the Applicant for the Buller Plateaux Continuation Project.

10 Kā Rūnaka have considered the questions to address at [11] and [13] of the Minute. Responses are set out below.

Does the project comprise essentially three separate projects brought together in a single application?

11 Kā Rūnaka would likely not characterise this as three separate projects bundled together. While there are distinct mining areas which need individual assessment, from a mana whenua perspective they comprise an interconnected expansion of an existing mining operation, with effects that converge across the Taiari, Waihemo and Waikouaiti catchments and must ultimately be assessed holistically and cumulatively.

12 For Kā Rūnaka, ki uta ki tai requires the Project ultimately to be assessed as an integrated whole. Impacts generated at the headwaters do not remain there. They extend well beyond the geographic boundaries of the mining tenements, from the headwaters through the connected downstream catchments to the Araiteuru coastline.

13 Assessment confined to the immediate mine footprint systematically understates the cultural impact. The progressive consenting of Macraes, including the earlier Continuity Project, has hindered the ability of Kā Rūnaka to undertake a holistic assessment of cumulative impacts. Considering the Application as three separate projects, or by reference to the tenement boundaries, would understate the cumulative and cultural effects geographically, intergenerationally time (including contaminant pathways operating over 400-plus years) and on an ecosystem basis.

Is there a logical sequence to deciding for assessing and deciding the mine extensions?

14 Yes, but the critical sequencing issue for Kā Rūnaka is mitigation and enabling infrastructure, rather than simply which mine extension is decided first. Any sequence must also recognise that the effects are ki uta ki tai and regional and extend well beyond the geographic boundaries of the mining tenements. A sequence that treats the tenement boundaries as the limit of the assessment would understate the cumulative and cultural effects geographically, intergenerationally and on an ecosystem basis.

15 An appropriate sequence would broadly be:

(a) Understand the existing environment on a ki uta ki tai basis, from the headwaters to the coast, and existing consented operation, including the effects already authorised and the present baseline.

(b) Assess each proposed mining area/component and its effects, including its relevant receiving environments wherever they occur.

(c) Identify the mitigation/infrastructure on which the acceptability of those effects depends and when they will be delivered.

(d) Assess the combined and cumulative effects of the proposed components together with the existing operation and previous consenting, geographically, intergenerationally and on an ecosystem basis.

(e) Assess those effects at catchment scale and ki uta ki tai, including downstream cultural receptors and the intergenerational/post-closure position.

(f) Only then determine whether the overall package, mitigation and consent framework adequately addresses the effects.

16 The position expressed in the Treaty Settlement Impact Assessment is that expansion should not proceed ahead of the consenting and implementation of the mitigation measures on which the water-quality case depends, expressly including the Coal Creek and Camp Creek dams and diversion of seepage to a water treatment plant.

Should the environmental effects of each individual mine or each Mining Area be assessed separately, before assessing the cumulative effects of the combined activities for which approvals are sought?

17 Yes. Separate assessment of each Mining Area would assist in identifying the particular effects, receiving environments and mitigation associated with each component. That should be regarded as the first stage of the analysis only, and it should not be confined to the tenement boundaries, as the effects of each component extend well beyond them. The Panel must then assess the combined and cumulative effects of all activities sought in this application, together with the existing and consented Macraes operation, at a regional and catchment scale and from a ki uta ki tai perspective.

What alternative approaches to assessing the environmental effects would assist the panel, and what implications would those approaches have for the timeframe?

18 As noted, Kā Rūnaka have prepared a Treaty Settlement Impact Assessment for the Application. This Assessment considers the effects of the Project ki uta ki tai. The approach to assessment that would assist the Panel is one that is not confined to the tenements, and that considers effects geographically from the headwaters to the coast, through time (including post-closure) and on an ecosystem basis.

19 At this stage, Kā Rūnaka do not consider that further assessment of cultural effects is required. However, this may need to be revisited in the event of material changes in the proposal or process.

The steps the panel may need to take to assess the relationship between the existing and proposed consents, including any proposed surrender, variation or mechanism for resolving inconsistent conditions, and the implications for the decision timeframe

20 Kā Rūnaka agree that a consent integration exercise is necessary to identified overlaps, inconsistencies, and implementation of closure and post-closure responsibilities.

21 For Kā Rūnaka, the process must result in a coherent and enforceable regime, rather than overlapping generations of conditions that obscure responsibility or permit different environmental standards to apply to effectively connected activities. That is particularly important for water quality.

22 It is essential that the Panel has sufficient time to undertake this exercise. Given the scale of the operation and the duration of the post-closure liabilities, clarity now as to which consents survive, which are surrendered or varied, and which conditions govern the integrated operation is essential.

Appointment of Panel members

23 The Panel Convenor has indicated that it will gather participant views on the appointment of Panel members.[2]

24 Kā Rūnaka submits that the Panel should include members with expertise in economics, landscape, water, mine rehabilitation and te ao Māori as these are matters that require careful consideration in relation to this specific Application. In particular:

(a) **Economic expertise** is required given the complex economic considerations of the Project such as the assessment of economic effects, adequacy and durability of post-closure funding, financial assurance, funding arrangements and life-of-liability cost.[3]

[2] Minute 3 of the Panel Convenor (Convenor's Conference) FTAA-2608-1288 at [3].

[3] Treaty Settlement Impact Assessment Macraes Phase 4 (Fast Track Approvals Act) (12.10.2026) at 64.

(b) **Landscape expertise** is appropriate given the potential impacts on the broader wāhi tūpuna landscape experienced by mana whenua, including permanent modification of the landscape.[4]

(c) **Water expertise** is necessary given the potential impacts to surface water and groundwater, such as long-term seepage, mixing of waters, and overflow pathways carrying contaminants over a long duration.[5]

(d) **Mine rehabilitation expertise** is appropriate given the significance of closure and rehabilitation to the management of long-term effects. As stated in the Treaty Settlement Impact Assessment, the risk profile increases post-closure.[6] Such expertise will assist the Panel in assessing the adequacy and effectiveness of the proposed closure and rehabilitation measures, including whether those measures are appropriate over the required timeframe.

(e) **Te ao Māori expertise** is required because the Panel will need to consider cultural and intergenerational effects such as those on mana, rakatirataka, mauri, tapu, whakapapa and mahika kai.[7] This cannot be adequately understood through western scientific disciplines alone.

Dated this 4th day of November 2026



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[4] Treaty Settlement Impact Assessment Macraes Phase 4 (Fast Track Approvals Act) (12.10.2026) at 57.

[5] Treaty Settlement Impact Assessment Macraes Phase 4 (Fast Track Approvals Act) (12.10.2026) at 58 and 60.

[6] Treaty Settlement Impact Assessment Macraes Phase 4 (Fast Track Approvals Act) (12.10.2026) at 60.

[7] Treaty Settlement Impact Assessment Macraes Phase 4 (Fast Track Approvals Act) (12.10.2026) at Section 9 (Cultural Impacts of the Macraes Phase 4 Project).