Before an Expert Consenting Panel

Under the	Fast-track Approvals Act 2024
And	
In the Matter of	an application for approvals by Matakanui Gold Limited to establish, operate, rehabilitate and ultimately close an open pit and underground gold mining operation known as the Bendigo-Ophir Gold Project

Legal Submissions on behalf of **Matakanui Gold Limited**

Dated: 17 April 2026

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INTRODUCTION

1. Matakanui Gold Limited (**MGL**) seeks approvals for the Bendigo-Ophir Gold Project (**BOGP**) under the Fast-track Approvals Act 2024 (**FTA**).

2. These submissions outline:

   (a) MGL's response to the Panel's request for further information (**RFI**) issued by the Environmental Protection Authority (**EPA**) on 1 April 2026. These submissions address the legal points and issues raised in the RFI and are intended to clarify and respond to those matters to the extent necessary to assist the Panel in its consideration of the application.

   (b) MGL's response to comments on the Substantive Application from parties invited to comment under Section 53 of the FTA. MGL's response is provided in accordance with Section 55(2) of the FTA and is to form part of the Panel's considerations in its decision making.[1] These submissions also address matters raised in the Section 51 reports requested by the Panel from the Department of Conservation (**DOC**) and Heritage New Zealand Pouhere Taonga (**HNZPT**) alongside the comments provided by these administering agencies.

3. MGL's response is structured as follows:

   (a) Response to 80 RFIs issued by the Panel on 1 April 2026:

      (i) Part One: 17 statements of evidence on behalf of MGL in response to the Panel's RFI.

      (ii) Part Two: Response table summarising response to expert Panel's RFI.

      (iii) Part Three: Additional documents requested by the Panel.

   (b) Response to comments received under Section 53 on 10 April 2026:

      (i) Part One: Legal submissions on behalf of MGL.

      (ii) Part Two: 29 statements of evidence on behalf of MGL in response to comments.

      (iii) Part Three: Response table summarising response to comments.

[1] Fast-track Approvals Act 2024, Section 81(2)(a).

(iv) Part Four: Proposed approvals and conditions amended in response to comments.

(v) Part Five: Additional documentation provided.

EXECUTIVE SUMMARY

4. The BOGP seeks to deliver significant monetary benefits that are clearly regionally and nationally significant.

5. Its effects will be comprehensively managed through robust consent conditions, offsetting and compensation, and enduring long-term rehabilitation commitments. Together, these measures will ensure that impacts are appropriately managed.

6. Amendments have been made to the proposed conditions in response to feedback received with the purpose of providing the Panel with a high degree of certainty that the effects management actions will be effectively implemented and positive outcomes delivered. These revisions reinforce the delivery framework, ensuring that mitigation and enhancement measures are robustly secured throughout the operational life of the mine and into the post-closure period.

7. Additionally, in response to comments received, MGL has committed to increasing the Biodiversity and Heritage Enhancement Fund by $500,000 (excl GST) to $1,000,000 (excl GST) annually for every year in which gold is produced up to a maximum of 10 years. MGL has also refined the purpose, to fund projects and activities that will:[2]

(a) enhance heritage values outside of the BOGP Consent Area within Central Otago;

(b) protect and enhance cushionfield habitat; and/or

(c) protect and enhance other threatened or at risk species (with the specific addition now of lizards) or ecosystems outside the BOGP Consent Area within the Dunstan Ecological District.

8. Comments have been received both in support of and in opposition to the BOGP. MGL acknowledge the feedback received. The BOGP has been subject to robust technical assessment by leading technical experts across all relevant disciplines.

9. Importantly to your ongoing deliberations, you have directed expert conferencing which provides the opportunity for refinement of proposed conditions, ensuring that

[2] See amended Condition C46 in D.03 – Schedule One – Central Otago District Council and Otago Regional Council Common Conditions.

concerns raised through submissions and expert review can be appropriately addressed. Overall, we submit that BOGP squarely aligns with the purpose of the FTA and meets the legal tests for approval.

FRAMEWORK OF LEGAL SUBMISSIONS

10. Our Legal Overview lodged with the Substantive Application sets out our submissions that the BOGP meets the purpose of the FTA and the legal tests for approvals.[3] We refer to and rely on the Legal Overview throughout these submissions.

11. These legal submissions now respond to the RFI and comments by key topic rather than individual RFI question or comments as to avoid any unnecessarily duplication. The structure is as follows:

    (a) key legal issues raised and MGL response;

    (b) key feedback topic and MGL response;

    (c) amendments proposed in response to feedback and RFI;

    (d) next steps; and

    (e) conclusion.

12. These submissions do not address comments received from persons who were not invited to comment on the Substantive Application.[4] The FTA does not provide for such comments to be considered by the Panel, and we say they are not relevant to your decision making.

KEY LEGAL ISSUES RAISED AND RESPONSE

Substantive Application

Adequacy of Information

13. While the FTA framework consolidates and streamlines the approval process, it does not reduce or modify the substantive standard of assessment required for a project of this nature and scale.

14. Some commenters have stated that MGL has not provided sufficient information to justify approval of the BOGP including by suggesting that there are gaps in baseline

[3] A.02B Legal Overview.
[4] Chinamans Terrace Services Company Limited.

environmental monitoring data which raise uncertainty as to the assessment of effects.[5] We disagree.

15. For a FTA substantive application to progress to consideration by an Expert Panel, it must first be accepted as complete under Section 46 by the EPA. This includes confirming that provided information has been *"specified in sufficient detail to satisfy the purpose for which it is required"* in relation to each approval sought. The EPA has confirmed that the BOGP Substantive Application was complete in November 2025.[6]

16. Sustainable Tarras and Environmental Defence Society (**EDS**) argue that the inadequacy of the information provided is a matter that weighs against approval.[7] While we agree that inadequate information can weigh against an approval, the Panel in this case has the information required to grant the approvals sought. We also note that the Expert Panel has the ability to request further information (which it has already done and can do again). Furthermore, it is well established that an applicant need not resolve every operational detail of the project at the application stage as appears to be suggested.

17. Starting with the current baseline environment. The adequacy of the baseline monitoring and assessments of the receiving environment undertaken by MGL is addressed below in these submissions as relevant to various disciplines. These assessments provide a robust evidential foundation to assess effects and proposed effects management measures for the reasons set out in the following sections. Proposed conditions have been updated following the RFI and commenter process and provide robust criteria for these measures which must be met and monitored.[8] It is anticipated that the conditions will be further refined as a result of conditions workshops directed by the Expert Panel.

18. During implementation of the BOGP, MGL proposes an adaptive management approach so that any unforeseen circumstances are detected early and responded to appropriately and efficiently.

19. Adaptive management is not *"suck it and see"*.[9] This approach is used in almost all major projects in New Zealand and is consistent with case law under the Resource Management Act 1991 (**RMA**) which recognises that adaptive management may

[5] Environmental Defence Society, Otago Regional Council, Department of Conservation, Otago and New Zealand Fish and Game Councils and Sustainable Tarras.
[6] Environmental Protection Authority, Decision on completeness of application for Bendigo-Ophir Gold Project, 21 November 2025.
[7] Sustainable Tarras, Legal Submissions, 10 April 2026 at [101] and Environmental Defence Society, Legal Submissions, 10 April 2026 at [241].
[8] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026 at Appendix A.
[9] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40, (2014) 17 ELRNZ 520 at [125].

respond to uncertainties and that uncertainty cannot and is not required to be ruled out in order for a project to be granted.[10] In *Director General of Conservation v Marlborough District Council,* in relation to a proposal for six hydro stations, the Court found that, in relation to effects on macroinvertebrates, uncertainty could be addressed through conditions:[11]

> *"inevitable scientific uncertainty associated with the model predictions is addressed through conditions requiring monitoring, with a trigger linked to the sensitive EPT taxa. An adaptive management plan sets out the responses, and a review of conditions may be undertaken should the trigger level be breached."*

20. We submit that this approach, which is acceptable under the RMA, is also appropriate here given the purpose of the FTA.

Structure of Substantive Application

21. EDS has raised that the structure of the Substantive Application does not align with the Panel Convener's guidance,[12] which contemplates the lodging of separate technical assessments and reports for each approval sought.

22. As outlined in paragraphs 28 – 32 of the Legal Overview, the structure of the Substantive Application was carefully considered including testing against the Panel Convener's guidance which is intended to assist applicants and promote procedural consistency but does not have binding effect.

23. To align with the purpose of the FTA, it was determined that the most appropriate approach was to provide integrated technical assessments, rather than provide separate reports for each individual approval to ensure a comprehensive and holistic assessment across multiple approvals. MGL has however maintained discrete sets of proposed conditions aligned to each approval type. We say MGL's approach is supported by Section 42 of the FTA which provides that an authorised person may:

    (a) lodge **one** substantive application for a project; and[13]

    (b) the substantive application may seek one or more approvals under a specified Act.[14]

[10] *R J Davidson Family Trust v Marlborough District Council* [2016] NZEnvC 81, [2016] ELHNZ 97 at [26] upheld in *R J Davidson Family Trust v Marlborough District Council* [2017] NZHC 52, (2017) 19 ELRNZ 628 and *Director General of Conservation v Marlborough District Council* [2010] NZEnvC 403, [2010] ELHNZ 530.
[11] *Director General of Conservation v Marlborough District Council* [2010] NZEnvC 403, [2010] ELHNZ 530 at [715].
[12] Panel Conveners' Practice and Procedure Guidance, 22 July 2025 at [4.1].
[13] Fast-track Approvals Act 2024, Section 42(1).
[14] Fast-track Approvals Act 2024, Section 42(4)(a)-(n).

24. We consider that the Section 42 requirement to lodge a single substantive application frames the application as project based rather than approval based, which has clear implications for how supporting technical assessments are prepared and presented.

25. It is in the interests of efficient decision-making and in the interests of the Expert Panel, administering agencies, and all participants in the process, to avoid unnecessary duplication. An approach that multiplied the volume of documentation through repetitive, approval-by-approval reports would be directly at odds with the purpose of the FTA. In addition, various commenters have raised issues with the volume of documents submitted;[15] and in our submission this concern would be exacerbated should separate technical reports be lodged for each type of approval.

26. EDS states that taking MGL's approach to assessing impacts risks unclear allocation of mitigation, and double counting mitigation across multiple approvals.[16] We disagree with EDS as:

    (a) The application documents clearly outline how each adverse effect is being addressed and which mitigation or offset measure is applied.

    (b) Mitigation measures and residual effects actions are clearly tied to specific adverse effects, not individual approvals. In some circumstances one mitigation or off-set workstream can be appropriately used to address a number of adverse effects over more than one approval.

    (c) This does not create ambiguity and reflects an effects based response ensuring effects management measures are proportionately responding to those effects rather than to the number or type of approvals engaged.

    (d) This approach aligns with the requirement in Section 42 to lodge a single Substantive Application which supports a project based application rather than an approval based one.

Fast-Track Approvals Act 2024 Overall Legal Framework

27. This section responds to comments that raise purported issues with the overall FTA legal framework to be applied by the Expert Panel.

Purpose of the Fast-Track Approvals Act 2024

28. EDS submits that the purpose of the FTA, being to facilitate the delivery of infrastructure and development projects with significant regional or national benefits,

[15] Folding Hill Wine Company, Sustainable Tarras, Otago Regional Council.
[16] Legal Submissions for Environmental Defence Society, 10 April 2026 at [50(c)].

is procedural, not substantive.[17] Specifically, EDS submits that "*facilitate*" in this context means that the FTA creates a streamlined process enabling projects to be processed on an expedited basis,[18] rather than providing a direction as to the substantive outcome of decision making. In asserting this position, it relies on the Sunfield FTA Panel decision, which noted that the purpose of the FTA seeks to expedite the provision of eligible development projects.[19]

29. EDS refers to the use of the term "*facilitate*" in Section 22(1)(b)(i) and notes that referring a project to the FTA process would facilitate the project, including by enabling it to be processed in a more timely and cost-effective manner than under normal process. We consider EDS's interpretation of this framework is incorrect.

30. While we agree that ensuring a timely and efficient process is one part of facilitating projects, the purpose of the FTA has other significant deliverables as well. Timeliness and cost-effectiveness are examples of facilitation, not the only aspects of facilitation. This is reinforced by Section 22(1)(b)(i) of the FTA which clearly sets out process aspects as being only part of facilitation of a project through the use of the word *"including".*

31. To facilitate the project also requires enablement of delivery of the project to unlock its national and regional benefits. Merely providing a process is not enough. Parliament has elected to use the term "*delivery*" in Section 3 which refers to the actual realisation of the project. Had Parliament intended the purpose of the FTA to be merely to accelerate consideration it would have used language such as *"consideration"* or *"assessment"* in Section 3.

32. The purpose of the FTA is clearly intended to play a key role in decision making as it is referenced in Schedules 5, 6, 7, 8 and 9 as being required to be given the greatest weight in decision making. The statutory direction that the purpose of the FTA be given the greatest weight in decision making would be meaningless if the purpose is nothing more than an acknowledgement that the application has been processed quickly. In that case, the Panel would be required to give the greatest weight to the fact that the FTA exists and has been used for quicker consideration of project. This is clearly not the intention of the weighting exercise.

33. This is supported by the limited circumstances in which a Panel has discretion to decline a project under the FTA. A Panel's discretion to decline approvals is confined to limited specified circumstances as it is intended that appropriate projects will be enabled. We submit that this limited discretion establishes a framework that supports the realisation of beneficial projects.

[17] Legal Submissions for Environmental Defence Society,10 April 2026 at [56].
[18] Record of Decision of the Expert Panel, *Sunfield,* 10 March 2026, at [554].
[19] Record of Decision of the Expert Panel, *Sunfield,* 10 March 2026, at [554].

34. This interpretation was confirmed by the Expert Panel in Southland Windfarm which endorsed Contact Energy's position that the FTA establishes a strong presumption of facilitating the delivery of projects.[20]

Weighting

35. Several comments address the weighting provisions in the FTA and in particular:[21]

    (a) state that the requirement to give the greatest weight to the purpose of the FTA in decision making must not be used to neutralise other statutory considerations; and

    (b) express disagreement with the *"overall judgement"* reference made by the Expert Panel for Waihi North.[22]

36. The Legal Overview lodged with the Substantive Application[23] addresses the weighting requirements in the FTA for decision making at paragraphs 57 – 66. We do not repeat this here but confirm that other decisions by Panels since lodgement of our Legal Overview have also consistently applied the weighting established in Bledisloe North Wharf and Fergusson North Berth Extension as outlined at paragraphs 62 – 65 of our Legal Overview.[24] We remain of the view that this is the framework the Expert Panel is required to apply when making its decision on the BOGP.

37. We agree with the comments that the weighting direction in the FTA does not permit other statutory considerations to be set aside or treated as a mere formality. We do not however agree with the approach to weighting adopted by EDS and Sustainable Tarras in their comments, for the reasons discussed below.

38. The Panel in the Waihi North decision noted that carrying out the weighting exercise may involve something akin to the overall broad judgment approach rejected by the Supreme Court in *Environmental Defence Society v The New Zealand King Salmon Company and Ors (**King Salmon**),* where a Panel is required to weigh competing considerations under the FTA to form a view as to whether they meet its purpose.[25] The Waihi North Panel also noted that there are no *"bottom lines"* of the kind applied

[20] Record of Decision of the Expert Panel, *Southland Wind Farm*, 2 April 2026, at [60]-[61].
[21] Environmental Defence Society, Sustainable Tarras, Kā Rūnaka, Royal Forest and Bird Protection Society, Department of Conservation, New Zealand Conservation Authority, Otago and New Zealand Fish and Game Councils and Otago Regional Council.
[22] Legal Submissions for Environmental Defence Society, 10 April 2026 at [92].
[23] A.02B Legal Overview.
[24] Applied by Kings Quarry, Drury Quarry, Taranaki VTM, Southland Windfarm and Waihi North.
[25] *Record of Decision of the Expert Consenting Panel*, Waihi North, 18 December 2025, Part M, at [12(a)], citing *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38; [2014] 1 NZLR 593. The Waihi Panel's reasoning was later adopted in: *Record of Decision of the Expert Consenting Panel*, Southland Windfarm, 9 March 2026, at [979].

in *King Salmon.*[26] This is because planning objectives and policies do not play as critical a role in relation to resource consent applications (particularly for non-complying activities) as they would under the RMA.[27] EDS disputes these conclusions in Waihi North.

39. In our view, in making these statements the Expert Panel in Waihi North was identifying that:

(a) While planning instruments and the language used in those instruments will still be a relevant consideration, those provisions cannot form the sole basis for decline due to Clause 17(4) of Schedule 5, Clause 7(2) of Schedule 6 and Section 85(4) of the FTA. In this sense, a provision which may be interpreted as a "*bottom line*" requiring decline in the RMA context, does not have that effect in the FTA context.

(b) The weighting exercise in Clause 17 of Schedule 5 and Clause 7(2) of Schedule 6 of the FTA inevitably requires the weighting of incommensurables.[28] In this sense there is some value judgement required to be applied when weighing the need to facilitate the delivery of infrastructure and development projects with other considerations under the provisions of other legislation referred to in the schedules. This is not a return to the pure RMA overall broad judgement approach but has some similarities in the sense that it does require weighing of different elements (namely claimed economic benefits on the one hand and actual or potential adverse effects such as environmental or cultural effects on the other) to reach an overall conclusion.

40. In light of the above decisions, we submit that the Expert Panel should, in respect of each type of approval sought:

(a) consider and evaluate each relevant matter on an individual basis without applying any weighting in the first instance;

(b) consider the FTA purpose in light of Section 81(4) which requires a Panel to consider the extent of the project's regional and national benefits in taking into account the purpose; and

[26] *Record of Decision of the Expert Consenting Panel*, Waihi North, 18 December 2025, Part M at [12](b). The Waihi Panel's reasoning was later adopted in: *Record of Decision of the Expert Consenting Panel*, Southland Windfarm, 9 March 2026, at [979].
[27] *Record of Decision of the Expert Consenting Panel*, Waihi North, 18 December 2025, Part M at [12](c). The Waihi Panel's reasoning was later adopted in: *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [979].
[28] Record of Decision of the Expert Consenting Panel, *Waihi North*, 18 December 2025, Part M at [12].

(c) after completing individual assessments undertake an overall evaluative judgement in which the purpose of the FTA is given the greatest weight.

41. Counsel for Kā Rūnaka submit that the FTA does not prescribe that economic benefits are to be preferred or given greater weight.[29] In response to this, we say that the Panel is required to make an evaluative judgement of the BOGP as a whole, giving the greatest weight to the purpose of the FTA to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. This inevitably leads to a necessary focus on the economic benefits of the BOGP.

42. Kā Rūnaka and EDS outline in their comments that the FTA weighting framework does not override the mandatory decline requirement in Section 85(1)(b) which requires an application be declined where it would breach Section 7 of the FTA. We agree, however submit that Section 85(1)(b) does not apply to the Panel's decision making as the BOGP is consistent with Section 7 of the FTA and does not breach obligations arising under the Ngāi Tahu Claims Settlement Act 1998 (**Settlement Act**).

43. In relation to adverse effects, the technical assessment and evidence on behalf of MGL does not dispute that some impacts will remain following mine closure, it is not possible to avoid all impacts.

44. However, the assessments demonstrate that the proposed effects management framework will robustly avoid, remedy, and mitigate adverse effects, such that remaining residual effects are appropriately responded to in the context of the project as a whole when considered against the FTA framework:

(a) The management of landscape effects ensures that the wider Dunstan Mountains Outstanding Natural Landscape values are not compromised overall.[30]

(b) Residual effects will remain for some terrestrial biodiversity after actions to avoid, remedy and mitigate effects.[31] A comprehensive offsetting and compensation package is proposed to respond to these impacts. Overall, and relative to the current pre-BOGP mining conditions, the offsetting and compensation package is expected to provide broad, long-lasting benefits that balance or exceed most ecological impacts.[32]

(c) To remedy the loss of approximately 3.12 hectares of wetland habitat within the DFF, approximately 7.5 hectares of indigenous swamp/marsh will be

[29] Kā Rūnaka, Legal Submissions, 10 April 2026 at [30].
[30] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026 at [42].
[31] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [15].
[32] Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025).

created which is anticipated to result in an overall net gain in wetland extent and condition in the direct disturbance footprint (**DDF**).[33]

(d) in relation to residual effects, a comprehensive offsetting and compensation package is proposed that will deliver ecological restoration and habitat enhancement across 2.219 hectares surrounding the DDF. The proposal is expected to generate long-lasting benefits that balance or exceed most ecological impacts of the BOGP.[34] The offsetting and compensation actions will be covenanted ensuring protection in perpetuity of the offsetting and compensation areas and enduring protection (also in perpetuity) of the enhanced values through positive obligations. Following offsetting and compensation, the Biodiversity and Heritage Enhancement Fund provides a further positive effect action in response to remaining residual effects.

(e) In relation to mining activities and effects, MGL will be responsible for post-closure monitoring and actions until such time it is demonstrated that closure criteria have been met.[35] Preliminary closure outcomes set out in the Mine Closure Management Plan address safety, heritage values, infrastructure removal, remediation of contamination, geotechnical stability, revegetation, water quality, pit lake development, workforce transition, and relinquishment of tenure, providing certainty that post-closure effects will be appropriately managed.[36]

45. Overall, we say the evidence demonstrates that those effects will be comprehensively and appropriately managed over the long term.

Discretion to Decline Approvals

46. A number of comments have claimed that the impacts of the BOGP are out of proportion to the economic benefits and that approvals should be declined under Section 85(3).[37]

47. We submit that the monetary benefits of the BOGP make it one of the most economically significant projects considered under the FTA to date. The Project delivers benefits that are, by any measure, regionally and nationally significant.[38]

[33] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026 at [44].
[34] Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025).
[35] Statement of Evidence of Chantelle Dodge, Response to Comments, 17 April 2026 at [24].
[36] B.40 Mine Closure Management Mine Closure Plan MCM 2025.
[37] Kā Rūnaka, Department of Conservation, Heritage New Zealand Pouhere Taonga, New Zealand Conservation Authority, Otago Conservation Board, Otago and New Zealand Fish and Game Councils, Environmental Defence Society, Forest and Bird, Sustainable Tarras, The Canyon, Bendigo Central Otago Winegrowers, Ross Hanan and Simon Gibbard and Nicola Mulvena.
[38] Otago Regional Council s53 Comments, Appendix 48 – Sense Partners Limited Peer Review – Matakanui Gold FTAA – Report for Otago Regional Council, dated November 2025, and Central Otago District Council Comments, Appendix E, Economic.

The adverse impacts are addressed by a comprehensive conditions framework, offsetting and compensation package, and long-term rehabilitation commitments. In our submission the threshold for decline under Section 85(3) is not met in relation to any approval sought for the BOGP.

48. Section 85(3) provides that a Panel may (but is not required to) decline an approval if it concludes that:

(a) there are one or more adverse impacts associated with the project; and

(b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits, even after accounting for conditions the Panel might impose or modifications MGL agrees to in order to avoid, remedy, mitigate, offset or compensate for those impacts.

49. This is a deliberately high threshold and, within the scheme of the FTA, requires a Panel to apply a strong presumption in favour of enabling beneficial projects.[39] Consideration under Section 85(3) is to be split into three steps:[40]

(a) assessment of the extent of the BOGP's regional or national benefits;

(b) assessment of the significance of adverse impacts following all proposed mitigation measures; and

(c) determining whether those adverse impacts are sufficiently significant to be out of proportion to the BOGP's benefits, after allowing for matters such as compensation.

50. The proportionality aspect of Section 85(3) means that the more significant the benefits of a project, the more significant the adverse impact must be before the discretion to decline can arise.[41]

51. An adverse impact includes any matter considered by the Panel in complying with Section 81(2) that weighs against the granting of the approval. The Southland Windfarm Panel adopted a common-sense approach to "*weighs against the granting of approvals*" and interpreted it to mean taking account of an impact that introduces a disbenefit that would otherwise not arise but for the project being considered.[42]

52. In considering the benefits of the project, Section 85(3)(b) refers to "*the project's regional and national benefits that the panel has considered under Section 81(4)*".

[39] *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [60]-[61].
[40] *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [57], *Record of Decision of the Expert Consenting Panel*, Waihi North, 18 December 2025, Part M at [11].
[41] *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [60].
[42] *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [48].

Section 81(4) states that a Panel must consider the extent of the project's regional or national benefits, therefore it is not just the fact that there are benefits which is relevant, but the extent of those benefits. In relation to the BOGP, the benefits are significant.

53. EDS claims that the requirement to apply the greatest weight to the purpose of the FTA does not apply to Section 85(3).[43] However, Section 85(3) explicitly references Section 81(2). To comply with Section 81(2)(b) decision makers must apply the relevant clauses in the schedules for the approvals sought. This reference expressly links the Section 85(3) assessment with the weighting analysis in the Schedules as it is in undertaking the weighting exercise that the Panel may also form its view under Section 85(3).

54. EDS also concedes that *"the purpose of the FTAA is always relevant to the interpretation of statutory provisions"*,[44] so while the proportionality assessment in Section 85(3) does not expressly refer back to the purpose of the FTA, it does not become irrelevant simply because there is no express reference to Section 3 (purpose) within that provision.

Section 85(4)

55. Section 85(4) prevents a Panel from treating an impact as meeting the threshold in Section 85(3)(b) solely on the basis that the impact is inconsistent with or contrary to a specified Act or any other document the Panel must take into account in its decision making.[45]

56. EDS and Sustainable Tarras assert that Section 85(4) anticipates decline when a project is inconsistent with or contrary to more than one directive avoidance policy or provision subject to those breaches being sufficiently significant to be out of proportion to the benefits.[46] We do not agree with the interpretation of EDS and Sustainable Tarras because:

    (a) The use of the word "*solely*" addresses the Panel's reasoning processes in determining if the relevant threshold from Section 85(3)(b) has been met, not the number of policies or provisions breached. Our interpretation is that it makes clear that policy inconsistency, even if it arises across multiple instruments or provisions, cannot of itself meet the threshold in Section 85(3)(b). If Parliament had intended to limit the clause in that way, it would have worded Section 85(4) to state "*solely on the basis that the*

[43] Legal Submissions for Environmental Defence Society, at [84].
[44] Legal Submissions for Environmental Defence Society, at [91].
[45] Fast-track Approvals Act 2024, Section 85(4).
[46] Legal Submissions for Environmental Defence Society, at [100]-[101], Legal Submissions for Sustainable Tarras at [9(e)(ii)].

*adverse impact in inconsistent with **only one** provision…*". It is not worded that way. The use of the word "*solely"* is meaning that there must be some other adverse impact which is sufficiently out of proportion to the benefits to require decline in relation to any particular adverse impact. Inconsistency with policy is insufficient without sufficiently significant impacts. EDS's legal submissions appear to in part agree with this principle as they identify that a policy which would otherwise require decline in an RMA context needs "*an adverse impact 'friend' in order to reach the s 85(3) threshold*".[47]

(b) In our submission the phrase "*a provision*" in Section 85(4) is best understood as referring generically to any relevant provision, rather than a single provision in the numerical sense. This interpretation is consistent with Legislation Act 2019 presumption that the singular includes the plural.[48]

(c) The Southland Windfarm Panel, relying on Waihi North, explicitly stated that the effect of Section 85(4) is that non-compliance with, say, "*avoidance policies"* (plural) that would usually preclude the granting of an approval is not of itself fatal to an application.[49]

57. On the basis of the above we submit that any inconsistency with provisions of policy and planning documents prepared under the RMA, while a relevant aspect of the Expert Panel's assessment, cannot of itself meet the statutory threshold in Section 85(3).[50]

Scope

58. EDS claims that the concession approvals sought on land that falls outside of Bendigo and Ardgour Stations are outside the scope of the Schedule 2 listing and cannot be granted by the Panel. It relies on the High Court's decision in *Ngāti Kuku Hapū Trust v Environmental Protection Agency*[51] as authority for its position.

59. We disagree and submit that the approvals sought for land outside of Bendigo and Ardgour Stations are within the scope of the BOGP Schedule 2 listing. We also do not consider *Ngāti Kuku Hapū Trust v Environmental Protection Authority* analogous to EDS's scope argument.[52]

[47] Legal Submissions for Environmental Defence Society at [99].
[48] Legislation Act 2019, Section 19.
[49] *Record of Decision of the Expert Consenting Panel,* Southland Windfarm, 9 March 2026, at [56].
[50] Environmental Defence Society, Otago and New Zealand Fish and Game Councils, Otago Regional Council, Sustainable Tarras.
[51] *Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2453.
[52] Legal Submissions for Environmental Defence Society, at [17]-[24] citing *Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2453.

60. BOGP's *approximate* geographical listing description in Schedule 2 is stated as: "*Bendigo and Ardgour Stations, approximately 20 kilometres north of Cromwell, Central Otago".*[53] The geographical locations of projects in Schedule 2 are expressly stated to be "*approximate"* and are intended to provide a general or indicative location, not a precise one. On its plain and ordinary meaning approximate means close to the actual, but not completely accurate or exact.[54] The approximate geographical location in Schedule 2 is not intended to be relied on for exact location information. If this had been the case specific land parcels would be expected to be referenced for each listed project.

61. The *approximate* geographical listings in Schedule 2 are distinct from *Ngāti Kuku Hapū Trust v Environmental Protection Agency* which related to Schedule 2 project descriptions which sit within a different column in Schedule 2. In *Ngāti Kuku Hapū Trust v Environmental Protection Agency,* the question for the High Court related to a material difference between the *"project description"* column in Schedule 2 which in that case specified the extension of one wharf whereas the substantive application sought approvals for the extension of two wharves. This is a very different scenario to the specification of an *"approximate geographical location"* in the adjoining column not containing reference to every individual potential land parcel relevant to the project.

62. In addition, the approvals sought for concessions on land outside of Bendigo and Ardgour Stations fall within the definition of "*project*" under the FTA which *"includes any activity that is involved in, or that supports and is subsidiary to*" a project listed in Schedule 2.[55]

63. As set out in the Legal Overview lodged with the application none of the concessions seek to enable direct mining activities and are required to support:[56]

    (a) the provision of public access to or through conservation land;

    (b) improve the safety of a State Highway intersection;

    (c) enable offsetting and compensation measures; and

    (d) operate water monitoring infrastructure.

64. The concession approvals are activities that support and are subsidiary to the BOGP as they have no independent purpose or commercial utility separate from the BOGP as defined in Schedule 2. They do not constitute stand-alone activities and would

[53] Fast-Track Approvals Act 2024, Schedule 2.
[54] Oxford University Press. (2002). *Concise Oxford English Dictionary* (11th ed.)
[55] Fast-track Approvals Act 2024, Section 4.
[56] A.02B Legal Overview, at [77].

not be undertaken but for the existence and operation of the BOGP. Their sole function is to enable the lawful, compliant, and environmentally managed implementation of the core mineral extraction activity.

65. On that basis, we submit that the Panel can have confidence that there no scope issue arises in respect of the concession approvals. This position is supported by the BOGP having passed the EPA completeness and scope check on 21 November 2025, at which time the EPA confirmed, among other matters, that the BOGP relates solely to a listed project or a referred project.[57]

Kāi Tahu

66. The BOGP is located within the takiwā of Kāi Tahu, with Kā Rūnaka sharing mana whenua status over the Ōtākou and Murihiku regions.

67. Since the inception of the BOPG, MGL has made extensive and genuine efforts to engage with mana whenua, the detail of which is set out in the evidence of Damian Spring.[58] MGL commissioned Aukaha to prepare a Cultural Impact Assessment, which has since been finalised and attached to the evidence of Mr Ellison on behalf of Kā Rūnaka.

68. As the BOGP progressed, MGL has made genuine efforts to respond to concerns raised by Kā Rūnaka and has consistently maintained its openness to further discussions with Kā Rūnaka. This dialogue remains ongoing, with Kā Rūnaka indicating that it intends to prepare draft conditions in good faith for MGL's review. MGL remains committed to fulfilling its obligations under the FTA as they relate to mana whenua.

69. The below paragraphs respond to evidence and legal submissions of Kā Rūnaka relating to Treaty settlements and Section 7 of the FTA, and we address broader cultural values later in our submissions.

Treaty Settlement Obligations

70. Kā Rūnaka submits that the BOGP in its current form is in breach of Section 7 of the FTA, which requires consistency with the obligations imposed under Treaty of Waitangi (**Treaty**) settlements, including the Settlement Act.[59] Specifically, counsel for Kā Rūnaka submit that the BOGP is inconsistent with obligations under the Settlement Act regarding the recognition of rakatirataka and the recognition of taoka species.[60]

[57] Fast-track Approvals Act 2024, Section 46(2)(c).
[58] Statement of Evidence of Damian Spring, 17 April 2026 at Appendix 1.
[59] Legal Submissions for Kā Rūnaka, at [20]-[21],
[60] Legal Submissions for Kā Rūnaka, at [13].

71. For the reasons that follow, we submit that the BOGP is consistent with the relevant Treaty settlement obligations that apply and there is no inconsistency with Section 7 of the FTA.

72. Section 7 requires all persons performing and exercising functions, powers and duties under the FTA to act in a manner consistent with obligations arising under relevant Treaty settlements. Section 85 of the FTA provides that the Panel must decline an application if approving it would breach Section 7 of the FTA. However, Section 84 allows a Panel to set conditions to protect a relevant Treaty settlement. As a result, an application must only be declined where conditions cannot ensure the settlement is protected.

73. Very intentionally, Section 7 is limited to Treaty settlements and not Treaty principles more generally. This has been upheld by the High Court.[61]

74. The Settlement Act gives effect to the settlement of Kāi Tahu's historical claims arising from the Crowns breaches of the Treaty of Waitangi. The Act contains a Crown apology, financial and commercial redress and extensive cultural redress provisions. Section 6(7) of the Settlement Act recognises Kāi Tahu as *"the tangata whenua of, and as holding rangatiratanga within, the takiwā of Ngāi Tahu Whānui".* We understand that "rangatiratanga" is often referred to as "rakatirataka" in Kāi Tahu dialect, although these terms have the same meaning. The Settlement Act also introduces the concept of taoka (taonga) species, and specific taonga species are listed in schedules. The Crown must consult with Kāi Tahu over management decisions in relation to those species.

75. Kā Rūnaka specifically rely on the concepts of rakatirataka and taoka in its legal submissions in claiming a breach of Section 7 of the FTA. Neither statutory acknowledgement areas nor nohoaka entitlements have been raised Kāi Tahu, however both those concepts are also assesses below.

Rakatirataka

76. The Settlement Act opens with the Crown's apology to Kāi Tahu, which recognises Kāi Tahu as tākata whenua and as holding rakatirataka within the Takiwā of Kāi Tahu Whānui. Kā Rūnaka submit that the BOGP would negatively impact their rakatirataka and that to "*repudiate, fail to give effect to, or ignore this status is inconsistent with obligations contained in the Treaty".*[62]

[61] *Ngāti Kuku Hapū Trust v Environmental Protection Agency* [2025] NZHC 2046 at [46].
[62] Legal Submissions for Kā Rūnaka, at [20].

77. Kā Rūnaka indicate that the BOGP will reduce the ability to exercise rakatirataka by diminishing wai[63] and will ignore rakatiratanga by repeating historical losses.[64]

78. The Expert Panel need to consider the submission of Kā Rūnaka in the context of the relevant legal framework which includes both the FTA and the Settlement Act.

79. The provisions on rakatirataka which sit in the recorded apology in the Settlement Act constitute an acknowledgement by the Crown that Kāi Tahu holds rakatirataka within the Kāi Tahu tākiwa. There are no other provisions within the Settlement Act that discuss rakatirataka or obligations in relation to rakatirataka.

80. In our submission the provisions within the apology do not extend to imposing obligations on third parties, such as MGL or the Panel, to recognise or give effect to Kāi Tahu rakatirataka. This is because the language used in the apology of the Settlement Act regarding rakatirataka is one of recognition and historical acknowledgement, rather than a source of operative duties imposing any actions to be taken by MGL or the Panel.

81. The evidence on behalf of Mr Ellison states that "a function of rakatirataka is the exercise of rakatirataka, which utilises information and knowledge framed in traditional or te ao Māori concepts to guide decision making".[65] Mr Ellison then claims that "the access Kāi Tahu / runaka people have had to critical information has been constrained by the limited timeframes to fully comprehend the potential effects".[66]

82. While remaining respectful of Mr Ellison's perspective, we do not consider that this amounts of a breach of section 7. Section 85(1)(b) of the FTA must not be interpreted as requiring decline of an application for an approval merely on the basis that iwi consultation preferences have not been met. It cannot have been Parliament's intention to require decline of any fast track application wherever rangatiratanga is referred to within a Treaty Settlement document and the relevant iwi considers that the applicant has not undertaken engagement in a manner which best enables it to exercise its rangatiratanga.

83. Instead the focus of section 7 is on ensuring compliance with express obligations arising under existing Treaty settlements. In our view this captures obligations expressly set out in the Treaty settlements, rather than any other aspects which may conceivably form part of assisting iwi in exercising the benefits arising from the relevant settlement.

[63] Statement of Evidence of Edward Ellison, 10 April 2026, Appendix A at [5.2].
[64] Statement of Evidence of Edward Ellison, 10 April 2026 at [115].
[65] Statement of Evidence of Edward Ellison, 10 April 2026 at [102].
[66] Statement of Evidence of Edward Ellison, 10 April 2026 at [103].

84. In relation to that point it is submitted that:

(a) The obligations within the apology in the Settlement Act do not extend to MGL but rather are Crown obligations; and

(b) The obligations do not extend to requiring particular forms of consultation or particular timeframes for consultation which are not expressly stated within the relevant obligation.

85. We therefore submit that the comments from Kā Rūnaka asserting inconsistency between the BOGP and obligations to recognise Kāi Tahu rakatirataka, and the contention that this inconsistency gives rise to a breach of Section 7 of the FTA, is legally flawed.

86. In any event, we submit that the extensive efforts by MGL to engage with Kā Rūnaka demonstrates MGL's recognition of Kā Rūnaka as rakatirataka. Further, MGL has expressly indicated that it remains open to receiving further information from Kā Rūnaka on the most appropriate means of recognising Kāi Tahu culture and traditions. This is explored further in Mr Spring's evidence. We therefore submit that MGL has recognised Kā Rūnaka as having rakatirataka over the Project Area.

Taoka Species

87. The comments from Kā Rūnaka collectively consider that the BOGP is inconsistent with the following obligations in the Settlement Act relating to taoka species:

(a) Section 288, which acknowledges the cultural, spiritual, historic and traditional associations of Kāi Tahu with listed taoka.[67]

(b) Section 293, which requires the Minister of Conservation to advise Kāi Tahu in respect of plans, policies or documents relating to taoka species.[68]

(c) Section 294, which requires the Director-General of Conservation to consult with and have particular regard to Kāi Tahu views when making policy decisions concerning their protection.[69]

(d) Part 1, which recognises Kāi Tahu as holding rakatirataka. The significant impacts on taoka species represent a direct challenge to the exercise of rakatirataka.[70]

[67] Statement of Evidence of Jade Wakin, 10 April 2026 at [17].
[68] Legal Submissions for Kā Rūnaka at [13].
[69] Legal Submissions for Ka Rūnaka, at [13].
[70] Statement of Evidence of Jade Wakin, 10 April 2026 at [41].

88. With respect to the acknowledgement of the cultural, spiritual, historic and traditional associations of Kāi Tahu with listed taoka in Section 288 of the Settlement Act, we submit that the language used is one of acknowledgement and recognition, rather than conferring any specific obligations to be complied with. Sections 290-292 of the Settlement Act expressly limit the legal effect of Section 288, stating that the acknowledgement does not affect the exercise of powers under any statute[71] or the lawful rights of third parties,[72] and does not of itself create any estate, interest or rights in taonga species.[73]

89. Kāi Tahu has claimed that there are inconsistencies with Sections 293 and 294 of the Settlement Act. In our submission, and as acknowledged by counsel for Kā Rūnaka,[74] these obligations are expressly imposed on the Minister of Conservation and the Director-General of Conservation and do not extend to MGL or the Panel. Accordingly, we submit that the submission from Kā Rūnaka that the BOGP is inconsistent with the obligations in the Settlement Act to consult with Kā Rūnaka on taoka species is legally flawed.

90. The evidence filed on behalf of Dr Simcock and Mr Barber for MGL acknowledges the cultural significance of taoka species and notes that the appropriate place to recognise this cultural significance is through the involvement of Kā Rūnaka in management plans.[75] MGL are supportive of this.

91. With respect to the submission by Kā Rūnaka that the Crown recognition of rakatirataka in Part 1 of the Settlement Act has been breached by reason of the impacts on taoka species, we emphasise that the relevant provisions are framed in the language of acknowledgement and recognition, rather than imposing any obligations. The obligations in relation to taoka species sit within Sections 283 and 294. In any event, MGL has consistently signalled its openness to ongoing dialogue with Kā Rūnaka including involvement in the relevant management plans. The opportunity for Kā Rūnaka to participate in this process will, in our submission, enable Kā Rūnaka to exercise its rakatirataka duties in relation to taoka species in an ongoing and meaningful way.

92. In summary, we do not consider the Settlement Act imposes any specific obligations regarding taoka species that apply to MGL or to the Panel in decision-making. We therefore do not consider there is any inconsistency with Section 7 of the FTA in relation to this. Notwithstanding this position, in our submission the previous and ongoing engagement with Kā Rūnaka has and will continue to provide further

[71] Ngāi Tahu Claims Settlement Act, Section 290.
[72] Ngāi Tahu Claims Settlement Act, Section 291.
[73] Ngāi Tahu Claims Settlement Act, Section 292.
[74] Legal Submissions for Ka Rūnaka, at [13].
[75] Statement of Evidence of Keith Barber at [28] – [29], Statement of Evidence of Dr Robyn Simcock at [29] and [55].

opportunities for Kā Rūnaka perspectives on taoka species to be incorporated during planning and implementation of the Project.

Statutory Acknowledgement Areas

93. The comment received from the Minister of Māori Crown Relations and Māori Development supports the BOGP subject to the Expert Panel considering, whether the BOGP will affect the statutory acknowledgement areas and its impacts on taonga species.[76]

94. The Minister also encourages the Expert Panel to consider nohoanga entitlement in relation to potential effects on cultural values. We address the points raised by the Minister below.

95. Statutory acknowledgement areas are provided with additional protection measures in the Settlement Act. Statutory acknowledgements over nearby Mata-au (Clutha River) and Te Wairere (Lake Dunstan) also warrant examination in relation to Section 7. The takiwā of Kā Rūnaka includes the Mata-au (Clutha River) and Te Wairere (Lake Dunstan) located over five kilometres away from the BOGP site.

96. The obligations arising from the Settlement Act in relation to statutory acknowledgment areas are as follows:

    (a) consent authorities must have regard to statutory acknowledgement areas when forming an opinion as to whether Kāi Tahu may be adversely affected by the granting of a resource consent;[77] and

    (b) consent authorities are required to forward summaries of resource consent applications to Kāi Tahu.[78]

97. As the BOGP project footprint is not located within either of the statutory acknowledgement areas identified above, we do not consider the obligations regarding statutory acknowledgement areas to be triggered in this case. While the tributaries that are located within the BOGP footprint periodically reach these statutory acknowledgement areas indirectly through the Bendigo Aquifer, they are explicitly removed from statutory acknowledgements in the Settlement Act. The Settlement Act's definition of *"river"* specifically excludes *"any tributary flowing into a river".*[79] For lakes, the Settlement Act's definition excludes *"any river or watercourse, artificial or otherwise, draining into or out of that lake".*[80]

[76] Comment from the Minister of Māori Crown Relations and Māori Development.
[77] Ngāi Tahu Claims Settlement Act 1998, Section 208.
[78] Ngāi Tahu Claims Settlement Act 1998, Section 207(a).
[79] Ngāi Tahu Claims Settlement Act 1998, Section 205(1).
[80] Ngāi Tahu Claims Settlement Act 1998, Section 205(1).

98. The Ministry for the Environment's Section 18 Report for the BOGP also confirms that the obligations to consult with regards to statutory areas contained in Sections 208 and 207 of the Settlement Act, would have been discharged by the Section 53 invitation to comment process if they were to apply to the BOGP.[81]

99. Regardless, both the Mata-au (Clutha River) and Te Wairere (Lake Dunstan) do not receive surface water discharges from the mine site under normal conditions. The watercourses within the Project footprint are relatively small and drain to either Bendigo Creek or the Lindis River, but in both cases surface flow typically does not make it all the way to these downstream water bodies. [82]

Nohoaka Entitlements

100. The Settlement Act identifies four nohoaka entitlements on the Clutha River.[83] The obligations arising under the Settlement Act regarding nohoaka entitlements are to have regard to the existence of the nohoaka entitlement, notify Kāi Tahu of any activity that may affect the holder, and avoid unreasonable disruption to the holder.[84]

101. Nohoanga entitlements are clearly defined and identified in the Settlement Act. There are no nohoaka entitlement areas that the BOGP area covers.[85] Accordingly, the obligations under the Settlement Act relating to nohoaka entitlements do not apply to the BOGP.

Consultation with Kā Rūnaka

102. Counsel for Kā Rūnaka submit that MGL has not competently engaged with Kā Rūnaka on the BOGP.[86] Kā Rūnaka have advised MGL that the absence of adequate consultation would likely amount to a breach of Section 7 of the FTA. We do not agree that a failure to meet Kā Rūnaka consultation and timeframe preferences amounts to a breach of Section 7 for the reasons set out above.

103. MGL has actively engaged with Kā Rūnaka in a manner which has gone well beyond fulfilling its pre-lodgement consultation requirements under Section 11 of the FTA. Mr Spring's statement of evidence demonstrates that MGL has actively engaged with Kā Rūnaka from the inception of the BOGP and continues to do so. From MGL's perspective engagement to date has been meaningful and constructive. These

[81] Ministry for the Environment, Section 18 Report, 11 December 2025 at [5].
[82] B07 Greg-Ryder-Consulting-Recommended-Water-Quality-Compliance-Limits-for-the-Bendigo-Ophir-Gold-Project-Ryder-2025_Redacted.pdf
[83] Ngāi Tahu Claims Settlement Act, Schedule 95.
[84] Ngāi Tahu Claims Settlement Act, Section 260.
[85] A.15 - Section 8 Fast Track Approvals Act 2024 Requirements, at 8.7.3.22.
[86] Legal Submissions for Ka Rūnaka at [4].

efforts are far more extensive than the comments Kā Rūnaka record in legal submissions.[87]

104. MGL has consistently sought engagement with Kā Rūnaka and emphasises that the door remains open to further and ongoing consultation.

105. MGL also engaged Aukaha Ltd - a consultancy established by Kāi Tahu in 1997 to deal with resource consents and engage with councils on RMA matters — to prepare a Cultural Impact Assessment for the BOGP. The hope of MGL in seeking a Cultural Impact Assessment was to assist MGL in better understanding any cultural impacts and concerns. MGL has been committed to addressing concerns raised by Kā Rūnaka where practicable.

106. Accordingly, we submit that the consultation to date and ongoing consultation undertaken by MGL has provided Kā Rūnaka with an opportunity to exercise its rakatirataka,is sufficient to discharge its obligations under the Settlement Act to consult with mana whenua and there is no breach of Section 7 of the FTA.

Relevance of the Taranaki VTM Fast-Track Approvals Act 2024 Decision

107. Counsel for Kā Rūnaka highlights that the Panel for the Trans-Tasman FTA application was unable to grant consent due to the application preventing the practical implementation of Treaty settlement legislation.[88]

108. In our submission, the Trans-Tasman decision can be distinguished as it was made in the context of a different Treaty settlement framework with an entirely different suite of obligations. In that context, the relevant Taranaki Treaty settlement obligations prescribed clearer and defined rights and obligations, compared to the provisions applicable to the BOGP within Kā Rūnaka Settlement Act. The key difference between the two is that the Kā Rūnaka Settlement Act is deliberately drafted in a way that limits its own legal effect[89] (particularly in relation to Statutory Acknowledgement Areas) whereas the Taranaki Treaty settlements were treated by the Expert Panel as creating practical rights obligations, particularly with regards to fisheries.

109. In particular, and distinct to the BOGP, the Expert Panel for the Taranaki VTM determined in that case that the relevant Treaty settlements contained commercial and customary fishing rights delivered through quota and catch entitlements for mana whenua. The Expert Panel found that the effects of the project would materially reduce the ability for Māori to use these settlement-derived rights which

[87] Legal Submissions for Ka Rūnaka at [4].
[88] Legal Submissions for Kā Rūnaka, at [8].
[89] See for example Sections 215, 217, 218 and 219 of the Ngāi Tahu Claims Settlement Act.

essentially amounted to *"obligations"* that the Trans-Tasman project would undermine. In contrast, the Settlement Act contains no active obligations or entitlements of a comparable nature. There are no measurable targets or quotas which must be adhered to. Accordingly, we submit that the Settlement Act does not give rise to the same type of defined rights and obligations that the Panel found to be engaged by the Trans-Tasman application.[90]

110. We therefore do not consider the Trans-Tasman decision should be given any weight in the Panel's decision-making on Treaty settlement obligations in this case.

Conclusion on Treaty Obligations

111. In our submission, Kā Rūnaka have not identified any relevant and enforceable obligations under the Settlement Act that the BOGP is inconsistent with. The provisions relating to the recognition of rakatirataka and taoka species do not apply to MGL or the Panel. The FTA requires a breach of an express obligation within a Treaty settlement; mere inconsistency with iwi preferences in giving effect to the recognitions affirmed within Treaty settlement documents is insufficient.

112. We submit that the BOGP is consistent with the relevant Treaty settlement obligations that do apply, and the BOGP is therefore consistent with Section 7 of the FTA.

113. Accordingly, we submit that there is no legal basis to decline approvals for the BOGP on the basis of a breach of Section 7 of the FTA.

Response to Legal Points Raised In Feedback

Partial Revocation of the Conservation Covenant

114. Part of the Project Site within Bendigo Station is subject to the Bendigo Station Conservation Covenant (**Conservation Covenant**). The Conservation Covenant requires that the land is managed in accordance with specified conservation objectives. The application seeks partial revocation of the Conservation Covenant so that it no longer applies to the Project Site.

115. DOC, Forest and Bird, EDS, and multiple commenters object to the amendment of the Conservation Covenant.[91]

[90] Record of Draft Decision of the Expert Panel, *Taranaki VTM,* 4 February 2026 at [1832]-[1905].
[91] Department of Conservation, Forest and Bird, Environmental Defence Society, New Zealand Conservation Authority, Sustainable Tarras, Kā Rūnaka, Heritage New Zealand, Otago and New Zealand Fish and Game Councils and Otago Conservation Board.

116. Covenants are granted or reserved over land for conservation purposes in favour of the Minister of Conservation. The covenant will run with the land and bind that land until removed. The Conservation Act 1987 (**Conservation Act**) does not prescribe a specific test for the uplift of a conservation covenant; rather, removal outside of the FTA process is achieved by agreement, or by a court order applying the Property Act 2007 test for modifying or uplifting covenants.

117. We consider several commenters have applied incorrect legal tests in relation to the conservation covenant. Comments provided by the New Zealand Conservation Authority, DOC and Sustainable Tarras have suggested criteria for removal of the Conservation Covenant that are not provided for in the FTA.

118. As outlined in MGL's Legal Overview when considering whether or not to remove or amend a conservation covenant the Panel must give the greatest weight to the purpose of the FTA, and take into account the purpose of the covenant and the conservation values of the land concerned, and whether the amendment or revocation will compromise values of regional, national or international significance.[92] These inputs in the Panel's decision making are analysed in DOC's report and the Application.[93]

119. DOC considers that a prerequisite to the covenant uplift is that the conservation values to have already disappeared.[94] We disagree; that prerequisite is not provided in Clause 45. In addition, Clause 46(1)(a) allows the Panel to set conditions requiring the protection of equivalent land outside of the area of the covenant signifying that covenants can be removed from land that retains conservation values, and mitigation or offsetting conditions can alleviate any loss.

120. We submit, as outlined in the Legal Overview, that the Central Otago District Council (**CODC**) land use conditions requiring covenanting of the proposed offsetting and compensation areas in perpetuity and exceeding the area to be removed from the existing Conservation Covenant, remove the need to impose conditions under Clause 46(1)(a). The proposed covenants require environmental outcomes and ensure the covenanter actively manages the land requiring including weed and post control, and planting.

121. This should be contrasted to the existing Conservation Covenant which largely prevent acts on the land, in addition to requiring the control of rabbits, vermin and gorse as far as practicable rather than imposing ongoing prescribed ecological management with clear definable objectives and criteria.

[92] A.02B Legal Overview, at [81].
[93] A.02B Legal Overview, at [84]
[94] Department of Conservation, Section 51 Report, 25 March 2026 at [15].

122. The planning evidence of Mark Chrisp confirms that the covenant will be removed from only 11% of the total conservation covenant area of 7,962 hectares,[95] and only approximately 3% of the total conservation covenant area will fall into the DDF, the balance being subject only to ancillary mining activities.[96] In contrast, the new covenant proposed in the CODC land use conditions is to cover the full extent of the uplift area and more than 1,200 hectares of additional land. [97]

123. Multiple submitters[98] have argued that removing the Conservation covenant specifically to permit mining, being one of the activities the Conservation covenant was intended to regulate without prior approval from the Minister, would set a precedent and render conservation covenants meaningless. We disagree.

124. Each FTA application to remove or amend a conservation covenant must be considered on its own merits, and decisions made under the FTA cannot be held as precedents under other legislation. A fresh merits assessment is necessary for each application. In addition, the notion that the removal of the covenant would de facto render conservation covenants meaningless is a hyperbole. Each conservation covenant exists to protect the specific conservation values of the land it binds, and each is legally binding until revoked. Each covenant exists in a distinct legal and factual context; the removal of a covenant from one parcel of land has no bearing on the strength of another. Nothing in the FTA binds one panel to follow another.

125. In addition, the creation of a precedent, a policy notion only, is not a listed consideration in the FTA and should carry little weight.

126. In relation to more specific legal submissions:

    (a) Forest and Bird has noted that the landowner has not sought the Minister of Conservations approval before allowing earthworks or mining on the covenanted land.[99] DOC has correctly identified that this would, outside of the FTA process, be required to carry out mining activities under Clause 3 of the Conservation Covenant. However, this clause does not apply in this case, MGL is seeking the partial revocation of the covenant on the relevant land, as opposed to approval under the covenant itself. In addition, Clause 42(g) of Schedule 6 of the FTA does not apply because the covenant has been entered into by the Minister, not a local authority or other body under

[95] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [42].
[96] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [43].
[97] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [45].
[98] Otago Conservation Board, Royal Forest & Bird Protection Society of New Zealand, Environmental Defence Society.
[99] Legal Submissions for Royal Forest and Bird Protection Society of New Zealand, at [23].

Section 77 of the Reserve Act. Section 77 is very clear in its differentiation between those three entities[100]. .

(b) We agree with EDS that the Application is seeking revocation of the covenant outside of the direct footprint of the proposed mine site. The reasons for this are clearly justified in the Substantial Application and Legal Overview.[101]

(c) Sustainable Tarras are critical of MGL's conclusion that "*the values sought to be protected by the Conservation Covenant will not be compromised in the context of the overall wider area*" and notes that this is not the correct test.[102] MGL submits that it's Legal Overview is clear with regards to the legal test for the revocation of a covenant, and notes those statements were made with regards to the proposed submissions.

(d) Multiple submitters note that MGL has not done an assessment of the conservation values of the land affected by the covenant revocation, or how the project compromises them, however MGL notes that this assessment is provided within Part A.15, Section 8.9.1, of the Substantive Application. The specific conservation values protected by the covenant are provided at 8.9.1.1 and in summary, include:

(i) ecological values;

(ii) historic values; and

(iii) natural character and landscape values.

127. The application provides for an assessment of the impacts of the project on those values and any proposed methods of addressing those impacts. The assessment concludes that the impacts on the values can be suitably managed and addressed through offsetting and compensation measures. These measures – including ecological restoration and habitat enhancement activities, will be protected in perpetuity through the CODC land use condition covenant. This places a much more enduring legacy on ecological objectives of the Conservation covenant than the current trajectory which without intervention would see the biodiversity decline.[103]

[100] Reserves Act 1977, Section 77.
[101] A.15 - Section 8 Fast Track Approvals Act 2024 Requirements, at pages 521 and 538 and A.02B - Legal Overview at [84].
[102] Legal Submissions for Sustainable Tarras, at [152].
[103] A.15- Section 8 Fast Track Approvals Act 2024 Requirements, at pg 536.

128. In its RFI dated 1 April 2026 the Panel requested full copies of documents cited in the Bendigo Station Conservation Covenant.[104] It also asked for an assessment of the revocation against those documents. The evidence of David Norton[105], Dr Naomi Woods[106], Rhys Girvan[107] and Ian Boothroyd[108] address these assessments. We do not repeat that evidence here, however, note that each share a common conclusion, there will be some unavoidable localised loss of values but the overall representativeness and function of the covenant is maintained.

129. Of importance, while the broader Bendigo heritage landscape is identified as a Historic Area the partial revocation will impact a small part of this area.[109] Dr Naomi Woods concludes that the partial revocation of the Conservation Covenant will not reduce the Historic Area's significance to the extent it can no longer be considered regionally significant.[110]

Legal Test for Concession

130. The FTA creates an alternative, streamlined pathway for obtaining a concession that would otherwise be applied for under Part 3B of the Conservation Act. The Legal Overview provides the relevant statutory tests for the grant of a new concession.[111]

131. Five concessions are sought for BOGP. MGL had originally anticipated the New Zealand Transport Agency (**NZTA**) and the CODC as proposed concession holders. Sustainable Tarras have raised the legality of MGL applying for and being granted concessions on behalf of third parties.[112] MGL has considered those comments and is now requesting the concessions in its own name.[113]

132. NZTA's interest is confined to the SH8/Ardgour Road intersection upgrade which relates to an historic road alignment issue, and it has stated that it does not accept that state highway roads should be on a concession. Its preference is that it legally owns the land upon which state highway assets are located. MGL notes that NZTA has not provided any reason why the assets cannot be on concession land. DOC

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[104] Request for further information to Matakanui Gold Limited – 1 April 2026, 32(a) Draft survey report for Protected Natural Areas Programme for the Lindis Pisa and Dunstan Ecological Districts (February 1987)
(b) Application for exchange of property rights submitted to the Commissioner of Crown Lands as part of the creation of the Conservation Covenant
(c) The Rich Fields of Bendigo by Jill Hamel (February 1993)
[105] Statement of Evidence of Emeritus Professor David Norton, Response to Comments, 17 April 2026, at [11]-[24].
[106] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026, at [5]-[15].
[107] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026, at [8]-[14].
[108] Statement of Evidence of Ian Boothroyd, Response to Comments, 17 April 2026, at [7]-[21].
[109] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026, at [75].
[110] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026, at [75].
[111] A.02B Legal Overview, at [75] onwards.
[112] Legal Submissions for Sustainable Tarras, at [133], referring to Department of Conservation's completeness comments, dated 13 November 2025
[113] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [25].

has noted its agreement with NZTA, but again, no reasons are provided. The evidence of Mr Mark Chrisp confirms that in response to comments MGL have agreed to subdivide and vest the relevant sections of road in CODC following construction. The concession term requested has been reduced from 30 years to 5 years to enable works then vesting to take place. [114]

Wildlife Authority

133. As outlined in the Legal Overview, when considering applications for wildlife approvals under the FTA, the Panel must take into account, the purpose of the FTA (giving this the greatest weight), the purpose of the Wildlife Act 1953 (**Wildlife Act**) and the effects of the project on protected wildlife. The Panel must also take into account information in relation to protected wildlife including the New Zealand Threat Classification System.[115]

134. DOC, NZCA, Sustainable Tarras and EDS consider that the wildlife approval sought by MGL is inconsistent with the purpose of the Wildlife Act.[116] We agree with Sustainable Tarras that the purpose of the Wildlife Act is the protection of wild animals though the Wildlife (Authorisations) Amendment Act 2025 has amended the focus for authorities for incidental killing from the protection of individual animals to the protection of both individuals and populations of wildlife.[117]

135. It is appropriate to grant the wildlife approval sought as this meets the FTA test.

136. DOC agrees that the wildlife approval in relation to avifauna is broadly consistent with the purpose of the Wildlife Act subject to amendments to the Avifauna Management Plan (**AMP**) and conditions.[118]

137. In relation to lizards, Sustainable Tarras considers that outcomes for lizards are highly uncertain therefore the proposed wildlife authority is inconsistent with the Wildlife Act's protective purpose.[119]

138. DOC considers:

    (a) further work is required in relation to effects on lizards for the authority to be consistent with the purpose of the Wildlife Act.[120]

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[114] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [29].
[115] A.02B Legal Overview and Clause 5 of Schedule 7, Fast-track Approvals Act 2024.
[116] Department of Conservation, New Zealand Conservation Authority, Sustainable Tarras and Environmental Defence Society.
[117] Wildlife (Authorisations) Amendment Act 2025, Section 4 and Wildlife Act 1953, Sections 53A to 53C.
[118] Department of Conservation, Section 51 Report, 25 March 2026 at [3.1].
[119] Legal Submissions for Sustainable Tarras, at [161].
[120] Department of Conservation, Comments, Appendix B – Legal Memorandum, 9 April 2026 at [26]-[27].

(b) that the wildlife approval does not include clear, objective standards or controls in its conditions; and

(c) this results in the management plans both defining the activity that is authorised under the approval and specifying how those activities are to be undertaken.[121] In DOC's view this departs from the more orthodox approach where the approval sets out what is required to be complied with, and the management plan articulates how the approval holder intends to meet those requirements.[122]

139. We address DOC's further comments on management plans below.

140. We agree with DOC that the conditions, not management plans, must set the parameters for an activity. The proposed wildlife approval adopts this approach by ensuring that methods in the management plans are tied to clear outcomes within the wildlife authority conditions.

141. Schedule 1, Clause 1 of the wildlife approval describes the activity which includes for example *"undertaking biodiversity monitoring of native lizards".* The conditions establish how lizard capture and handling[123] and lizard salvage reporting[124] must be undertaken. Schedule 1, Clause 1 describes the methodology for the activity. It refers to the management plans as the method for compliance with conditions and also specifies what these methods are for example *"timed manual searches for lizards".* Effects on lizards are addressed below in our submissions.

142. DOC considers that the proposed approval to permit accidental or unintentional harm to any protected wildlife that could arise from the BOGP is inappropriate due to vagueness and could apply to activities within areas of public conservation land.[125] NZCA also considers this aspect of the wildlife approval to be inappropriate as such an allowance is not consistent with the level of protection afforded under the Wildlife Act, particularly given the scale of effects on wildlife.[126]

[121] Department of Conservation, Comments, Appendix B – Legal Memorandum, 9 April 2026 at [26].
[122] Department of Conservation, Comments, Appendix B – Legal Memorandum, 9 April 2026 at [26].
[123] D.11 Wildlife Act Authority and Conditions, Conditions 4-8.
[124] D.11 Wildlife Act Authority and Conditions, Conditions 14-18.
[125] Department of Conservation, Section 51 Report, 25 March 2026 at [5.1.4].
[126] New Zealand Conservation Authority, Comments at [6.2] and [6.4].

143. This aspect of the approval is appropriate and can be granted as part of overall wildlife approval for the following reasons:

(a) Mr Chrisp's evidence confirms that the wildlife authority is only sought for the Ardgour Rise Concession Area as it is located within the DDF.[127] Wildlife approvals are not sought for the other concession areas.[128]

(b) The Wildlife (Authorisations) Amendment Act 2025 reinforces that wildlife authorities can be granted to approve incidental killing of protected species where this is unavoidable and incidental to carrying out an otherwise lawful activity.

(c) The proposed approval to permit accidental or unintentional harm to any protected wildlife that could arise from the BOGP is intended to be incidental to the more specific approvals sought including to *"catch, salvage and relocate"* and to *"undertake biodiversity monitoring of"* native lizards.[129] The conditions of the proposed wildlife approval will also ensure that all reasonable effort must be taken for any such death of wildlife to be permitted under the approval.[130]

144. DOC and other commenters on the wildlife approval also raise concerns in relation to the scale of effects on lizards. As demonstrated by the evidence of Dr Ussher, Dr Baber, Dr Barber and Mr Lurling the BOGP will protect wildlife through comprehensive measures in accordance with the Lizard Management Plan, Avifauna Management Plan and Habitat Impact Management Plan.

145. Dr Baber considers that the level of effort proposed, including a commitment to salvage approximately 102,000 lizards, as part of the salvage and relocation programme is unprecedented.[131]

Reliance on Fast-track Approvals Act Decisions

146. The comments from EDS and Sustainable Tarras submit that the decisions of earlier FTA Panels are not binding on the BOGP Panel.

147. While that is accepted, where the factual circumstances are comparable and the statutory tests are the same we submit that those decisions provide persuasive guidance and should be given some weight by the Panel.

[127] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026 at [35].
[128] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026 at [35].
[129] D.11 Wildlife Act Authority and Conditions, Schedule 1, Clause 1.
[130] D.11 Wildlife Act Authority and Conditions, Condition 11.
[131] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [21(b)].

148. While the Panel is not a Court, authorities relating to the exercise of specialist discretion still apply.[132] As a specialist decision-making body, the Panel is entitled to make their decision drawing on planning, logic and experience where appropriate.[133] We submit that this can and should include the reasoning contained in decisions of other FTA Panels where directly applicable.

149. The degree of influence that earlier FTA decisions will have is dependent on the extent of the similarities.[134] The Schedules to the FTA prescribe consistent decision-making criteria across approvals, resulting in a largely uniform legal framework for FTA Panels determining comparable applications. It is relevant that other FTA Panels have expressly relied on and adopted legal reasoning of previous Panels, particularly where those Panels have had members with senior judicial experience.[135]

150. In our submission these earlier decisions, made under a relatively new statutory framework, provide context specific and highly relevant guidance. Decisions under other legislation apply different statutory frameworks and tests and do not provide the same level of guidance for decision making under the FTA.

151. On the basis of the above where the reasoning of earlier FTA Panels logically applies to the BOGP facts, we submit that it can and should be considered as part of the Panel's decision-making process.

Duration of Water Permits

152. In its comments, EDS and Sustainable Tarras raised Section 127B of the RMA and Policy 10A.2.2 of the Otago Regional Water Plan (**ORWP**) and the six-year limit they place on the duration of new water take consents in Otago.[136] EDS submits that Section 127B operates as a "*jurisdictional limit*" to the Panel's ability to impose a consent condition for duration.[137]

153. As discussed in our Legal Overview[138] we consider that the Panel is not required to adhere to the six-year limit on duration of water take consents for the BOGP.

154. EDS and Sustainable Tarras note the limit in the RMA and the ORWP was bought about due to the inadequacy of the Otago planning framework. However, we

[132] *Te Korowai o Ngāruahine Trust v Hiringa Energy Limited* [2022] NZHC 2810, at [34].
[133] *Guardians of Paku Bay Association Incorporated v Waikato Regional Council,* CIV 20 10-404-008097, 25 July 2011, at [33].
[134] *Dye v Auckland Regional Council* [2002] 1 NZLR 337, at [32].
[135] *Record of Decision of the Expert Panel,* Southland Wind Farm, 2 April 2026, at [49].
[136] Legal Submissions for Environmental Defence Society, at [267]-[273], Legal Submissions for Sustainable Tarras, at [113]-[114].
[137] Legal Submissions for Environmental Defence Society, at Appendix B 71-72.
[138] Substantive Application, A.02B, at [71]-[72].

consider it is open to the Panel to grant approvals for a longer term under the FTA, as it is not bound by the relevant policies and provisions.

155. Section 127B has been discussed previously in the FTA context. The Panel in the Homestead Bay FTA decision found that consent was able to be granted for a 35 year duration, as it was appropriate due to the scale of the project, the investment required and the certainty of providing for critical infrastructure necessary for the project.[139] In commenting on that application, ORC stated that:[140]

(a) there is no effects-management reason that the water permit should be limited to six years.

(b) there will be no significant adverse effects on any other user of water.

(c) the allocation sought is well within the available allocation for both groundwater and surface water resources.

(d) the amount of water applied for is efficient and required to service the development.

156. In its comments on the duration of water permits for the BOGP, ORC again conclude that there is no effects management reason that the water takes sought should be limited to six years.[141] While the Panel must take into account[142] the provisions of Section 127B, we agree with ORC that the Panel could validly form the view that a longer duration is appropriate in this instance.

157. While the Panel is not bound by the Homestead Bay decision, as will be discussed further below, we consider the Panel should find their discussion persuasive in relation to its decision-making process on the BOGP.

Need for Separate Approvals Outside the FTA

158. Comments have raised concerns about the need for approvals under legislation that sits outside the scope of the FTA in particular approvals required under the Local Government Act 1974 (**LGA**), Public Works Act 1981 (**PWA**) and Overseas Investment Act 2005 (**OIA**).[143]

159. In particular, EDS's submissions criticise the BOGP on the basis that it requires the use of public roads owned by CODC, which MGL has no legal right to use, and over

[139] *Record of Decision of the Expert Panel,* Homestead Bay, 18 February 2026 at [478].
[140] *Record of Decision of the Expert Panel,* Homestead Bay, 18 February 2026 at [477].
[141] Otago Regional Council s53 Comments 10 April 2026 Bendigo-Ophir Gold Project, at [959].
[142] Fast-Track Approvals Act 2024, Schedule 5, Clause 17(1).
[143] Sustainable Tarras, New Zealand Transport Agency, EDS.

which MGL chose not to seek road access arrangements as part of the Substantive Application under Section 42(4)(l).

160. There is no obligation in the FTA for MGL to pursue an access arrangement through the FTA process where access can be lawfully addressed through the CMA regime.

161. This is consistent with the Environment Court's decision in *Te Rūnanga o Ngāti Whātua v Auckland Council*[144] where in the context of considering the overlap between the Wildlife Act and RMA the Court held they are separate processes and any resource consents obtained under the RMA do not relieve an applicant of the need to address any issues that may arise under the Wildlife Act.[145] While an interim decision, the Environment Court stated it was minded to grant consent, which supports the submission that approvals required under separate legislative regimes do not need to be obtained before FTA approvals can be granted.

162. MGL was therefore not required to seek access arrangements under the FTA as part of the Substantive Application. MGL fulfilled all statutory requirements of the FTA:

(a) by identifying the owners of the roads; and

(b) obtaining approvals from these landowners including approval from CODC in its capacity as a landowner for the use of roads within the BOGP Consent Area.[146]

163. The implementation of access arrangements under the CMA is contingent on the grant of a mining permit.

164. As set out in the Legal Overview filed with the Substantive Application, MGL's mining permit application was progressed under the Crown Minerals Act 1991 (**CMA**) with New Zealand Petroleum and Minerals (**NZPAM**) outside of the FTA process. That process remained ongoing at the time the Substantive Application was lodged on 31 October 2025, with the mining permit subsequently granted on 5 November 2025.

165. Since the lodgement of the application, MGL has now also entered into two legally enforceable agreements with CODC[147] to provide for the use of roads owned by CODC for the BOGP.

[144] *Te Rūnanga o Ngāti Whātua v Auckland Council* [2023] NZEnvC 277.
[145] *Te Rūnanga o Ngāti Whātua v Auckland Council* [2023] NZEnvC 277 at [353].
[146] F.07 CODC approval as a landowner.
[147] Matakanui Gold Limited and Central Otago District Council, *Access Arrangement*, 30 January 2026 and Matakanui Gold Limited and Central Otago District Council, *Deed as to Road Stopping and Alternative Route,* 30 January 2026.

166. The agreement made under section 54 of the CMA grants MGL sole and exclusive access to CODC owned roads within the BOGP Consent Area. In addition, we note that the agreement

(a) runs in force for the full terms of the mineral permits (including exploration, prospecting, and mining periods) and any renewals;

(b) requires MGL to provide a Programme of Work for consultation, maintaining tracks and access routes, avoiding pollution and erosion, maintaining water supplies, complying with health and safety requirements and ensuring hazardous areas are designated;

(c) requires MGL to provide a Restoration Plan designed to return the land to as near practicable its pre-operations state;

(d) records the landowner agreeing to consent and support MGL's applications for permits and consents; and

(e) records the landowners warranty that no other party holds exploration or mining rights.

167. A copy is provided at **Appendix A**.

168. A Deed as to Road Stopping and Alternative Route between MGL and CODC addresses the stopping and sale of the roads required for BOGP. It requires the CODC as landowner to use its best endeavours to stop Thomson Gorge Road and Shepherds Creek Road under Part 8 of the Public Works Act, or if that is not possible then Part 21 of the Local Government Act 1974.

169. Key provisions include:

(a) A requirement for CODC to sell the fee simple in those roads to MGL.

(b) A requirement for CODC to construct an alternative public road through Ardgour Station to replace Thomson Gorge Road, enabling continued public travel over the Dunstan Mountains. The alternative route must be completed and ready for public use no later than when the roads are stopped. Once completed the new route will be vested in CODC.

(c) That CODC will progress MGL's application to re-align Thomson Gorge Road from west of Matilda Rise into an adjacent road reserve, and will consider MGL's application to upgrade and seal Thomson Gorge Road.

170. A copy is provided at **Appendix B.**

171. The two binding documents work together - with the access arrangement governing MGL's right to access and use the roads and adjacent land while the road stopping deed provides for the roads to be stopped and transferred to MGL with an obligation to provide an alternative public route.

Summary

The requirement for approvals to be obtained under separate legislation does not prevent the Panel from granting the FTA approvals sought within its jurisdiction. Those external approval processes can proceed in parallel. We submit that the Panel's role is to determine the applications before it under the FTA, rather than to address matters arising under other statutory regimes.

Detailed Design

172. Several comments have raised concerns that detailed design of project components are not in the application.[148] In particular Otago and New Zealand Fish and Game Councils' (**Fish and Game**) position is that detailed design of the TSF and ELFs cannot be deferred to the detailed design and building consent stage as this information is required now for the Panel to be satisfied that these components can achieve the necessary safety standards.

173. Fish and Game rely on the Environment Court's decision in *Eyre Community Environmental Safety Society Inc*[149] as authority against deferring confirmation of consistency with the New Zealand Dam Safety Guidelines (**NZDSG**) until the detailed design stage. Fish and Game contend that the following detail for the TSF and ELFs cannot be deferred to detailed design and building consent stage:

    (a) confirmation that a minimum factor of safety of 1.5 can be achieved at all times;

    (b) landslide mitigation; and

    (c) emergency preparedness plans.

174. For the reasons outlined below we submit that:

    (a) the application provides certainty to the Panel that the construction, operation and maintenance of the TSF will be carried out in accordance with the regulatory requirements;

[148] Otago Regional Council, Central Otago District Council, Sustainable Tarras, Environmental Defence Society and Otago and New Zealand Fish and Game Councils.
[149] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178.

(b) the application contains sufficiently detailed and comprehensive information about the nature, scale and significance of the potential effects to enable the impacts of the project to be fully understood;[150]

(c) that the Environment Court's decision in *Eyre Community Environmental Safety Society Inc*[151] can be distinguished from the factual circumstances applying to the BOGP.

Application Documents

175. The application, technical assessments and expert evidence on behalf of MGL concludes that landslide risk is low,[152] the schist rock foundations have been assessed as suitable for all ELFs[153] and residual risks will be managed through ground control management plans.[154]

176. The application documents provide certainty to the Panel that a minimum factor of safety of 1.5 can be achieved through for the TSF by:

(a) The physical design of the Shepherds ELF immediately downstream of the TSF embankment. The TSF is not required under the NZDSG to be buttressed however the Shepherds ELF has been specifically designed to exceed the height of the TSF embankment. The Shepherds ELF will effectively act as a solid rock support in front of the TSF embankment providing comfort that there is no credible long-term failure mode that could result in breach and release of tailings.[155] Relevantly, ORC's comments conclude there is a negligible risk of the TSF failing in a way that could cause adverse effects.[156]

(b) Because the TSF is classified as a High Potential Impact Classification (**PIC**) dam it is subject to the highest level of regulatory scrutiny under the NZDSG and Building (Dam Safety) Regulations 2022. Before construction can begin MGL must obtain a building consent from Environment Canterbury, which the building consent authority for dams. To grant that consent, Environment Canterbury must be satisfied based on detailed engineering design, calculations, and independent peer review that the TSF meets all regulatory requirements.

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[150] *Country Lifestyles Limited v Auckland Council* [2022] ELHNZ 367 at [13].
[151] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178.
[152] Statement of Evidence of Peter O'Bryan, Response to Comments, 17 April 2026.
[153] Statement of Evidence of Eric Torvelainen, Response to Comments, 17 April 2026.
[154] Statement of Evidence of Peter O'Bryan, Response to Comments, 17 April 2026.
[155] B.21 Engineering Geology Limited – Shepherds Tailings Storage Facility Technical Report (EGL 2025b) and B.27 Engineering Geology Limited -Shepherds, Western and Srex Engineered Landforms and Come In Time Pit Backfill Technical Report (EGL 2025h).
[156] Otago Regional Council Comments, Section C.4.6.6.

(c) The ORC conditions require the TSF be constructed, operated and maintained in accordance with defined design parameters that have been developed by leading technical experts in tailings storage facilities, geotechnical engineering, and dam engineering with specific expertise in TSF stability and safety

(d) Robust construction quality assurance and control mechanism that will operate as checks and balances throughout the construction and operation of the TSF. These include the construction quality assurances and controls set out in the Tailings Management Plan (**TMP**), the requirement for a Dam Safety Assurance Programme (**DSAP)** to be prepared and certified by a suitably qualified and recognised engineer, and the obligation to obtain an annual certificate of compliance confirming that the TSF is operating in accordance with the DSAP.

(e) Trigger Action Response Plans (**TARPs**) are required to be prepared and implemented that will outline defined performance thresholds, early-warning indicators, and pre-determined response actions, ensuring that emerging risks are detected early and that appropriate corrective actions are taken before safety margins are compromised.

Different Factual Scenario

177. In our submission the Court's decision in *Eyre Community Environmental Safety Society Inc*[157] which concerned an application to construct and operate an off-stream storage dam holding 8.2million m^3 of water across approximately 120 hectares can be distinguished from the BOGP as:

(a) In *Eyre* draft management plans were submitted to the consent authority and the Court required these be developed to the extent of detailed peer review documents.[158] The BOGP application includes detailed, final and peer reviewed management plans.

(b) In *Eyre* the dam had been designed using the 2000 NZDSG guidelines and the updated 2015 NZDSG guidelines were released during the hearing itself.[159] The Court held that the 2015 NZDSG guidelines were far more comprehensive than the 2000 version with liberal cross-references to

[157] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178.
[158] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178 at [201].
[159] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178 at [39]-[43].

international standards and extensive coverage of seismic issues.[160] This created substantial uncertainty for the Court and was a driving factor in requiring additional detail. In contrast there is no regulatory uncertainty in the case of the BOGP. The TSF has been designed from the outset using the latest 2024 NZDSG which represents current best practice and technical analysis confirms that the meets the design and performance criteria for a high PIC dam under the 2024 NZDSG.[161]

(c) In *Eyre* the Building (Dam Safety) Regulations 2008 were revoked by the Building (Dam Safety) Revocation Order 2015 and at the time of the hearing dam safety was to be managed under the RMA.[162] This meant a regulatory overlap remained between the Building Act 2004 and RMA but the detailed controls in the 2008 Building (Dam Safety) Regulations including dam classification by engineers, specifying criteria and standards for DSAP were gone.[163] This regulatory gap and uncertainty does not exist in the case of the BOGP and:

(i) the TSF is designed to current 2024 NZDSG; and

(ii) building consent is required under the Building (Dam Safety) Regulations 2022, not the RMA, and will provide a robust additional regulatory check.

178. Overall, the regulatory gap in *Eyre* resulted in fundamental safety questions such as seismic modelling being deferred to detailed design that went to the question of whether the dam could be safely constructed at all. By contrast, the BOGP approach is to provide all material design, safety, and environmental management information upfront for certification with only detailed design matters deferred to the building consent process, within a clearly defined and robust regulatory framework.

Evidence Based Decision Making

179. Various comments raise perceived effects and risks of the BOGP. Key concerns raised relate to arsenic and significant economic impacts on tourism and viticulture.[164]

[160] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178 at [42].
[161] B.21 Engineering Geology Limited – Shepherds Tailings Storage Facility Technical Report (EGL 2025b).
[162] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178 at [51].
[163] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178 at [52].
[164] Central Otago Winegrowers Association, Environmental Defence Society, Sustainable Tarras, Tourism Industry Aotearoa, Business South, Chamber of Commerce, Dr Claire Fletcher-Finn, Professor Geoff Kearsley, Canyon Vineyard, Folding Hill Wine Company.

180. Perceived risk or fear can only be given weight by the Panel where it is reasonably grounded in actual risk. That is not the case here as the expert assessment and evidence demonstrate otherwise. In our submission the decision-making process for the BOGP must adhere to the established legal principle that decisions are to be based on evidence and assessed objectively and rationally.[165]

181. The evidence on behalf of MGL in relation to these perceived effects:

(a) Undertakes an assessment of the potential impacts of vineyards by the BOGP using geographic scoping, scale and infometrics data on regional viticulture GDP to conclude on the likely contribution of vineyards in the immediate vicinity of the BOGP.[166]

(b) Tests a conservative, "worst case" and not anticipated scenario - of all vineyards ceasing to operate surrounding the BOGP. Mr Patterson assesses direct economic risks to the wine industry immediately adjacent to the BOGP ranges from $0 to $10 million per annum of GDP with a midpoint risk of approximately $5 million.[167] This range reflects scenarios from no vineyard closures at the lower end to a worst-case scenario at the upper end where all vineyards immediately surrounding the BOGP ceased operations. The scenario of all vineyards ceasing operations is a conservative, worst case scenario and is not anticipated if the BOGP is operating within the conditions of approvals.[168]

(c) The midpoint of potential direct economic risk to viticulture of $5 million of GDP a year needs to be compared the BOGP's estimated direct GDP contribution of $360 million per annum as set out in the economic assessment in the Substantive Application.[169]

(d) Clarifies that the overall scale of tourism across Inland Otago should not be conflated with the tourism activity that occurs directly within and immediately surrounding the mine site. Mr Patterson concludes that only about 0.3% of visitor days in Inland Otago can be directly related to activity on land adjoining the mine, which would be the equivalent to about $5.6 million of existing tourism GDP associated with these areas.[170]

(e) Conclude that concerns raised about arsenic dust impacting viticulture operations are considered very low given separation distances, the low

[165] *Shirley Primary School v Christchurch City Council* ENC C136/98, 14 December 1998, [1999] NZRMA 66 at [136].
[166] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [92]-[99].
[167] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [99].
[168] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [99].
[169] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [100].
[170] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [107].

frequency of high risk dust winds and the proposed dust mitigation and monitoring programmes.[171]

182. In our submission the evidence of MGL's experts provide assurances that the perceived risks raised by the commenters are unlikely to arise and should not be given weight by the Panel. This approach is consistent with and supported by previous decisions of the Courts which we discuss below.

183. In *Shirley Primary School v Christchurch City Council*, the Environment Court found that fear is an effect that can be taken into account but whether it is an effect which should be given any weight depends on the assessment of the risk.[172] The Court stated that *"whether it is expert evidence or direct evidence of such fears, we have found that such fears can only be given weight if they are reasonably based on real risk".*[173] Subsequent High Court and Environment Court cases have adopted this approach.[174] These cases demonstrate that resource management decisions must be based on evidence, and public fear or emotion without rational evidential support should be given little weight to ensure decisions are made objectively.

184. As addressed above, Fish and Game raises the *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* cases in relation to the assessment of risk.[175] These cases concerned a proposal for an off-stream storage dam where the community raised dam safety risk as a key issue.[176] The Court addressed relevant case law including *Shirley Primary School v Christchurch City Council* and acknowledged the generally accepted position that the RMA is not a no risk statute.[177] Despite community concerns, the Court granted consent subject to conditions extensively covering safety matters.[178]

185. Where conflicting evidence is presented, we submit that the Expert Panel should prefer the evidence of the expert whose qualifications and experience are most closely aligned with the subject matter in question.

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[171] Statement of Evidence of Jeff Bluett, Response to Comments, 17 April 2026 at [40].
[172] *Shirley Primary School v Christchurch City Council* ENC C136/98, 14 December 1998, [1999] NZRMA 66 at [190].
[173] *Shirley Primary School v Christchurch City Council* ENC C136/98, 14 December 1998, [1999] NZRMA 66 at [193].
[174] Including for example *Brook Valley Community Group Inc v Trustees of the Brook Waimarama Sanctuary Trust* [2017] NZHC 1844, [2018] NZRMA 51 at [24] and *Minister for Children v Auckland Council* [2019] NZEnvC 131, [2019] NZRMA 585 at [66].
[175] Otago and New Zealand Fish and Game Councils, Comments at [95]-[98].
[176] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178, 2016] ELHNZ 222 (First Interim Decision), *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2019] NZEnvC 71, [2019] ELHNZ 92 (Second Interim Decision) and *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2020] NZEnvC 138, [2020] ELHNZ 202 (Final Decision).
[177] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178, 2016] ELHNZ 222 (First Interim Decision) at [24] and [29].
[178] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2020] NZEnvC 138, [2020] ELHNZ 202 (Final Decision).

186. Other comments which raise concerns with the TSF are not based on evidence from a TSF specialist and often cite other projects as the basis for their concerns.[179]

187. In *Avatar Glen Limited v New Plymouth District Council,* the Environment Court received conflicting evidence as to reverse sensitivity effects of noise on dementia patients.[180] The Court was presented with evidence based on the interpretation of noise guidelines by acoustic experts with no personal experience in dementia care. The Court's own review of the documents did not support the claims made, meaning this evidence was helpful and potentially misleading.[181] The Court gave considerable weight to the evidence of a specialist with 20 years of experience in dementia care.[182]

188. Where expert witnesses with matched credentials or experience disagree, the Environment Court has found that an adaptive management regime can be adopted.[183]

Precedent Effects

189. Various parties[184] have raised concerns about the BOGP becoming a precedent for the approval of future mining projects in the region.

190. Precedent effects are a relevant consideration under Section 104(1)(c) (which is relevant under Clause 17 of Schedule 5) and may weigh against the granting of consent.[185] They are not an effect on the environment but rather a concern about the effect or influence that allowing an activity might have on the consideration of subsequent applications for the same or similar activities.

191. The Court has been reluctant to consider precedent effects and has stated that generally the outcome of future applications would depend on the evidence before the Court at that time measured against the relevant assessment criteria.[186] On this basis, the granting of a consent has no precedent effect in the strict sense as

[179] Ross Hanan, Parliamentary Commissioner for the Environment, Environmental Defence Society, Otago Conservation Board, Sharon Brodie, and QWIL Investments.
[180] *Avatar Glen Limited v New Plymouth District Council* [2016] NZEnvC 78, [2016] NZRMA 292.
[181] *Avatar Glen Limited v New Plymouth District Council* [2016] NZEnvC 78, [2016] NZRMA 292 at [52].
[182] *Avatar Glen Limited v New Plymouth District Council* [2016] NZEnvC 78, [2016] NZRMA 292 at [53].
[183] *Stark v Waikato District Council* [2014] NZEnvC 19, [2014] ELHNZ 26.
[184] Lilian Cheryl Lucas (no page reference), Peter Rough at [12], Evidence of Professor James Higham, dated 6 April 2026, for Sustainable Tarras at [107] - [108], Folding Hill Wine Company Limited at [7], Chinamans Terrace Services Company at [17], Business South (Central Otago Winegrowers meeting 29 May 2025) at page 8.
[185] *Dye v Auckland Regional Council* [2002] 1 NZLR 337 (CA); *Feron v Central Otago District Council* NZEnvC C075/09 at [49].
[186] *Progressive Enterprises v North Shore City Council* [2008] ELHNZ 465 at [81]-[82].

applications are required to be considered in relation to the policies of the relevant plan or policy statement, their effects and the receiving environment.[187]

192. Additionally, in the context of the FTA, the decisions of the Panel are administrative, not judicial, and as such do not bind subsequent Panels. As such, any decision of the Panel cannot become a binding precedent for any future mining applications considered under the FTA or the RMA. However, despite not being binding precedent, previous Panel decisions are relevant for discussion of legal issues and provide guidance on interpretation as discussed below.

193. Given the above, it is our submission that a precedent issue does not arise.

194. In response to comments which infer that approval of the BOGP under the FTA will create a precedent for the approval of mining permit applications in Otago,[188] MGL's mining permit is not being sought under the FTA, and was granted by NZPAM on 5 November 2025. .[189] As such, any approval of the BOGP under the FTA will not create a precedent for the approval of mining permits.

195. In regard to submitters' comments arguing the partial removal of the conservation covenant will create a precedent, we have covered this in paragraphs below.

Climate Change

196. Several comments[190] raise concern that MGL has not adequately addressed climate change effects, both in terms of the BOGP's own greenhouse gas emissions or the effects of climate change on BOGP's infrastructure. For reasons that follow, we disagree with this assessment.

Effects on Climate Change

197. There is no statutory requirement under the FTA for substantive applications to contain a description of the effects of a project *on* climate change, such as by way of preparing a greenhouse gas emissions report. The only requirement is to provide information on the effects *of* climate change on a project.[191] Additionally, there is no statutory requirement under the FTA to align the BOGP with emissions reductions plans under the Climate Change Response Act 2002.

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[187] *Dye v Auckland Regional Council* [2002] 1 NZLR 337 at [32].
[188] Evidence of Professor James Higham, dated 6 April 2026, for Sustainable Tarras at [107] - [108].
[189] A.09 – Substantive Application at page 31.
[190] The Minister for Economic Growth, Parliamentary Commissioner for the Environment, Otago Regional Council, Otago and New Zealand Fish and Game Councils, Sustainable Tarras, Environmental Defence Society and Mr Hanan.
[191] Fast Track Approvals Act 2024, Section 43(2).

198. Mr Hanan considers that MGL should be required to provide a detailed report examining the climate impacts over the life of the project, including the carbon footprint of the BOGP as required by Section 13. For reasons set out above, we do not consider that information of the BOGP's effects on climate change is required under the FTA.

199. In terms of decision-making, there is also no express requirement within the FTA for the Panel to consider the effects on climate change. We submit that the effects of BOGP on climate change enters only indirectly through reference to Part 2 of the RMA in the decision-making hierarchy in clause 17(1) of Schedule 5 of the FTA. Even then, Section 7(i) of the RMA, which forms part of the sustainable management provisions in Part 2, only requires decision makers to have particular regard to the effects *of* climate change, rather than *on* climate change.

200. While the Resource Management Amendment Act 2020 removed previous statutory bars on taking into account the climate change effects of greenhouse gas emissions, the amendments only enabled councils to consider greenhouse gas emissions in plan making processes and when determining discharge to air applications, alongside the existing duty to have particular regard to the effects of climate change in section 7(i) RMA. Accordingly, in our submission the effects of the proposal on climate change can only be considered in the context of the two discharge permits being sought.

201. Consent is being sought to discharge contaminants to air from the crushing and screening of aggregates at the two proposed aggregate pits, and from the extraction and processing of mineral materials associated with mining operations and ancillary activities. The emissions profile of these activities are fundamentally different from greenhouse gas intensive industrial processes. The evidence of Mr Bluett indicates that the BOGP emissions profile is dominated by mechanically generated particulate matter, not by combustion or chemical processes. Even if the Panel were to have regard to the effects of BOGP on climate change, the statutory hierarchy described above mandates that those effects, sitting as they do within Part 2 of the RMA, must be given less weight than the overriding purpose of the FTA.

202. In light of the above, we submit that there is no requirement under the FTA for MGL to provide an assessment of the effects of the BOGP on climate change. Where third parties have made comments regarding the effects of the BOGP on climate change, our submission is that the Panel is required to give less weight to this in accordance with the decision-making hierarchy in Schedule 5 of the FTA.

Effects of Climate Change on BOGP Infrastructure

203. Section 43(2) of the FTA requires substantive applications to include a description of whether and how the project would be affected by climate change and natural hazards. This is a requirement in order for substantive applications to be assessed as complete under Section 46 of the FTA.

204. The BOGP was deemed complete on 21 November 205, signalling that MGL has sufficiently provided all the information required to assess the BOGP, including information on the effects of climate change. The technical evidence of Eric Torvelainen, Rhys Girvan and Dr Trevor Matuschka consistently conclude that the effects of climate change and natural hazards on BOGP infrastructure can and will be adequately managed.

205. We therefore submit that Mr Hanan's comments requesting information on the effects of climate change on BOGP infrastructure has been sufficiently provided.

206. Accordingly, we submit that the BOGP has been intentionally designed with climate change and natural hazard risk in mind and will not exacerbate the effects of these hazards. The proposed consent conditions, including requirements for detailed design, peer review, dam safety management and ongoing monitoring, provide an appropriate framework for the management of these risks over the operational and post-closure phases of the BOGP.

EFFECTS MANAGEMENT

Adaptive Management

207. MGL proposes to maintain an adaptive management approach to effects management through the use of management plans.

208. Adaptive management through management plans and robust conditions of consent provides for ongoing assessment, design and adjustment to ensure that environmental effects are best managed. It differs from more traditional prescriptive conditions of consent in that it is a live evolving approach that can adapt over time. The adaptive management approach strikes a balance between a decision-maker prescribing how effects of a development are to be appropriately avoided, remedied or mitigated and gives consent holders the flexibility that is necessary to determine how those results will be achieved.

209. The approach has become increasingly accepted as an effects management mechanism in large developments in New Zealand. The Environment Court has described management plans as now having a *"central place*" in large

developments.[192] The Environment Court has increasingly found reliance on adaptive management to be appropriate and beneficial in the New Zealand mining context. [193]

210. Legislation does not prescribe what an adaptive management approach must contain. This has been set out by various Courts and decision-makers over the past few decades and is now regarded as settled law. In *Sustain our Sounds Inc v New Zealand King Salmon Limited* [2014] NZSC 40 (***Sustain Our Sounds***) the Supreme Court held that an adaptive management approach must provide for a minimum criteria of information and specific requirements for it to be considered appropriate by a decision-maker.[194] It is not a "*suck it and see*" approach.[195]

211. The Supreme Court considered that as a first question there must be an adequate evidential foundation to have reasonable assurance that the adaptive management approach will achieve its goals of reducing uncertainty and adequately managing any remaining risk.[196]

212. Secondly, whether adaptive management is appropriate will depend on an assessment of factors including:[197]

(a) the extent of the environmental risk (including the gravity of the consequences if the risk is realised);

(b) the importance of the activity (which could in some circumstances be an activity it is hoped will protect the environment);

(c) the degree of uncertainty; and

(d) the extent to which an adaptive management approach will sufficiently diminish the risk and the uncertainty.

213. The Supreme Court considered that the vital part of the adaptive management test was the ability for an adaptive management regime to deal with risk and uncertainty.[198] In applying that test the Supreme Court considered the following factors:

(a) there would be good baseline information about the receiving environment;

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[192] *Golden Bay Marine Farmers v Tasman District Council* NZEnvC Wellington W19/2003, 27 March 2003 at [411].
[193] *West Coast Environmental Network Incorporated v West Coast Regional Council* [2013] NZEnvC 253; *Biodiversity Defence Society Incorporated v Solid Energy New Zealand Limited* [2013] NZEnvC 195.
[194] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40.
[195] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40, at [125].
[196] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40, at [125].
[197] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40, at [129].
[198] *Sustain Our Sounds Incorporated v New Zealand King Salmon Limited* [2014] NZSC 40, at [133].

(b) the conditions provide for effective monitoring of adverse effects using appropriate indicators;

(c) thresholds are set to trigger remedial action before the effects become overly damaging; and

(d) effects that might arise can be remedied before they become irreversible.

214. In relation to point (a) above, an application should provide for the collection of baseline knowledge to establish the existing state of the environment upon which management plans can build in an ongoing and cyclical process.[199] The management plan can then set out a design for management, monitoring, evaluation of monitoring results and reviewing and refining of hypotheses.[200]

215. In relation to point (b) above, the proposed conditions need to clearly set out the mechanisms for review and update of management plans, usually as monitoring feedback becomes available.[201] Review is important as by allowing management plans to control environmental effects, decision-makers risk delegating their decision-making powers. This is acceptable for the certification of details. However, decision-makers should not delegate the making of substantive decisions.[202]

216. MGL proposes an adaptive management approach to residual effects management, water quality and rehabilitation activities through its proposed use of management plans. We submit this is an appropriate and standard means for managing environmental effects. The Environment Court has stated that it would be unfair and unreasonable to expect an applicant such as MGL to anticipate and research all hypotheses that may occur during the course of the application process.[203]

217. The BOGP meets the key requirements for reliance on an adaptive management approach as set out by the Supreme Court as:

(a) There is a high degree of baseline information about the receiving environment. Comprehensive field investigations were carried out over a 20-month period from October 2023 to May 2025. The outputs of these investigations provide a robust foundation against which the effects of the BOGP can be managed. The investigations included:

[199] *Crest Energy Limited v Northland Regional Council* NZEnvC Auckland A132/09, 22 December 2009 at [228]; *Final Report and Decision of the Board of Inquiry into the Transmission Gully Proposal* Board of Inquiry, EPA 0175, June 2012 at [186].
[200] *Crest Energy Limited v Northland Regional Council* NZEnvC Auckland A132/09, 22 December 2009 at [226].
[201] *Final Report and Decision of the Board of Inquiry into the Transmission Gully Proposal* Board of Inquiry, EPA 0175, June 2012 at [184]-[185].
[202] *Royal Forest and Bird Protection Society v Gisborne District Council* [2010] NZEnvc 128.
[203] *Crest Energy Limited v Northland Regional Council* NZEnvC Auckland A132/09, 22 December 2009 at [228].

(i) A 5,386 hectare ecological study area.

(ii) 148 integrated vegetation monitoring stations.

(iii) 133 bird count stations.

(iv) Wetland delineation across 123 plots.

(v) Approximately 270 hours of field mapping and over 620 hours searching for lizards.

(vi) Collection of surface water quality data from 11 sites and groundwater from five sites resulting in over 200 water samples for chemical analysis.

(vii) Five monitoring sites for real time particulate.

(b) The degree of uncertainty and environmental risk associated with the BOGP is low. Extensive geochemical testing of more than 1,600 rock samples has confirmed that acid rock drainage is not expected to occur.[204] While there is a low risk of arsenic leaching from disturbed rock, the geology of the BOGP is well understood, with 95% of the arsenic risk concentrated within 9.3% of the waste rock.[205] As a result, targeted management of a relatively small proportion of waste rock will mitigate the majority of potential contamination risk.[206] Comprehensive engineering controls, water treatment systems, and adaptive monitoring measures further reduce residual risks and uncertainty regarding environmental outcomes.

(c) To ensure a robust and effective adaptive management approach, MGL proposes to manage environmental effects through a comprehensive and integrated suite of management plans, covering the full range of potential impacts and secured through enforceable conditions of consent. Each management plan embeds a clear and structured adaptive management framework, including defined performance standards, pre-determined trigger thresholds that mandate review and response, and targeted risk and threat assessments. This approach ensures emerging issues are identified early, uncertainty is actively managed, and environmental performance is continually improved over the life of the BOGP.

[204] B.06 Mine Impacted Water Overview Report.
[205] B.06 Mine Impacted Water Overview Report.
[206] B.06C – Source Term Definition Report.

218. In summary, MGL proposes to rely on a number of management plans to appropriately manage potential adverse and positive effects. We submit that the adaptive management approach proposed is appropriate and robust.

Management Plans

219. Criticisms of the MGL's conditions and draft management plans have been raised. MGL submits that its conditions are clear, enforceable, relevant and reasonable. The management plans proposed give effect to the specific controls and parameters laid down by the conditions. The management plans provide information about the method of compliance, while allowing for changes over time without the need for a formal condition change.

220. MGL's suite of 23 management plans is designed to fulfil precisely this function. Each plans sits beneath and is guided by the relevant consent conditions.

Certification of Management Plans

221. Various parties are opposed to the certification of management plans by the Panel.[207] This point is covered within the Legal Overview.[208] In addition to the points made in that document, MGL notes that the Panel has the requisite specialise expertise to review and certify the submitted management plans, and to place that duty on the Council or any other party would impose a significant cost burden. The management plans are highly specialised, generally beyond the expertise of the ordinary local government body. Panel certification does not preclude councils from receiving and reviewing the plans for monitoring purposes; it simply removes the gatekeeping step.

222. In addition, MGL submits that the management plans are detailed and substantially complete, and it would be significantly more efficient and consistent with the purpose of the FTA for the Panel to approve the plans directly. The evidence of Mr Chrisp for MGL echoes this.[209]

223. The FTA is a novel statutory regime and departures from the orthodox RMA practice occur throughout the process. Panel certification provides certainty to all parties that the management plans meet the required standards from the outset.

224. Various parties have raised consultation with or certification of management plans with third parties. DOC argues that it should hold a certification role for management

[207] Para 8.7 DOC s53 comments, Appendix B to s53 Subs, ORC recommended conditions page 9 of Schedule 1 of conditions doc Appendix 3, Legal Submissions for Sustainable Tarras, at [120].
[208] A.02B Legal Overview, at [101].
[209] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026, at [8].

plans relating to conservation approvals.[210] Where it does not seek a certification role, it is seeking a mandatory consultation role whereby MGL must consult with DOC and obtain feedback prior to submitting plans to the certifier. Sustainable Tarras considers HPTNZ should have a certification role for heritage-related management plans.[211] For the reasons given above, MGL submit this is inappropriate.

225. Parties have raised an issue with deemed certification of management plans.[212] Of note, in Homestead Bay the Panel accepted a "*deemed approval/feedback mechanism*" on the basis that the FTA process required plan reviews to occur in a timely manner and open-ended plan reviews could undermine the purpose of the legislation. In that case, there was a 20-working day period was appropriate given the parties concerned already had draft plans, and that mechanism is not unusual in condition framework. MGL submits the same reasoning applies here.

226. As noted in Mr Chrisp's evidence, MGL consider the upcoming expert conferencing and potential conditions workshop to be the appropriate forum to discuss the contents of the management plans with commenters.[213]

Residual Effects Management - Offsetting and Compensation

227. MGL's has committed to providing a substantial offsetting and compensation package to address residual effects. The package focuses on long-term ecological restoration and habitat enhancement programmes covering 2,219 hectares of habitat in the landscape surrounding the DDF. The package is described in full of paragraphs 183 – 188 of our Legal Overview but broadly will deliver:

(a) 889 hectare mine regeneration zone.

(b) 1,263 hectare Ardgour Restoration Area.

(c) Two fenced pest exclusion sanctuaries totalling 67 hectares.

228. The offsetting and compensation proposal addressed in detail in the Substantive Application is extensive, has been carefully designed by MGL's experts who have made extensive effort to ensure the proposal aligns with the limits in the NPS-IB and

[210] Including the Ecological Management Plan Framework, Habitat Management Plan, Avifauna Management Plan, Lizard Management Plan, Land and Ecological Rehabilitation Plan, Ardgour Restoration Area Management Plan, Matakanui Sanctuary Management Plan, Mammalian Pest Management Plan, Biodiversity Outcome Monitoring Plan, and the Archaeological & Heritage Management Plan (insofar as it relates to the covenant area or public conservation land), see Department of Conservation, s53 comments, at 8.17.
[211] Legal Submissions for Sustainable Tarras, at [121].
[212] Department of Conservation, s53 comments, Appendix B legal memorandum on management plans, at [44], ORC.
[213] Statement of Evidence Mark Chrisp, 17 April 2026, at [97].

NPS-FM. As outlined in our Legal Overview the BOGP is unlikely to meet the limits and leakage principles in the NPS-FM and NPS-IB for a small number of species and habitat types.[214]

229. The declining state of indigenous biodiversity in the Ecological Study Area (**ESA**) and wider landscape provides a unique opportunity to restore the landscape at scale in the long term and deliver additional benefits beyond directly addressing the residual effects of the BOGP.[215] Without intervention, native species will continue to decline, and several species are likely to become locally extinct over time.[216] The proposed offsetting and compensation package provides ecological restoration and habitat enhancement programmes covering 2,219 hectares of habitat in the landscape surrounding the DDF. Overall, and relative to the current pre-BOGP mining conditions, the offsetting and compensation package is expected to provide broad, long-lasting benefits that balance or exceed most ecological impacts.[217]

230. Some commenters consider that the effects management package does not adequately address anticipated impacts in accordance with the NPS-IB and NPS-FM.

231. The National Policy Statement for Indigenous Biodiversity (**NPS-IB**) and National Policy Statement for Freshwater Management (**NPS-FM**) prescribe principles for and limits to offsetting and compensation. In the RMA context, directive NPS-IB and NPS-FM policies may mean that offsetting and compensation of residual effects is not available where strict adherence to those offsetting and compensation principles is not achieved.

232. In contrast, under the FTA, while the offsetting and compensation principles and ecological bottom lines are still a relevant consideration, Clause 17(4) of Schedule 5 states that even if a provision would normally require an application to be declined, the Panel must not treat the provision as requiring the Panel to decline the application. This means that bottom lines and offsetting and compensation principles must not be treated as requiring the Panel to decline the application.

233. Rather, when applying the statutory tests in the FTA:

(a) an inability to meet those limits and principles set out in the NPS-IB and NPS-FM must not preclude approval under the FTA;[218] and

[214] A.02B Legal Overview, at [180]-[181].
[215] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) (10 March 2026).
[216] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) (10 March 2026).
[217] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) (10 March 2026).
[218] Fast-Track Approvals Act 2024, Schedule 5 Clause 17(4).

(b) the Panel must weigh the consideration of those limits and principles against the broader purpose of the FTA, being facilitating the delivery of projects with significant regional or national benefits.

234. We say that the FTA approach allows for proportionate and outcome focused solutions that deliver meaningful environmental benefits while also recognising the economic benefits of a project.

235. EDS considers that MGL relies on the FTA balancing test to justify the ecological impacts of the BOGP.[219] EDS considers this obscures the assessment required to be undertaken by the Panel and that FTA requires the Panel to consider, and make a specific finding on, the ecological effects of the Project and to apply the NPS-IB and NPS-FM, even if inconsistency with a policy document is not in and of itself a reason to decline an application.[220]

236. MGL's approach to weighting is addressed above. MGL has not conflated the assessment of effects with the overall weighting exercise required by the FTA.

Residual Effects Management - Biodiversity and Heritage Enhancement Fund

237. ORC, DOC and Sustainable Tarras raise issue with the quantum of the Biodiversity and Heritage Enhancement Fund.[221] DOC considers it has not been quantified considering the outcomes it intends to achieve.[222] While DOC is supportive of a condition which seeks to compensate heritage and biodiversity impacts to a more reasonably proportionate level, in DOC's view this is not achieved through the current conditions.[223]

238. ORC, EDS and Sustainable Tarras also raise that the fund does not constitute offsetting or compensation[224] and ORC does not consider the fund to constitute a benefit of regional or national significance.[225]

239. MGL has considered these concerns and now proposes a different approach. Rather than paying money to DOC to fund projects, MGL now proposes to establish a BOGP Biodiversity and Heritage Enhancement Committee (**BOGP BHEC**).[226] A

[219] Legal Submissions for Environmental Defence Society, at [120].
[220] Legal Submissions for Environmental Defence Society, at [121].
[221] Department of Conservation – s53 comments, at [7.26] and Otago Regional Council, Comments at [716], Sustainable Tarras – Statement of Evidence of Sylvia Allan, April 2026 at [107].
[222] Department of Conservation – s53 comments, at [7.26].
[223] Department of Conservation – s53 comments, at [8.26].
[224] Legal Submissions for Environmental Defence Society, at [160], Sustainable Tarras – Statement of Evidence of Sylvia Allan, April 2026 at [106].
[225] Otago Regional Council, Comments, at [716].
[226] Statement of Evidence of Mark Chrisp, 17 April 2026.

proposed consent condition has been drafted which sets out the formation and composition of the BOGP BHEC, its purpose, funding and reporting requirements.[227]

240. To address concerns raised by commenters that the Biodiversity and Heritage Enhancement Fund outcome-focused, insufficiently costed, or proportionate to the scale of biodiversity and heritage loss MGL has committed to increasing the Biodiversity and Heritage Enhancement Fund.

241. This fund is an additional positive effect of the BOGP and its purpose is to support the protecting of threatened or at risk species or ecosystems within the Dunstan Ecological District and to enhance heritage values within Central Otago.

242. MGL has committed to increasing the Biodiversity and Heritage Enhancement Fund by $500,000 (excl GST) to $1,000,000 (excl GST) annually for every year in which gold is produced up to a maximum of 10 years.

243. MGL has also specified the purpose of the BOGP BHEC which is to:[228]

(a) enhance heritage values outside of the BOGP Consent Area within Central Otago;

(b) identify and fund projects and activities that will, in relation to ecological projects as a first priority protect and enhance cushionfield habitat; and/or

(c) as a second priority, protect and enhance other threatened or at risk species (including lizards) or ecosystems outside the BOGP Consent Area within the Dunstan Ecological District.

KEY FEEDBACK TOPICS

244. The below sections address feedback received on a thematic basis as opposed to standalone responses. This approach consolidates common concerns raised across feedback, reducing repetition and enabling the Panel to identify the key topics raised across comments.

Positive Feedback

245. Comments in support of the BOGP have been received from local landowners, community groups, industry bodies and Government ministers.[229] These comments

[227] D.03 – Schedule One – Central Otago District Council and Otago Regional Council Common Conditions, Amended Condition C46.
[228] See amended Condition C46 in D.03 – Schedule One – Central Otago District Council and Otago Regional Council Common Conditions.
[229] Bendigo Station Limited, Shine Irrigation Company Limited, Santana Mine Supporters Group, Ardgour Family Trust, New Zealand Minerals Council, Hon Shane Jones, Hon Nicola Willis, Hon James Meager and Hon Chris Bishop.

support the economic and employments benefits of the BOGP, and at the national level the project's alignment the Government's economic growth and infrastructure priorities.

246. Comments from local landowners, residents and industry groups ground their support in the:[230]

(a) opportunity to deliver stable, high wage year round employment in a district that has traditionally relied on seasonal work;

(b) opportunity to retain young people and skilled works who may otherwise leave the region;

(c) opportunity for economic diversion and improved long-term resilience for Central Otago communities;

(d) the employment, health and safety laws and stringent environmental regulations that the BOGP would operate within; and

(e) the experience, qualifications and credentials of the experts managing the BOGP at MGL.

247. These comments are acknowledged and supported.

Economic Assessment and Methodology

National Cost Benefit Analysis

248. The Panel has requested information on why a national Cost-Benefit Analysis (**CBA**) has not been undertaken.[231] Linked to this the Panel has requested information on whether any environmental, economic, health or other wellbeing costs or risks remaining after mitigation have been quantified in monetary terms.[232] Such points have also been raised by commenters.[233]

249. MGL's economist Mr Patterson has prepared an Economic Impact Analysis (**EIA**) which we submit is the appropriate assessment methodology for the purposes of the FTA. Mr Patterson outlines from an economic perspective why he has not undertaken a CBA and considers the Panel should put weight on the EIA approach.[234]

[230] Santana Mine Supporters Group, Ardgour Family Trust, Bendigo Station Limited and New Zealand Minerals Council.
[231] Request for further information to Matakanui Gold Limited – 1 April 2026, Question 46(a).
[232] Request for further information to Matakanui Gold Limited – 1 April 2026, Question 68.
[233] Environmental Defence Society, Sustainable Tarras and Central Otago Winegrowers Associated.
[234] Statement of Evidence of Benje Patterson, 17 April 2026 at [77].

250. This is in contrast to evidence provided by Dr Kaye-Blake for EDS who states that he has undertaken an assessment of the BOGP application as he would have done for an RMA consent application.[235]

251. We say that the decision-making framework in the FTA in inherently economic in nature and is the sole driver for the choice of assessment methodology for economic assessments:

(a) the overarching purpose of the FTA, which is given the greatest weight in decision making, is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits;[236] and

(b) there are limited instances when a Panel may decline approvals which requires adverse impacts of a project to be sufficiently significant to be out of proportion to the benefits.[237]

252. The proportionality requirement in the FTA specifies an assessment structure that requires a whole of economy perspective and provides Panels with discretion to weigh a broad spectrum of impacts and benefits many of which do not lend themselves to monetisation or quantification and does not align with a CBA methodology. There is also the risk that if impacts are monetised there is a risk of double counting under the FTA assessment structure.

253. This was recognised by the Panel in the Waihi North FTA decision which stated:[238]

(a) There is no explicit requirement for either the benefits or adverse impacts to be quantified in monetary terms. This is so even where the claimed benefits are economic in character.

(b) If adverse impacts have already been monetised and factored into the benefits assessments, there would not be much point in a weighting exercise of the kind required by Section 85(3).

254. The Waihi North Panel ultimately rejected the CBA approach that sought to quantify and monetise all matters.[239] The Expert Panel in its draft decision for the Taranaki VTM Project agreed with and adopted this approach.[240]

255. The Southland Wind Farm Panel expressly adopted the Waihi North approach stating *"we accept that a qualitative analysis of adverse impacts is available where*

[235] Environmental Defence Society, Statement of Evidence of William Kaye-Blake at [18]-[22].
[236] Fast-Track Approvals Act 2024, Section 3.
[237] Fast-Track Approvals Act 2024, Section 85(3).
[238] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [786].
[239] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [784].
[240] *Record of Draft Decision of the Expert Panel*, Taranaki VTM, 4 February 2026, at [91].

they cannot readily be expressed in money terms".[241] The Panel found there could be *"no criticism"* of MGL for not having presented a bespoke monetary assessment of adverse impacts, and that a *"qualitative analysis by the relevant experts is sufficient for us to make an informed decision as to whether any adverse impacts are out of proportion with the regional or national benefits".*[242]

256. For these reasons impacts of the BOGP have not been monetised and a CBA has not been prepared in support of the BOGP. In our submission this is not required nor appropriate. The EIA prepared by Mr Patterson is the appropriate assessment methodology for the broad, qualitative weighing of benefits against adverse impacts that the FTA requires.

Multiplier Effects

257. Some commenters criticise the consideration of indirect and induced employment effects also referred to as multiplier effects in Mr Paterson's EIA. Sustainable Tarras considers that the use of multiplier analysis is unsound and inflates claimed economic impacts.[243] EDS states that multiplier analysis is a poor choice for analysing economic impacts because it does not include displacement effects or competition for economic resources.[244]

258. We disagree with these comments for the reasons discussed below.

259. The Expert Panel for the Waihi North project accepted that multiplier analysis is likely to overstate economic impacts.[245] The Expert Panel noted that much of the criticism of input-output multiplier analysis has addressed its use to assess regional and national, as opposed to local, impacts. The Panel was satisfied with the use of multiplier analysis at the local (district level) was broadly accurate but that ripple effects on employment around the country were *"no comparable of precise assessment".*[246]

260. Overall, the Panel accepted that it was clear the Waihi North project would create significant additional employment and implied and induced employment effects were real. Those who would supply the mine would need employees to do so and the spend of those directly or indirectly employed in the mine would support other (or induced) jobs.[247] The problem was not so much the existence of the multiplier effects, but rather their quantification.[248]

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[241] *Record of Decision of the Expert Panel*, Southland Wind Farm, 2 April 2026, at [842]-[845].
[242] *Record of Decision of the Expert Panel*, Southland Wind Farm, 2 April 2026, at [848].
[243] Sustainable Tarras, Legal Comments, at [6(a)(ii)] and [21(a)].
[244] Environmental Defence Society, Legal Submissions, at [113(c)(ii)].
[245] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, at [808].
[246] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, at [813]-[814].
[247] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [809].
[248] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [809].

261. The Panel concluded that, to allow for uncertainties as to input-output multiplier analysis additional employment outside the Hauraki District associated with the Waihi North project would be substantial but probably less than the number of jobs assessed.[249] The Panel stated:[250]

> *"A well-paid job is beneficial to the person who holds it (and members of that person's family), and in ways that are not only financial. An increase in the number of well-paying jobs strengthens the resources, resilience and social cohesion of the community in which they are located. More generally additional employment is corelated with economic growth. We are therefore of the view that, for the purposes of the analysis required by the FTAA, a substantial number of additional jobs is a benefit and one which need not be separately quantified in monetary terms."*

262. In accordance with this decision, the use of multiplier effects analysis can be relied upon in decision making to demonstrate that employment effects will be significant. Mr Paterson's evidence robustly demonstrates the use of multiplier effects has not inflated benefits and outlines that:

(a) A conservative approach has been taken in the assessment to multiplier effects to GDP and employment.[251]

(b) The assessment estimates that for each direct job at the BOGP 1.3 additional jobs would be created through indirect business activity and worker spending.[252] This is significantly lower than the multiplier effect accepted by the Panel in Waihi North of approximately 2.5 multiplier jobs to every 1 direct job.[253]

(c) As there is uncertainty in precisely quantifying indirect effects the Panel should focus primarily on the BOGP's direct economic benefits, but in doing so should acknowledge there will be additional indirect benefits that arise but the precise quantification of additional benefits is uncertain and difficult to resolve between experts.[254]

[249] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [816].
[250] *Record of Decision of the Expert Panel*, Waihi North, 18 December 2025, Part E, at [819].
[251] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [71].
[252] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [71].
[253] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [71].
[254] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [75].

Overall Assessment of Economic Benefits

263. EDS and Sustainable Tarras raise concerns that the economic benefits of the BOGP have been overstated for various reasons including:[255]

(a) the EIA cannot be relied upon as it uses economic information provided by MGL;

(b) the EIA takes a *"best-case scenario"* using upper-limit assumptions with no sensitivity analysis undertaken;

(c) the EIA does not factor in costs post-operations;

(d) the EIA uses an implausibly high gold price;

(e) the EIA does not allow for MGL's part overseas shareholding and company structure;

(f) future impacts should be discounted to their present value;

(g) PAYE and ACC payments have been double counted;

(h) corporate tax and royalties have been overestimated; and

(i) economic gains are short term while the impacts will be long term or permanent.

264. Sustainable Tarras overall considers that the BOGP *"does not fit with the community's shared vision for improved economic prosperity"* and *"long term economic prosperity from gold mining is illusory".*[256]

265. The economic benefits of the BOGP are not overstated and meet the threshold of regional as well as national significance under the FTA. The peer reviewers for CODC and ORC independently conclude that the benefits of the BOGP are substantial and regionally significant.[257]

266. Mr Patterson's evidence provides the Panel with assurance that the economic benefits of the BOGP have been calculated using appropriate assessment methodologies and have not been overstated. Mr Patterson outlines that:[258]

[255] Legal Submissions for Environmental Defence Society, at [126] and Sustainable Tarras, Legal Comments at [21].
[256] Sustainable Tarras, Legal Comments at [6(a)(viii)] and [26].
[257] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026, at [27].
[258] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026, at [15]-[20].

(a) The methods used to estimate the direct GDP from BOGP operations are consistent with Statistics New Zealand's guidance for regional GDP compilation. These methods demonstrate that 97% of direct GDP effects were driven by direct GDP from BOGP operations while 3% are driven by capital assessment.

(b) The economic assessment in the Substantive Application relied on the gold price at the time the pre-feasibility study was prepared. To address comments raising uncertainty with the gold price Mr Patterson has undertaken sensitivity testing using both a high gold price scenario and a low price scenario that reflects average gold prices over the past 3 – 5 years. This assessment demonstrates that even in a low gold price scenario the BOGP would still average $241 million of direct GDP per year while the high scenario results in an average of $587 million per year.[259]

(c) The potential for MGL to incur higher operating costs was considered in the pre-feasibility study which conservatively included a 10% contingency which Mr Patterson has incorporated into the calculations above.[260]

(d) In response to Sustainable Tarras' assertion that the modelling had not accounted for the different pricing between gold dore and pure gold, Mr Patterson confirms that this is incorrect. MGL's financial models account for the full value of the gold as revenue at its per ounce price and then net out the transport and refining margin as an excluded cost.[261]

(e) The evidence of Mr Patteson demonstrates that the economic benefits of the BOGP will extend after mine closure in the form of household wealth effects from higher accumulated incomes.[262]

Cultural Effects (beyond Treaty settlement matters addressed above)

267. MGL commissioned a Cultural Impact Assessment from Aukaha to assess the cultural impacts of the BOGP. A final Cultural Impact Assessment report is appended to the evidence of Mr Ellison for Kā Rūnaka.

268. The evidence and legal submissions filed on behalf of Kā Rūnaka conclude that the BOGP will have adverse cultural effects that, combined with the adverse effects on landscape, ecology and water, are sufficiently significant to outweigh the economic benefits of the BOGP.[263] Kā Rūnaka expresses concern that the cultural value of

[259] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026, at [50].
[260] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026, at [52].
[261] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [53].
[262] Statement of Evidence of Benje Patterson, Response to Comments, 17 April 2026 at [18].
[263] Legal Submissions for Ka Rūnaka, at [36].

taoka species has not been adequately addressed by MGL, and that the threats to karearea and pihoihoi carries a risk of erosion of mātauraka and cultural identity.[264]

269. MGL accepts that it is only for mana whenua to determine and speak to the cultural effects of the BOGP.[265] The Environment Court has recognised that mana whenua are best placed to identify effects of any proposal on the physical and cultural environment they value.[266] MGL does not dispute the effects on the values identified by Kā Rūnaka.

270. However, this does not amount to a right of veto.[267] Case law also provides that an applicant for resource consent is required to put forward how it has sought to address the identified effects. The Court or decision maker is then able to carefully weigh up the evidence before it.[268]

271. In doing do, the Courts have recognised that in some cases projects may still proceed if effects are appropriately managed.[269] That is the case here.

272. MGL acknowledges the concerns that Kā Rūnaka has identified in relation to the effects of the BOGP especially in relation to landscape, ecology and water. However, weight must also be afforded to MGL's experts in those fields, that although not cultural experts, have considered and provided assessment and effects management in relation to matters raised by Kā Rūnaka

273. MGL's position is that while it cannot assess cultural effects itself – that being the role of Kā Rūnaka – its technical experts have done their best (within their respective expertise) to respond to their interpretation of the triggers of cultural concerns through effects management actions. Including:

(a) An Iwi Advisory Group (**IAG**) condition establishing a structured, ongoing mechanism for Kā Rūnaka participation in the environmental management of the BOGP.[270] The functions of the IAG are to:

(i) Facilitate engagement and long-term working relationships in respect of the BOGP, and the management, mitigation, offsetting and compensation and monitoring of environmental effects.

[264] Statement of Evidence of Jade Watkin dated 10 April 2026, at para [19].
[265] A.02B Legal Overview, at [116].
[266] *SKP Incorporated v Auckland Council* [2018] NZEnvC 81, [2018] ELHNZ 119 at [157]
[267] A.02B Legal Overview, at [119], referencing *Te Korowai o Ngaruahine Trust v Hiringa Energy Limited* [2022] NZHC 2810.
[268] See *Wakatu v Tasman District Council* [2012] NZEnvC 75, [2012] NZRMA 363.
[269] *Te Runanga o Ngai Te Rangi Iwi Trust v Bay of Plenty Regional Council* [2011] NZEnvC 402 at [289].
[270] D.03 – Schedule One, Common Conditions for CODC and ORC, Condition C23 – C25.

(ii) Identify and create opportunities for social, economic and environmental enhancement through enhancement of the cultural values and interests as they relate to the project.

(iii) Provide other cultural advice to MGL as may be required.

(b) ensuring the Land and Ecological Rehabilitation Management Plan incorporates taoka species, including toetoe, korokio and kanuka;[271]

(c) including taramea in proposed rehabilitation planting and the reinstatement of pedestrian access along Rise and Shine Creek, which connects to ara tawhito (ancestral pathways) as part of closure outcomes;[272]

(d) imposing measures to minimise contact of sensitive materials with water, including capture of pit and ELF seepage, erosion and sediment controls and fluming of Rise and Shine Creek around pit walls.[273]

(e) ensuring compliance with water quality limits and ongoing monitoring of Lake Dunstan and Clutha River;[274]

(f) flow augmentation at Shepherds Creek and Rise and Shine Creek to maintain pre-mining influenced flow rates to address Kā Runaka priority of protecting mauri of wai māori;[275]

(g) comprehensive ecological offsetting and compensation package across approximately 2,219 ha, including native enrichment planting, pest control and predator-exclusion sanctuaries;[276] and

(h) mine closure conditions align with NRMP objectives on cultural landscapes.

274. When determining whether the cultural effects are sufficiently significant such that they are out of proportion to the significant national and regional benefits, section 85(3) of the FTA requires the Panel to first consider whether these adverse effects can be addressed by conditions set by the Panel or proposed/agreed to by MGL.

275. The expert witnesses for Kā Rūnaka have, in the alternative to their primary recommendation that consent be declined, identified additional conditions that they consider would be necessary in the event the Panel were minded to grant the approvals sought.[277] MGL has consistently maintained that it is open to ongoing

[271] Statement of Evidence of Dr Robyn Simcock, Response to Comments, 17 April 2026.
[272] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026.
[273] Statement of Evidence of Jens Rekker, Response to Comments, 17 April 2026.
[274] Statement of Evidence of Dr Greg Ryder, Response to Comments, 17 April 2026.
[275] B.43 – Hydro Geochem Group BOGP Flow Augmentation Strategy.
[276] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026.
[277] See for example the Statement of Evidence of Mark Pizey and Matt Dale.

dialogue with Kā Rūnaka on appropriate conditions for consent and we understand that Kā Rūnaka are preparing draft conditions for MGL's review.

276. In relation to landscape matters, Mr Girvan confirms that in preparing the landscape assessment, cultural values were considered and provided for where this information was made available.[278] Dr Barber confirms that the principle of ki uta ki tai has been incorporated into the BOGP and that culturally significant species have been assessed in technical ecology reports.[279] Effects in relation to water have also been considered holistically and downstream of the Project Area,[280] consistent with ki uta ki tai.

277. Were the Panel to simply accept the comments submitted by Kā Rūnaka in these circumstances and decline the BOGP on that basis, this would amount to the conferring of a veto right upon mana whenua which has consistently been rejected by appellate level courts:[281]

> *The role of the decision-maker is to determine on the evidence the appropriate cultural interests to be recognised in terms of the matter at hand and how to properly acknowledge, recognise and protect them within the Act's framework. This does not provide those affected iwi with a right of veto* (citing *Watercare Services Ltd v Minhinnick* [1998] 1 NZLR 294 (CA) at [305]) *but the decision-maker has the obligation to engage with the evidence* (Footnote 231: The evidence establishing the alleged facts should be sufficiently probative: *Heybridge Developments Ltd v Bay of Plenty Regional Council* [2012] NZRMA 123 (HC) at [51]).

278. In summary, we submit that the cultural effects of BOGP are capable of being addressed through conditions and proposed actions (for example approach to water management and rehabilitation) and are not sufficiently significant to be out of proportion to the benefits of the BOGP.

Ecology

279. Open pit mining to access the gold resource necessarily requires the removal of vegetation and habitat which will inevitably give rise to ecological effects.

[278] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026 at [31].
[279] Statement of Evidence of Keith Barber, Response to Comments, 17 April 2026 at [12]
[280] B.03 Kōmanawa Solutions Limited - Groundwater Existing Environment and Effects Assessment, B.04 Kōmanawa Solutions Limited Surface Water and Catchment Existing Environment Effects Assessment, B.05 Kōmanawa Solutions Limited Groundwater Modelling Analysis for Mining Bendigo-Ophir Gold Deposit, B.06 Mine Waste Management Limited Mine Impacted Water Overview Report and B.07 Greg Ryder Consulting Recommended Water Quality Compliance Limits for the Bendigo Ophir Gold Project.
[281] *Te Korowai o Ngāruahine Trust v Hiringa Energy Limited* [2022] NZHC 2810, (2022) 24 ELRNZ 269 at [157].

280. To ensure a full and thorough understanding and expert assessment of all aspects of ecology, MGL has engaged a wide team of ecological experts for each separate speciality including:

(a) Dr Matt Baber – Habitats, Lizards, Avifauna, and Biodiversity;

(b) Emeritus Professor David Norton – Terrestrial Ecology;

(c) Zac Milner – Vegetation;

(d) Jeroen Lurling – Wetlands and Avifauna;

(e) Dr Graham Ussher – Lizards and Terrestrial Ecology;

(f) Keith Barber – Mammalian Pests, Native Bats, Terrestrial Invertebrates, and Plant and Pest Management;

(g) Dr Ian Boothroyd – Freshwater;

(h) Dr Richard Allibone – Aquatic Habitats;

(i) Dr Barrie Wills – Vegetation and Botany; and

(j) Dr Robyn Simcock – Cushionfields, Spring Annuals and Rehabilitation.

281. Significant effort has been undertaken to align the offsetting and compensation proposal with the principles and limits set out in the NPS-IB and NPS-FM. While the package meets those principles and limits in most respects it is unlikely to meet the NPS-IB and NPS-FM limits for a small number of species and habitat types, the loss of which cannot demonstrably be offset or compensated for.[282] This is due to:[283]

(a) their irreplaceability or vulnerability;

(b) magnitude of impact; or

(c) inherent uncertainty on achievable biodiversity outcomes.

[282] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) and Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026.
[283] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025).

282. While consistency with limits is not achievable for a small number of species and habitat, we say the BOGP can still comfortably navigate the FTA statutory framework as:

(a) Consideration of the NPS-IB and NPS-FM are relevant to the Expert Panel's decision making under the FTA but an inability to meet bottom lines in these policies does not preclude approval under the FTA.[284]

(b) The weighting within decision making provides the Expert Panel with the ability to determine that the benefits of facilitating delivery of the BOGP outweigh inconsistency with RMA policies.[285]

Terrestrial Ecology

Introduction

283. The Project Area has been extensively modified by human activities. Indigenous biodiversity in the current landscape is in decline due to ongoing habitat loss and degradation through stock browsing, the spread of invasive weeds and predation by mammalian pests.[286] Without intervention, native species are anticipated to continue to decline and several Threatened or At Risk species are likely to become locally extinct over time.[287]

284. The BOGP provides a unique opportunity to restore the biodiversity of the landscape at scale in the long term and deliver ecological benefits beyond directly addressing residual effects of the BOGP.

285. The BOGP proposes an extensive residual effects package across approximately 2,219 hectares of land surrounding the DDF comprising the 889-hectare Mine Regeneration Zone, the 1,263-hectare Ardgour Restoration Area, and approximately 67 hectares of predator-proof. This package expected to provide broad, long-lasting benefits that balance or exceed most ecological impacts and is secured by the conditions of consent and the comprehensive suite of ecological management plans.[288] Dr Baber considers the ecological rehabilitation programme to be the most comprehensive he is aware of in a comparable context.[289]

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[284] Fast-track Approvals Act 2024, Schedule 5 Clause 17(4).
[285] Fast-track Approvals Act 2024, Section 85(4).
[286] Statement of Evidence of Emeritus Professor David Norton, Response to Comments, 17 April 2026 at [43].
[287] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) and Statement of Evidence of Emeritus Professor David Norton, Response to Comments, 17 April 2026 at [41]-[59].
[288] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025).
[289] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [21(c)]. He also provides that assumptions on stated outcomes have been conservative see Statement of Evidence of Dr Robyn Simcock, Response to Comments, 17 April 2026 and Statement of Evidence of Dr Graham Ussher, Response to Comments, 17 April 2026.

286. Key themes in comments which raise terrestrial ecology matters are as follows:

(a) adequacy of baseline information used to inform the assessment of terrestrial ecological effects;[290]

(b) effects on vegetation communities;[291]

(c) the magnitude of effects on lizards;[292]

(d) effects on avifauna;[293]

(e) effects on invertebrates;[294] and

(f) approach to effects management and adequacy of measures to address effects.[295]

287. We anticipate a key ecology matter for the Panel's consideration is the effects on cushionfield habitats, and their associated species, particularly spring annuals. It is not disputed by MGL's expert ecologists that the BOGP will result in residual effects on cushionfields.[296] Research on these species is limited, and no long-term studies demonstrate outcomes from relocation or planting programmes.[297] As a result, at this time it cannot be confirmed with certainty that relocation or planting would be successful in establishing alternative cushionfield locations.

288. Due to this, Dr Baber has adopted a conservative approach in assessing this habitat type and associated spring annuals.[298] As set out in our Legal Overview, due to the presence of cushionfield habitats within the CIT mining of the majority of the CIT Pit will be delayed until there is expert confirmation that threatened spring annuals are either sufficiently present elsewhere or have been successfully propagated.[299]

[290] Department of Conservation, Environmental Defence Society, Ka Rūnaka.
[291] Department of Conservation, Environmental Defence Society, Ka Rūnaka, Otago Conservation Board.
[292] Department of Conservation, Environmental Defence Society, Ka Rūnaka, New Zealand Conservation Authority, Forest and Bird.
[293] Ka Rūnaka and Otago Conservation Board.
[294] New Zealand Conservation Authority.
[295] Department of Conservation,
[296] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [25].
[297] Statement of Evidence of Dr Robyn Simcock, Response to Comments, 17 April 2026.
[298] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [26].
[299] A.02B Legal Overview at [154] – [161].

289. Dr Baber considers it is likely that:[300]

(a) Cushionfield habitats on Ardgour and Bendigo Stations, outside the DDF will be protected from ongoing decline and will benefit from the cessation of topdressing and oversowing together with targeted weed control as part of ecological restoration and habitat enhancement objectives; and

(b) The ARP will deliver tangible, evidence-based benefits for cushionfields and spring annuals.

290. Dr Simcock has developed an applied research programme (**ARP**) for the conservation management, rehabilitation and expansion of cushionfield and taramea herbfield within the Project Site. The conditions of consent incorporate the recommendation in the ARP to delay mining of the majority of CIT Pit until it has been confirmed that threatened spring annuals are either sufficiently present elsewhere or have been successfully propagated.

291. Spring annual surveys were undertaken in 2025 that Dr Simcock considers has increased confidence that the spring annual component of the ARP is feasible. Dr Simcock provides the reasons for this in her evidence. [301]

292. Overall we submit that the evidence on behalf of MGL demonstrates that the management of cushionfield impacts can be developed through implementing the ARP and strict conditioned approach to the CIT Pit.

Adequacy of Baseline Information

293. Various commenters consider there are gaps in MGL's baseline ecological surveys and that this has resulted in an underestimation of ecological values and therefore effects. Some commenters have criticised the use of the Ecological Impact Assessment Guidelines[302] (**EcIAG**).[303] In addition, DOC considers that rare lizard species may be present on the site as suitable habitat occurs within the BOGP Consent Area.[304]

294. The evidence of Dr Baber, Dr Ussher, Dr Barber, Mr Milner and Mr Lurling confirms that the baseline assessments undertaken include detailed investigations,

[300] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [30].
[301] Statement of Evidence of Dr Robyn Simcock, Response to Comments, 17 April 2026 at [31]
[302] Environment Institute of Australia and New Zealand, Ecological Impact Assessment (EcIA) EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems, 2nd Edition, May 2028.
[303] Central Otago District Council Comments on Bendigo-Ophir Gold Mine, at Section 3.1, Legal Submissions for Environmental Defence Society, at [152].
[304] Jewelled gecko, Orange spotted gecko and Lakes' skink.

consistent with best-practice methodologies.[305] The results can be relied on for the assessment of terrestrial effects and as evidence that rare species are not widespread across the BOGP Consent Areas.[306]

295. MGL's ecologists have undertaken both initial desktop investigations assessing existing available information including DOC databases and then extensive baseline surveys within the Ecological Study Area (**ESA**).[307] The ESA extends significantly beyond the footprint of the BOGP, covering a 5,386 hectare area which includes the DDF of the BOGP and the surrounding landscape to ensure that the assessment captures the ecological context within the assessment of ecological effects. Field surveys were carried out in the ESA over a 2-month period between October 2023 to March 2025 and in summary included:[308]

(a) Terrestrial and wetland mapping, broad classification and habitat assessments to determine the extent and condition of habitat types, including the use of the NPS-FM Wetland Delineation Protocol and Pasture Exclusion Methodology to delineate natural wetlands.

(b) Fauna and vegetation surveys to determine habitat quality/value and the presence or likely presence of nationally *"Threatened", "At Risk*" or otherwise notable species including survey methods tailored for vegetation, long-tailed bats, terrestrial birds, lizards, invertebrates and mammalian pests.

(c) MGL's expert ecologists undertook a comprehensive, multi-method survey programme specifically designed to detect rare species.[309] The surveys focused on the highest-quality examples of regenerating scrubland, tor vegetation, valley tussock, and scree vegetation to ensure thorough coverage of habitats with the greatest potential to support rare species, including jewelled gecko. Approximately 25 hours were dedicated to searches targeting the jewelled gecko across six one-hectare (approximately) sites.[310] No jewelled gecko, or any other rare lizard species were found.[311]

[305] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026, Statement of Dr Graham Ussher, Response to Comments, 17 April 2026, Statement of Evidence of Zac Milner, Response to Comments, 17 April 2026 and Statement of Evidence of Jeroen Lurling, Response to Comments, 17 April 2026.
[306] Statement of Evidence of Dr Graham Ussher, Response to Comments, 17 April 2026 at [26].
[307] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026.
[308] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) at [2.2.1] and Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026.
[309] B.15A RMA Ecology Lizard Values Assessment.
[310] B.15A RMA Ecology Lizard Values Assessment.
[311] B.15A RMA Ecology Lizard Values Assessment.

296. This work was undertaken in accordance with the EcIAG which are widely used to assess ecological effects and effects management requirements.[312] The EcIAG provide that *"more reliable and specific information (and therefore more thorough surveys) will be required where ecological risks are higher. Methods should be selected carefully and clearly described."*[313] MGL's experts, taking into account the magnitude of potential effects of the BOGP, have accordingly taken a conservative and thorough approach to their baseline assessments to ensure these guidelines are met and have described their methods in their reports and evidence.

297. Following baseline information assessments and surveys, ecological values were assessed conservatively.

298. Dr Baber has assessed effects assuming that complete habitat clearance will be undertaken within the full 610ha area of the DDF.[314] This is not what MGL proposes. However, Dr Baber has taken this approach, which he states is an overestimated disturbance scenario, for the following reasons:[315]

    (a) of the 610 ha, the actual disturbance footprint is approximately 483 ha (79%), with the remaining 21% (127 ha) comprising buffers to account for indirect effects and to provide contingency for a relatively small amount of additional clearance if required.

    (b) despite existing impacts from consented mine exploration activities, the assessment of vegetation characteristic and values and assessment of effects are based on a pre-exploration baseline;

    (c) the 610 ha footprint of the DDF assumes that the CIT Pit (23.26 ha) will be mined although this is dependent on the ARP; and

    (d) there is a small amount of habitat loss outside the DDF associated with construction of the pest exclusion fences however this does not materially alter Dr Baber's overall conclusion that the assumed quantum of loss is conservative.

299. Dr Baber provides that ecological value for species was assigned based on the highest applicable threat classification (whether regional or national), rather than relying solely on national threat status as directed by the EcIAG.[316] For 25 plant and bird species, this resulted in ecological values being assigned at a higher level than

[312] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) at [2.3].
[313] Environment Institute of Australia and New Zealand, Ecological Impact Assessment (EcIA) EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems, 2nd Edition, May 2028 at [4.4.5].
[314] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [20].
[315] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [20].
[316] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026 at [17].

would have occurred under a national-only classification, elevating the assessed level of effect for approximately half of these species.[317]

Vegetation

300. Commenters raise concerns in relation to the scale of effects on vegetation, in particular effects on cushionfields and whether proposed effects management is adequate. Some commenters also raise concerns in relation to unknown impacts on non-vascular plants and the adequacy of the assessment of potential indirect effects.

301. MGL recognises that it is not possible to completely avoid all potential impacts on vegetation from the BOGP, due to the scale and complexity of the project, and has proposed a comprehensive offsetting and compensation package detailed above.

302. MGL also proposes an adaptive management approach addressed in more detail above which will address uncertain impacts on non-vascular plants.

303. Potential indirect effects on terrestrial ecology have been comprehensively considered by MGL's experts including fragmentation of habitat and reduced ecological connectivity, edge effects, introduction and spread of environmental weeds, deposition of dust, secondary habitat loss through changes to local hydrology and loss of altitudinal sequences.[318]

304. MGL proposes comprehensive offsetting and compensation measures to address the loss of vegetation and habitat as part of the broader compensation package discussed below.

Lizards

305. Commenters raise concerns in relation to the magnitude of effects on lizards.[319] Three lizard species were found on site, the Tussock Skink, Kawarau Gecko, and McCann's Skink. These species are listed in the Wildlife Act approval request.

306. If additional species are found, which MGL agrees cannot be ruled out but is unlikely given the scale of surveys to date and study of the additional rare species on nearby sites[320] (with approximately 620 person hours spent searching for lizards)[321] then MGL agrees with commenters that an additional approval under the Wildlife Act

[317] Statement of Evidence of Dr Matt Baber, Response to Comments, 17 April 2026.
[318] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025) and B.14 – RMA Ecology – Vegetation Values Assessment (RMA Ecology 2025).
[319] New Zealand Conservation Authority Comments, at [6.2], Otago Regional Council s53 Comments, at [529], Department of Conservation s53 Comments at 6.11-6.17.
[320] B.15A RMA Ecology Lizard Values Assessment, at 6.3.6.
[321] Statement of Evidence of Dr Graham Ussher, Response to Comments, 17 April 2026 at [29].

would be necessary.[322] To address this, an Accidental Lizard Discovery Response Protocol will be included in the Lizard Management Plan requiring works to halt upon discovery of a species not listed in the wildlife authority.[323]

307. A specific Lizard Management Plan has been prepared to address effects and salvage and relocation is proposed. Conditions require compliance with management and monitoring plans, lizard capture and relocation during specified times of the year, strict hygiene protocols, detailed annual reporting. The conditions also prescribe salvage methods and the level of effort required to be met. A minimum of 2,330 person hours of manual salvaging must be undertaken and a minimum of 102,000 lizards must be salvaged.[324]

308. Despite these protection measures, the proposal seeks authorisation for accidental harm or death of protected wildlife during construction and operation. NZCA states that this authorisation would not be consistent with the Wildlife Act.[325] MGL disagree, submitting that this is a foreseeable and unavoidable consequence of mining operations, and is only authorised when unavoidable. MGL is not requesting a blanket licence, only an acknowledgement that despite mitigation measures some injury or death will occur. The proposed conditions require that all reasonable effect be made to comply with the conditions before any killing of wildlife can be treated as permitted.[326] Further, all protected wildlife deaths other than authorised euthanasia will be incidental, and that is consistent with the Wildlife Act – as outlined in the Legal Overview.[327]

309. In addition, concerns are raised about the reliability of the lizard evidence base.[328] MGL submits its evidence base is thorough – it built its information through a multi-stage, methodology diverse programme of investigation completed by numerous experts. There were five stages of assessment: [329]

    (a) Desktop Assessment – a review of existing knowledge about the lizard communities in the Ecological Study Area and wider Central Otago Ecological Region;

    (b) Classification and Nomenclature – a step required due to the complexity of species taxonomy in the region. Adequate identification and consistent naming was necessary;

[322] Statement of Evidence of Mark Chrisp, Response to Comments, 17 April 2026 .
[323] Statement of Evidence of Dr Graham Ussher, Response to Comments, 17 April 2026.
[324] D.01 CODC Land Use Consent and Conditions, Condition 63.
[325] New Zealand Conservation Authority, at [6.2].
[326] Condition 11 – Proposed Wildlife Act Approval Conditions.
[327] A.02B Legal Overview, at [87(a)].
[328] Department of Conservation, s53 comments, at 6.14, Department of Conservation – Attachment A of Appendix A, at 3.31, Otago Regional Council s53 Comments, at [519], Legal Submissions for Environmental Defence Society, at [287].
[329] B.15A Substantive Application at [2]

(c) Lizard Survey – multiple survey methods were deployed across the site over multiple years, and approximately 620 person hours on the ground, with additional time reviewing photographs, drone videos and other data;

(d) Data Analysis – analysis of data collected during the surveys. This included establishing a catch per unit effort for specified areas;

(e) Assessment of Ecological Value and Significance – ecological value was assessed at the scale of the lizard community a scale measuring representativeness; rarity/distinctiveness; diversity and pattern; and ecological context. These matters are assessed on a four-point scale (very low, low, moderate, high).

310. Dr Ussher confirms that the effort was extensive, and the survey robust and accurate. As outlined above, the surveys amounted to approximately 620 person hours and included multiple methods of active, passive and trapping techniques. Dr Ussher considers the effort expended was both comprehensive and is appropriate for a site of this large size.[330]

Avifauna

311. Otago Conservation Board and Fish and Game's comments provide that the TSF poses a significant risk to wetland avifauna due to its resemblance to a pond.[331]

312. Mr Lurling considers that if this did result a minor level of effect on avifauna this could be addressed by actions to reduce the attractiveness of the pit lakes to waterfowl including by modifying the shallow margin where the haul road enters. This could easily be achieved by, for example, placement of large rocks to limit avifauna access to shallow water and sediment and to discourage the establishment of marginal vegetation.[332]

313. Although not a key theme, some commenters also raised concerns in relation to effects on avifauna more broadly.[333]

314. MGL proposes comprehensive measures to address effects on avifauna as follows. These measures will result in a net positive outcome for eastern falcon, pipit and silvereye:[334]

[330] Statement of Evidence of Graham Ussher, Response to Comments, 17 April 2026.
[331] Otago Conservation Board, Comments, at pages 3-4, New Otago and New Zealand Fish and Game Councils, Comments, at [78].
[332] Statement of Evidence of Jeroen Lurling, Response to Comments, 17 April 2026.
[333] Kā Rūnaka, Environmental Defence Society, Royal Forest and Bird Protection Society of New Zealand and Otago Regional Council.
[334] B.08 - Alliance Ecology Consulting - Assessment of Ecological Effects (Alliance 2025), Avifauna Management Plan and Habitat Impact Management Plan.

(a) surveying of indigenous bird nests prior to vegetation clearance during bird breeding season (September to March inclusive) and establishing buffers to minimise the loss of native bird nests, eggs, and chicks;

(b) avoiding habitat clearance near nesting birds until chicks have fledged;

(c) ceasing vegetation clearance within set distances until chicks have fledged for eastern falcon, pipit, bird species with a Threatened or At Risk rating, and all indigenous birds with a non-threatened classification;

(d) measures to minimise risk of electrocution and collision; and

(e) mammalian pest management as part of the proposed offsetting and compensation package.

Invertebrates

315. Commenters raise concerns in relation to the magnitude of effects on invertebrates and that there will be a net loss.[335] ORC asserts that all *"uncertain"* outcomes should be classed as *"net loss"* for all invertebrate species.[336]

316. The functional and operational need of the BOGP to be located where the mineral resource lies results will result a net loss of invertebrate habitat in the DDF, this is not in dispute and has been comprehensively assessed by MGL's expert ecologists.[337]

317. As outlined in the evidence of Mr Barber characterisation of outcomes as "uncertain" is maintained as the uncertainty is evidentiary rather than practical as the current state of knowledge for these species does not allow outcomes to be demonstrated in advance.[338] This constraint is shared by all novel invertebrate conservation work in New Zealand and describing outcomes as net loss would be equally unprovable and would misrepresent the genuine ecological gains the compensation package is designed to deliver. [339]

318. Mr Barber's statement of evidence comprehensively outlines that:[340]

(a) The compensation package will deliver a genuine improvement in ecological condition and trajectory one that Mr Barber considers the Panel should weigh accordingly.

[335] Otago Regional Council, Department of Conservation, Environmental Defence Society, Ka Rūnaka, New Zealand Conservation Authority, Central Otago District Council.
[336] Otago Regional Council, Comments, at [555].
[337] Statement of Evidence of Keith Barber, 17 April 2026 at [19].
[338] Statement of Evidence of Keith Barber, Response to Comments, 17 April 2026 at [17(iv)].
[339] Statement of Evidence of Keith Barber, Response to Comments, 17 April 2026 at [17(iv)].
[340] Statement of Evidence of Keith Barber, Response to Comments, 17 April 2026 at [19].

(b) The experimental nature of the salvage and relocation programmes are acknowledged and given this they are not relied on in the residual effects assessment. The success or failure of these programmes does not change the effects picture.

(c) The predator-proof sanctuaries, 35 years of active pest and weed management, and landscape-scale habitat restoration under the Land and Ecological Rehabilitation Management Plan and Ardgour Restoration Area Management Plan deliver ecological conditions and trajectory that do not currently exist anywhere in the surrounding landscape. This is a qualitative improvement, not a like-for-like trade.

(d) The effects management measures reflect the best available analogous practice in New Zealand and internationally. Defined success criteria and adaptive management responses are built in. Uncertainty about outcomes is an evidentiary limitation shared by all novel invertebrate conservation work; it is not indicative of a poorly designed programme, and it is not a reason to discount work that the assessment does not rely upon succeeding.

319. For the above reasons we submit that the Panel should prefer the assessment of Mr Baber.

Aquatic Ecology

NPS-FM

320. EDS state that the application breaches avoidance policies within the NPS-FM 2020, requiring no further loss of extent of natural inland wetlands. We disagree. It has submitted further that the panel must consider and make a specific finding on the aquatic ecological effects of the project and to apply the NPS-FM.[341] We do not disagree that the panel must make a finding on ecological effects but dispute that a breach exists. In the alternative, we reiterate that the breach of an avoidance policy is not, by itself, a reason to decline the application.[342] The loss (or otherwise) of aquatic ecology is discussed below and in the detailed evidence of Mr Greg Ryder and Mr Ian Boothroyd.

321. Mr Greg Ryder is an expert in invertebrate communities, in Otago streams and rivers with significant experience in assessing and monitoring effects of gold mining on surface water in New Zealand. In addition, MGL engaged Mr Ian Boothroyd is an ecologist with specialist expertise in freshwater ecology, in particular Mr Boothroyd

[341] Legal Submissions for Environmental Defence Society at [121].
[342] Fast-Track Approvals Act 2024, Section 85(4).

advises on impacts of developments on aquatic and terrestrial resources and the value of and significance of freshwater and terrestrial environments.

Section 107 RMA

322. Fish and Game consider that the project will have significant adverse effects on aquatic life, contrary to section 107 of the RMA. Section 107 of the RMA prevents a consent authority from granting a discharge permit that would, after mixing, give rise to significant effects on aquatic life in receiving waters, unless specified circumstances apply. Mr Mark Chrisp addresses this in his evidence, and notes that no fish have been detected in Shepherds Creek, Rise and Shine Creek, or Clearwater Creek. The only fish populations observed in the vicinity are located downstream in the lower Bendigo Creek. These are the Kōaro and Brown Trout. Barriers exist to fish upstream passage.[343] MGL submits that taking into account:

    (a) the aquatic life in the directly affected watercourses is limited to macroinvertebrates with no fish present;[344]

    (b) the proposed water quality compliance limits and monitoring regimes will protect both local and wider receiving environments;[345] and

    (c) contaminant modelling demonstrates that the wider environment (Lindis River, Clutha River / Mata-Au, Lake Dunstan) will be protected to a high level;[346]

323. Section 107 is not engaged.

ANZG Guidelines and nitrate levels

324. Mr Ryder and Mr Boothroyd has adopted a 90% species protection level under the ANZG 2018 Guidelines for setting water quality compliance limits, considering that the on-site streams are “highly disturbed systems”.

325. Several commenters have commented on this protection level:

    (a) Fish and Game’s expert, Ms McArthur, considers that the on-site water bodies have been mischaracterised as they have failed to take into account the receiving environment, and therefore the level should be 95% for a slightly to moderately disturbed ecosystem.[347]

[343] B.07 Greg Ryder at page 3, Mark Chrisp at 71
[344] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026, at [42].
[345] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026, at [21].
[346] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026, at [26].
[347] Otago and New Zealand Fish and Game Councils, Statement of Evidence of Kathryn McArthur, April 2026 at [131].

(b) ORC's expert, Ms Greer, agrees that the creeks reflect "slightly to moderately disturbed systems" and that good practice would be to adopt 95% species protection. However, he does note that the 90% limits are arguably comparable, accepting that this approach provides a reasonable level of protection.[348]

(c) EDS expert, Mr Webster-Brown considers that the 95% level is more commonly applied in New Zealand and that the 90% level would allow the surface water ecosystems to degrade further;

326. Mr Ryder considers that a 90% species protection is consider the appropriate level of protection for these freshwater ecosystems, taking into account their historic and current levels of disturbance. He considers that it is very unlikely that adverse effects will occur even if actual instream quantities reach these limits. No fish have been detected in the project site and there is a poor invertebrate community. Surface water and physical habitats have been affected by historic mining, stock grazing and invasive species.[349] Mr Ryder has confirmed that the 95% level of protection may not be able to be met currently, and there is therefore little point in setting those limits.[350] Mr Boothroyd agrees.[351] Mr Ryder and Mr Boothroyd provide further evidence on this point, which we do not repeat here.[352]

327. Similarly, there are differing opinions on the appropriate limits for nitrogen which do not fall within the same ANZG guidelines. MGL submits that the appropriate limit is that recommended by Mr Ryder and Mr Boothroyd. The 2020 NPS-FM includes national bottom lines for ammonia and nitrate toxicity to aquatic life, and consent compliance limits have not been set at below those bottom lines.[353] ORC considers that the limits have been set inappropriately high and invites MGL to set lower limits to ensure that there are no downstream effects.[354] Dr Ryder has explained his methodology for setting those limits clearly in his evidence.[355]

Use of Models

328. Comments have criticised that the groundwater effects assessment does not rely on a proven scientific model and instead uses a generic model to consider the

[348] Otago Regional Council, Comments at [331].
[349] B.07 Greg Ryder Consulting Recommended Water Quality Compliance Limits for the Bendigo Ophir Gold Project (Ryder 2025) at page 3.
[350] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026 at [39].
[351] Statement of Evidence of Ian Boothroyd, Response to Request for Further Information, 17 April 2026 at [37].
[352] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026 and Statement of Evidence of Ian Boothroyd, Response to Comments, 17 April 2026.
[353] B.07 Greg Ryder Consulting Recommended Water Quality Compliance Limits for the Bendigo Ophir Gold Project (Ryder 2025) at 3.4.3, page 24.
[354] Otago Regional Council, Comments at [337].
[355] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026 at [16].

movement of water in the Lindis Ribbon Alluvial Aquifer (**LRA**) and Ardgour Aquifer.[356] We submit that there is no requirement for a model to meet a threshold of scientific proof to be used as a tool by experts to asses effects. The Environment Court has held that models are useful tools to assist experts in forming opinions about environmental effects and the value of using models lies in understanding their limitations, not in requiring scientific certainty for their use.[357] The Substantive Application explicitly addresses the limitations to the accuracy of the model predictions.[358]

329. The Court has been consistent in its position that the Court is not the forum to settle technical scientific debates as to the appropriate methodology for the use of a proposed model[359] and that models are tools to assist decision making.[360]

330. Mr Hanan asserts that granting approvals for the BOGP without the knowledge of the connections between the BOGP, LRA and Ardgour Aquifer and potential contamination impacts violates the precautionary principle.[361] The expert technical assessment and proposed adaptive management approach demonstrates that the risk is known, mitigated and appropriate.

331. Dr Ryder's evidence is that with the combination of the BOGP hydrogeological setting, proposed forward works, seepage collection systems, performance monitoring and contingency measures, the risk of unacceptable offsite mine waste storage facility seepage migration is low.[362] Additionally, Dr Ryder confirms that there is only a very low risk of significant adverse effects on receiving water environments.[363]

332. The monitoring regime in the conditions including groundwater testing at compliance bores and limits for key contaminants and adaptive management approach in the Water Management Plan ensures that appropriate responses will be implemented if monitoring results indicate any deviation from limits. Taken together, the technical assessment, conditions and management plan provide assurance that remaining uncertainty will be addressed and residual risk adequately managed.

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[356] Comments of Ross Hanan, at pages 6 - 7.
[357] *Contact Energy Ltd v Waikato District Council* (2006) 6 ELRNZ 1.
[358] Mine Waste Management. (2025b). Water Load Balance Model Report – Bendigo-Ophir Gold Project
[359] *Royal Forest and Bird Protection Society of New Zealand Incorporated v West Coast Regional Council and Buller District Council* [2023] NZEnvC 68 at [165] – [168].
[360] *Waka Kotahi NZ Transport Agency v Manawatu-Whanganui Regional Council* [2020] NZEnvC 192 at [173].
[361] Comments of Ross Hanan, at page 20.
[362] Statement of Evidence of Ryan Burgess Section 53 Response dated 17 April 2026 at [53].
[363] Statement of Evidence of Ryan Burgess Section 53 Response dated 17 April 2026 at [42] – [43].

Water Treatment Plant

333. The Panel has requested information on who will be responsible for maintaining the water treatment plant post closure and into the long term, and how this is reflected in the proffered conditions.[364]

334. The conditions specify that the consent holder, MGL, is responsible for the water treatment plant post-closure and there is no transfer to any third party. Bond conditions require that the rehabilitation bond amount cover all estimated costs for rehabilitation and closure, including any required long-term maintenance activities and the eventual closure of the Water Treatment Plan (**WTP**) and Passive Treatment System (**PTS**).[365] As covered in our submission on the bond, the bond will be secured against records of title and guaranteed by a guarantor unless CODC and ORC (**Councils**) agree to a cash bond.

335. In our submission, the conditions proffered by MGL are legally valid and enforceable in law. Case law has consistently confirmed that persons operating under resource consents have an obligation to comply with the conditions integral to the grant of such consents.[366] We therefore submit that the Panel is able to assume that a consent holder will act legally and adhere to all conditions, including those relating to the maintenance of the water treatment plant post closure. As the Court in *88 The Strand Ltd v Auckland City Council* observed, if the Panel could assume that there will be non-compliance with conditions of consent, nothing would ever be approved.[367]

336. In the event of non-compliance, the Councils are able to pursue enforcement action against MGL. Further, the rehabilitation bond provides a financial safeguard to enable the Councils to step in and undertake monitoring and management in the event of a breach.

Water Treatment

337. EDS asserts that there is:[368]

(a) Significant environmental risk relying on passive treatment of mine impacted water in the longer term.

(b) There is uncertainty about the ultimate fate of contaminated sludge and sediment from the active and passive water treatment systems.

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[364] Request for further information to Matakanui Gold Limited – 1 April 2026, Question 6.
[365] Statement of Evidence of Mark Chrisp, Responding to the Panel RFIs, dated 17 April 2026 at [9].
[366] *Gisborne District Council v Juken New Zealand Ltd* [2019] NZDC 24075, at [23].
[367] *88 The Strand Ltd v Auckland City Council* [2002] NZRMA 574, at [19].
[368] Legal Submissions for Environmental Defence Society, at [10].

338. For the reasons discussed below we disagree with the assertions of EDS.

339. Active water treatment at a Water Treatment Plant (**WTP**) is proposed until concentrations of identified contaminants meet specified limits at which point transition to passive treatment can be used to achieve water quality objectives.[369] The conditions together with the Water Management Plan outline that the transition from active to passive water treatment can only occur once contaminant loads have been demonstrated to have reduced to pre-determined levels that are known to be manageable by passive treatment systems.[370] This provides certainty that active treatment will remain in place until the identified limits are met, and provides certainty that downstream water quality limits will be met.

340. The technical evidence and expert assessment demonstrate that the proposed passive treatment technologies are based on proven, internationally recognised approaches. The multi-stage passive treatment system is comprehensively outlined in *B.06 Mine Waste management Limited – Mine Impacted Water Overview Report* and confirms that the proposed approaches align with international guides and are supported by proven field scale examples.[371]

341. The preliminary passive treatment system efficiencies modelled by MWM demonstrate that the treatment is expected to remove significant quantities of contaminants of concern. These modelled efficiencies are not relied on in isolation but will be validated through site-specific trials once mine-impacted water is available, ensuring the treatment performance is confirmed under real operating conditions.

342. The monitoring and adaptive management approach secured through the consent conditions provides a clear safeguard in the event the passive treatment system does not achieve the required water quality limits by requiring pre-determined management responses to be implemented. Together these measures provide confidence that long term passive treatment will not result in significant environmental risk, as any potential issues will be identified at an early stage and effectively managed, avoiding significant environmental effects.

343. Dr Paul Weber's evidence confirms that he does not see any technical challenges with being able to treat mine-impacted waters at the BOGP using active treatment technologies and later a transition to the passive water treatment system.[372]

[369] G.01 – Water Management Plan.
[370] B.06C – Mine Waste Management Limited Mine Impacted Water Overview Report.
[371] B.06C – Mine Waste Management Limited Mine Impacted Water Overview Report Appendix I-O.
[372] Statement of Evidence of Dr Paul Weber, Section 53 Response, 17 April 2026.

Water Quality Limits

The Relevant Environment

344. The legal submissions and evidence filed on behalf of Fish and Game contend that MGL has not taken into account the wider receiving environment when proposing water quality limits.

345. In response to these comments, MGL's expert Dr Ryder[373] explains that MGL has a comprehensive understanding of the wider surface baseline environment including the dual groundwater-surface water context within the Lindis Alluvial Ribbon Aquifer and river.[374]

346. Mr Rekker recommendations of Fish and Game regarding performance monitoring in the wider environment, and now recommends funding of the further extension of surface water monitoring to the Lindis River and lower Bendigo Creek.

The Limits Proposed

347. Fish and Game have raised concerns about water quality limits relating to contaminants in fish which if consumed by humans, could pose harm. They state that contaminant concentrations that could pose harm to humans from fish consumption are significantly less than laboratory detection limits for water quality samples. MGL's Environmental Scientist, Mr Ryder, has confirmed that there is a large volume of water that is constantly being turned over in the Clutha River / Mata-Au and Lake Dunstan providing little opportunity for bioaccumulation of soluble contaminants.[375]

348. The evidence of Dr Ryder responds to this and details why the proposed compliance limits, coupled with water management and proposed compliance and performance monitoring outcomes provide sufficient confidence that any unforeseen trends in contaminant concentrations or contaminant loads affecting receiving water environments are identified well before a potential adverse outcome occurs.[376]

349. Various parties, including ORC,[377] Fish and Game,[378] and EDS[379] have raised concerns about MGL's proposed surface water quality limits not aligning in some circumstances with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (**ANZG**), in particular the 90% species protection Default

[373] Statement of Evidence of Greg Ryder, Section 53 Response, dated 17 April 2026.
[374] Statement of Evidence of Jens Rekker, Section 53 Response, dated 17 April 2026.
[375] Statement of Evidence of Greg Ryder, Response to Comments, 17 April 2026.
[376] Statement of Evidence of Dr Greg Ryder, Section 53 Response, 17 April 2026 at [44].
[377] Otago Regional Council s53 Comments, 10 April 2026, at [329] – [330].
[378] Otago and New Zealand Fish and Game Councils, Statement of Kathryn McArthur, at [126] – [130].
[379] Environmental Defence Society – Evidence of J Webster–Brown, at [79] – [80].

Guideline Values (**DGVs**) as surface water compliance limits for toxicants in both Shepherds Creek and Rise and Shine Creek.[380]

350. Guidelines exist to assist technical experts and regulators understand what appropriate conditions should be considered. Case law provides that guidelines such as ANZG are not determinative in resource consenting. In *Apex Marine Farm Ltd v Marlborough District Council*, in relation to an application to establish a marine farm, the Environment Court held that the Marine Safety Authority Guidelines which referred to the placing of marine farms were guidelines and not rules and were therefore not binding on the council or the Court.[381]

351. Additionally, the ANZG states that the *"Water Quality Guidelines' DGVs* [default guideline values] *have no formal legal status, and their use is not mandatory, unless specified as being so by the relevant state, territory or local jurisdictional authority."*[382]

352. As such, the ANZG do not have legal status and although they are used by regional councils around the country, including the Otago Regional Council, for monitoring, consent assessment, and setting water quality standards, their use is not mandatory.

353. MGL's environmental scientist, Dr Ryder, has 35 years' experience in surface water quality and aquatic ecology, has been a board member of the EPA, is a Freshwater Commissioner and has extensive experience working in the lower Lindis River, the Clutha River / Mata-Au and Lake Dunstan. Dr Ryder has confirmed that he has used a combination of guidelines and water quality criteria to determine the most appropriate surface water quality compliance limits based on the characteristics of the baseline environment and the BOGP. He describes the guidelines as being a guideline only and should not be used as strict standards or limits. He has used different guidelines depending on the contaminant as some guidelines provide a more appropriate limit compared to other guidelines.[383] As such, we consider the evidence of Dr Ryder should be preferred.

354. It is noted that ORC ultimately agreed with MGL's proposed 90% DGV approach if they are applied as absolute maximums, which is a departure from the departure from the ANZG.[384]

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[380] Otago Regional Council s53 Comments, 10 April 2026 at [329] – [330].
[381] *Apex Marine Farm Ltd v Marlborough District Council* ENC Wellington W37/2002, 3 September 2002, [2002] ELHNZ 369 at [52].
[382] "How to use the Water Quality Guidelines", Australian and New Zealand Guidelines for Fresh and Marine Water Quality, https://www.waterquality.gov.au/anz-guidelines/about/how-to-use
[383] Statement of Evidence of Gregory Ryder, Request for Information Response, 17 April 2026 at [6] to [10].
[384] Otago Regional Council s53 Comments, 10 April 2026, at [331]

Performance and Compliance Monitoring

355. Various comments raise concerns with the proposed performance and compliance monitoring regime and whether it is adequate to ensure water quality limits are met.

356. MGL proposes extensive performance and compliance monitoring measures to ensure groundwater and surface water limits are complied with.

357. The BOGP includes 8 groundwater performance monitoring bores and a number of piezometers within the Rise and Shine wetland.[385] 11 surface water performance monitoring sites are proposed.[386]

358. Dr Weber provides that performance monitoring is a key step in the management of mine impacted waters as it provides both leading and lagging performance monitoring data.[387] Compliance monitoring data is considered lagging performance monitoring.[388]

359. Proposed performance monitoring of water quality includes monitoring of key sources of mine impacted waters, for example, TSF seepage, to provide performance monitoring data to validate water models and provide time to confirm effects at compliance monitoring locations.[389]

360. Given the Project Area will not release mine circuit water during the operational phase, there will be many years of performance monitoring data from seepages to inform what water management is required.[390]

361. In accordance with the Water Management Plan, performance monitoring data will be reviewed:[391]

    (a) annually, to assess trends and refine monitoring programmes;

    (b) following significant rainfall events, to evaluate infrastructure performance;

    (c) in response to exceedances or anomalies and to TARPs;

    (d) monitoring results will inform updates to the Water Management Plan, risk register, and adaptive management processes; and

[385] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [47].
[386] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [47].
[387] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [47].
[388] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [47].
[389] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [50].
[390] Statement of Evidence of Dr Paul Weber, 17 April 2026 at [52].
[391] G.01 Water Management Plan, Section 7.4.1.

(e) continuous performance monitoring is also proposed for a number of locations for surface and groundwater in accordance with the Water Management Plan.

362. Surface water compliance monitoring is proposed at the following locations:

(a) Shepherds Creek located downstream of the Project Area;

(b) RAS Creek to monitor water quality and flow from the RAS catchment which receives runoff from the SRX, SRE and WELF mine domains; and

(c) Clearwater Creek to provide baseline data for comparison.[392]

363. Groundwater compliance monitoring is proposed at bore MW-101 at the junction of the Shepherds Creek alluvium and the Ardgour Aquifer, and at the "Base Bore" within the Bendigo Aquifer.[393]

364. In response to commenters who raise concerns in relation to the adequacy of groundwater monitoring locations, Mr Burgess considers the proposed locations for both performance and compliance are strategically located along potential groundwater pathways between potential contamination sources like mine storage waste facilities and receptors (groundwater users), consistent with standard industry practice.[394] Mr Rekker considers the placement of these groundwater monitoring locations is well scoped and planned.[395]

365. Water quality data analysis will be undertaken at compliance monitoring locations to understand trends. Triggers are proposed for when actions in response to monitoring data are required.[396]

366. Dr Ryder considers that the proposed compliance and performance monitoring programme provides confidence that any unforeseen trends are identified well before a potential adverse outcome occurs and will provide protection for water users.[397]

Water Quantity

367. Multiple comments have raised concerns about uncertainty as to the effects of the BOGP on the loss of availability of downstream water quantity.[398] ORC correctly

[392] G.01 Water Management Plan, Section 7.2.
[393] G.01 Water Management Plan, Section 7.3.
[394] Statement of Evidence of Ryan Burgess, Response to Comments, 17 April 2026 at [116].
[395] Statement of Evidence of Jens Rekker, Response to Comments, 17 April 2026 at [20].
[396] Statement of Evidence of Dr Paul Weber, Response to Comments, 17 April 2026 at [30].
[397] Statement of Evidence of Dr Greg Ryder, Response to Comments, 17 April 2026 at [46] and [65].
[398] Otago Regional Council, Environmental Defence Society, Otago and New Zealand Fish and Game Councils, QWIL Investments Limited, School Terrace Services Company Limited, Ross Hanan and Sustainable Tarras.

raises that the Lindis River catchment (Shepherds Creek) and the Bendigo Creek catchment (Rise and Shine Creek) are fully allocated and there is no primary allocation available for new surface water takes.[399]

368. The augmentation proposed by MGL is described at paragraphs 126 – 130 of our Legal Overview. The conditions of consent require MGL to maintain the estimated pre-mining mean monthly surface flow rates at Shepherds Creek and Rise and Shine Creek by augmenting surface flows at upstream discharge sites.[400]

369. For the reasons outlined below we submit that the evidence and technical assessments before the Panel provides comfort that the BOGP will not impact the availability of downstream water:

(a) Augmentation will commence six months after the start of mining, prior to any abstraction and continue until compliance monitoring of creek flow rates exceed baseline flows.[401]

(b) Augmentation rates will increase as mining domains become active and drawdown expands. The conditions of consent require stepped increases above the base monthly augmentation rates when mining commences at RAS underground, CIT and SRX.[402]

(c) Groundwater level monitoring will be installed to provide early warning of creek flow losses due to drawdown.[403]

(d) Automated creek flow gauging will be installed at RS03 on Clearwater Creek and SC01 on Shepherds Creek.[404]

(e) Performance monitoring obligations secured by the conditions of consent require that if the augmentation rates are too high or too low relative to the pre-mining mean monthly surface flow rates MGL must adjust the rates accordingly.[405]

(f) The augmentation obligation will end in the post-closure phase once performance monitoring indicates that the creek flows exceed pre mining levels without augmentation. Technical assessment prepared by Hydro GeoChem models that post-closure flow projects average flow increases of approximately 60% at SC01 and 50% at RS03 relative to the baseline.[406]

[399] Otago Regional Council, Comments at [256].
[400] Otago Regional Council Conditions.
[401] Statement of Evidence of Jens Rekker, Response to Comments, 17 April 2026 at [36].
[402] Otago Regional Council Conditions.
[403] B.43 – Hydro Geochem Group BOGP Flow Augmentation Strategy at page 11.
[404] B.43 – Hydro Geochem Group BOGP Flow Augmentation Strategy at page 11.
[405] B.43 – Hydro Geochem Group BOGP Flow Augmentation Strategy at page 10.
[406] B.43 – Hydro Geochem Group BOGP Flow Augmentation Strategy at page 9.

370. Overall, the above actions can provide comfort to the Panel that the BOGP will not impact the quantity of downstream availability.

Landscape and Natural Character

Inadequacy of Landscape Assessment

371. Kā Rūnaka and Sustainable Tarras consider that the landscape assessment prepared for the BOGP is inadequate as it:

(a) fails to apply a Te Ao Māori lens as required by the Te Tangi a te Manu Landscape Assessment Guidelines (**Landscape Guidelines**);[407] and

(b) fails to engage with local landowners and the local community on landscape values.[408]

372. We disagree. For reasons that follow, we consider that the landscape assessment prepared by Boffa Miskell complies with the Landscape Guidelines and should be relied on the by the Expert Panel in decision-making.

373. Under the Landscape Guidelines, there is no requirement to engage directly with local landowners. Instead, the assessor's role is to provide an independent professional opinion, remaining "*aware of the range of opinions and perceptions of landscape matters in the community and draw on available sources of information,"* but *"not to repeat (or attempt to mirror) the views of others."*[409]

374. While the Landscape Guidelines acknowledge that local residents will be best placed to describe any effects on landscape values, it is clear that the absence of direct engagement between a landscape assessor and local residents does not, of itself, invalidate a landscape assessment. The intention behind this is to ensure that any landscape assessment is prepared independently and without bias, against which the views of the community might be compared.[410]

375. We further submit that the landscape assessment does in fact incorporate a Te Ao Māori framework as anticipated in the Landscape Guidelines. The assessment draws on a Cultural Values Statement prepared by Kāi Tahu and recognises the cultural significance of the landscape to mana whenua. For example, the landscape assessment records that Matakanui (Dunstan Mountain) is a significant cultural marker for mana whenua, that it formed part of a traditional travel route between Makarora and Moeraki, and that it is recognised as a mahika kai site. The

[407] Statement of Evidence of Dr Alayna Ra, 10 April 2026, at [15]-[16].
[408] Legal Submissions for Sustainable Tarras, at [46].
[409] Te Tangi a te Manu Landscape Assessment Guidelines at [6.29].
[410] Te Tangi a te Manu Landscape Assessment Guidelines at page 40.

assessment also identified specific landscape features of cultural significance.[411] By including these values within the formal evaluation framework, the assessment ensures that Te Ao Māori perspectives contribute directly to the landscape assessment.

376. Dr Ra considers that Te Ao Māori is "*determinative of landscape characters, values and effects".*[412] However, we submit, relying on the evidence of Mr Girvan,[413] that the Landscape Guidelines present a partnership model incorporating both western views and Te Ao Māori, rather than one in which Te Ao Māori is determinative in every assessment context. Accordingly, we submit that the landscape assessment undertaken by Boffa Miskell is consistent with the Landscape Guidelines and can be relied on the by the Expert Panel in the decision-making process.

Effects on Night Sky

377. Several parties[414] consider that the BOGP will have adverse effects on the dark/night sky.

378. In our submission, the claims regarding night-time lighting and dark sky effects are overstated and do not properly account for the comprehensive suite of conditions that will govern all lighting associated with the BOGP. For example, MGL proposes to comply with the Dark Sky Reserve lighting requirements, even though they are not mandatory for the BOGP area.[415]

379. Further, Mr Girvan considers that adverse night-time lighting effects are capable of being materially constrained through design, staging and operational management and therefore does not consider that the addition of any night-time lighting warrants any increase to the overall landscape effects ratings of the BOGP.[416]

380. In light of the above, the conditions proposed provide a robust and enforceable framework that appropriately addresses night-time lighting effects.

381. The photo evidence provided as part of the comments received from Sustainable Tarras were taken on an iPhone.[417] We submit that these photos cannot be relied on the by Expert Panel to determine the effects of the BOGP, particularly on the night sky. The Environment Court in *Shundi Queenstown Limited v Queenstown Lakes District Council*[418] found that photographic evidence that did not contain

[411] Boffa Miskell Landscape Assessment at pages 11-12.
[412] Statement of Evidence of Dr Alayna Rā for Ka Rūnaka, at [29].
[413] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026, at [37].
[414] EDS, Sustainable Tarras, Ka Rūnaka, CODC, and Chinamans Terrace Services Company.
[415] Statement of Evidence of Tim White, Response to Comments, 17 April 2026 at [8].
[416] Statement of Evidence of Rhys Girvan, Response to Comments, 17 April 2026, at [76]-[78].
[417] Sustainable Tarras, Comments, Appendix A – Night time lighting. Caption states *"Taken with Iphone 15 Pro".*
[418] *Shundi Queenstown Limited v Queenstown Lakes District Council* [2024] NZEnvC 25.

reliable input data or verifiable technical underpinnings could be relied on due to the inability to assess the reliability of such evidence.

382. The Landscape Guidelines also require photographs to be *"properly prepared"* and meet specific technical parameters (resolution, field of view, image scale).[419] Any reliance on photographs that to do meet these standards to assess landscape effects should be given less weight.

383. Relying on the evidence of Rhys Girvan, we maintain our submission that the landscape effects generated by BOGP are appropriate.

Heritage

384. Several commenters criticise the individual site approach to the Heritage Assessment and consider that the assessment fails to recognise the heritage sites as compounds of an interconnected heritage landscape.[420]

385. Following feedback from HNZPT on this point, Dr Woods prepared a further assessment which utilised a broader landscape approach. Dr Woods' statement of evidence clarifies that a landscape-wide assessment was used in this further assessment, in addition to an individual site approach.[421] The rationale for this multi-scale assessment is set out in Dr Woods' evidence at paragraphs 12 - 15. In our submission, the approach taken in the Heritage Assessment is legally correct.

386. Sustainable Tarras is also critical that the heritage mitigation proposed has been driven by mining intentions, with no real attempt to redesign the BOGP for protection and preservation of heritage.[422] This is incorrect.

387. As set out in the Heritage Assessment, the layout of the BOGP is the result of an iterative design process that has incorporated heritage considerations. For example, mining offices, workshops and equipment servicing infrastructure initially proposed to be located in the Rise and Shine Valley have been relocated to the Shepherds Creek Valley to reduce the number of sites affected.[423]

388. Several comments suggest that the Heritage Assessment utilised inadequate archaeological survey methodologies.[424] Dr Woods clarifies that there are no agreed best-practice guidelines for archaeological surveying in New Zealand. In the absence of an agreed best practice, we submit that the appropriate methodology to apply will depend on the characteristics of each site. Dr Woods' evidence is that the

[419] Te Tangi a te Manu Landscape Assessment Guidelines at [6.5].
[420] Sustainable Tarras, Heritage New Zealand Pouhere Taonga, New Zealand Conservation Authority
[421] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026, at [11]-[15].
[422] Legal Submissions for Sustainable Tarras, Appendix 13 – Matt Sole – Heritage, at [51]-[52].
[423] B.34A - New Zealand Heritage Properties Ltd - Heritage Assessment at [10.3.1].
[424] Sustainable Tarras, Central Otago District Council, Department of Conservation.

methodology adopted is robust, based on internationally recognised models and has been thoroughly tested on local and comparable sites.[425]

389. In summary, we submit that the Heritage Assessments and evidence of Dr Woods prepared in support of the BOGP is legally sound and should be preferred by the Expert Panel. Dr Woods' work is thorough representing the culmination of nine years of collaboration between MGL and HNZPT to understand the heritage landscape.[426] Overall, the evidence provided on behalf of MGL demonstrates that the effects on heritage values will be acceptable. While the proposed works will have a major impact within the immediate project footprint, the impact falls predominantly on sites with low archaeological and heritage value. The most significant heritage assets – the Bendigo Quarts Reefs Historic Area and the Bendigo Conservation Covenant area, sit outside the project boundary and will be retained.[427]

Social Impact

390. The comments provided from Sustainable Tarras assert that insufficient information has been provided about the social impacts of the BOGP and that social impacts will be significantly adverse.[428]

391. We disagree with the assertions of Sustainable Tarras. The Substantive Application comprehensively considers and addresses social effects through a suite of technical assessments, rather than relying on a standalone document. These assessments consider potential impacts of noise, vibration, dust, lighting and traffic effects on neighbouring properties, recreation and public access effects among other matters. The economic impacts of the BOGP are robustly assessed in the application and we submit are of a magnitude that any residual adverse social effects are not disproportionate when weighed against those benefits.

392. The technical assessments undertaken by MGL, together with extensive in-person engagement,[429] have ensured that the social effects and benefits of the BOGP are well understood. As outlined in Section 5 of the Substantive Application, matters raised throughout engagement were identified, documented, and directly addressed by MGL's technical experts within the application's assessment of environmental effects.

[425] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026, at [34].
[426] Statement of Evidence of Dr Naomi Woods, Response to Comments, 17 April 2026 at [51].
[427] B.34A New Zealand Heritage Properties Limited Heritage Assessment at [10.1].
[428] Sustainable Tarras, Comments at [85]-[90].
[429] Statement of Evidence of Mark Chrisp Response to Section 53, dated 17 April 2026 at [94] and F.19 – Bendigo-Ophir Gold Project Pre-Application Engagement Report

Closure and Post Closure

393. Several comments[430] raise concerns regarding the proposed mine closure and post-closure conditions, stating that the proposed Mine Closure Plan (**MCP**) is inadequate/ambiguous and does not provide sufficient certainty that the ongoing monitoring and maintenance conditions will be complied with. Further, commenters have noted that the MCP defers important parameters to be decided at a later date.[431]

394. Following consideration of feedback received, MGL now proposes to update the Mine Closure Plan every three years, in addition to the requiring of a revised Mine Closure Plan at least 12 months prior to the cessation of operations. Ms Dodge's evidence is that this will ensure that new information or changes in risk profile will be managed throughout the life of the operation.[432] Ms Dodge reinforces that the proposed mine closure criteria is an ongoing workstream and will be subject to further refinement, with the final criteria to be agreed between the relevant regulators and stakeholders prior to the end of operations.[433] , We submit that this approach is entirely appropriate.

395. In our submission, the updated MCP conditions are legally enforceable as they are sufficiently certain in terms of the parameters for the mine closure conditions and only leaves the detail to achieve those parameters for council certification. Condition C48 of the CODC and ORC consents sets out the objectives and closure outcomes which the MCP is required to achieve.

396. In addition to the mine closure objectives, the conditions also specify a number of closure-related parameters that must be achieved, for example in relation to TSF closure. We therefore submit that the parameters setting out what must be contained in the MCP is sufficiently certain and does not defer key decision-making to a later date.

397. Overall, we maintain our submission as set out in the Legal Overview that the Mine Closure Plan, consent conditions and the bond will ensure that rehabilitation and closure of the BOGP will occur under all circumstances. Any amendments to the draft MCP will be guided by on-the-ground observations and stakeholder feedback, ensuring that the MCP remains a practical, real-world document that is effective in practice.

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[430] Parliamentary Commissioner for the Environment, Otago and New Zealand Fish and Game Councils, Ka Rūnaka and Otago Regional Council.
[431] Otago and New Zealand Fish and Game Councils, Parliamentary Commissioner for the Environment.
[432] Statement of Evidence of Chantelle Dodge, Responding to Section 53 Comments, dated 17 April 2026 at [8].
[433] Statement of Evidence of Chantell Dodge, Response to Comments, dated 17 April 2026, at para [8].

Role and Quantum of the Bond

398. The purpose of the bond is to provide the consent authorities with assured access to sufficient funding if it became necessary to close and rehabilitate the BOGP site in accordance with the conditions of consent. The bond must cover costs associated with activities that persist beyond the operational life of the mine.[434]

399. The BOGP bond will cover the following phases:[435]

(a) the rehabilitation of site disturbance (which can occur during the operational phase of the mine) and closure;

(b) a period of aftercare; and

(c) the ongoing cost associated with offsetting and compensation including maintenance of environmental gains made through the implementation of the offsetting and compensation package in perpetuity

400. The bond is a backstop mechanism but provides certainty and security that closure and rehabilitation will occur as required by the conditions of consent. Several key characteristics of the bond will provide this certainty:

(a) The BOGP is to take place on private property and in accordance with section 109, the bond will be registered as an instrument on the records of title[436] and prevents which will prevent obligations secured by the bond evaporating on sale. This ensures any future owner inherits the requirement and incentive to carry out the bonded works;[437]

(b) The performance of all conditions of the bond must be guaranteed by a guarantor acceptable to the Councils. That guarantor must bind itself to pay for all works contained in the bond conditions, unless the Councils agree to a cash bond. This is more than just an agreement to pay; it is secured by a guarantor;[438]

(c) certainty of environmental outcomes is provided as the bond provides a direct enforcement pathway for the consent authority to complete the works using the bond if the consent holder defaults;[439] and

[434] B.44 Lane Associates Limited, Bond Introduction Report at [2.2].
[435] Statement of Evidence of Malcolm Lane Responding to Section 53 Comments, 17 April 2026, at [8], [18], [19]
[436] Common Conditions for Otago Regional Council and Central Otago District Council
[437] Resource Management Act 1991, Section 109.
[438] Common Conditions for Otago Regional Council and Central Otago District Council
[439] Resource Management Act 1991, Section 109.

(d) the bond continues beyond the expiry of consent providing comfort that closure and post closure outcomes will be met.[440]

401. Information has been requested by the Panel on the entity that will be responsible for closure and remediation costs if the costs are greater and the process takes longer than expected.[441] In response to the Panel's request, the responsible entity will be the holder of the resource consents for the BOGP and the closure and remediation outcomes are secured and enforceable obligations through the conditions of consent and the bond.

402. In the event where an entity other than MGL holds the suite of BOGP consents, that entity will bear responsibility for all closure and remediation costs and processes. The outcomes and performance obligations for closure and remediation, including the offsetting and compensation programme protected in perpetuity through covenanting,[442] are secured by the enforceable bond,[443] which will survive both consent expiry and changes in ownership. In our submission, these features provide the Panel with sufficient assurance to place weight on the proposed closure ,rehabilitation and offsetting and compensation outcomes at the time of granting the approvals.

403. Commenters raise various concerns with the bond and these can be categorised into the following groups:

(a) Bond Scope/Coverage;[444]

(b) Bond duration;[445]

(c) Bond quantum;[446] and

(d) Timing of bond.[447]

404. These concerns are responded to in the evidence of Mr Lane. Mr Lane is one of New Zealand's preeminent experts on bonds for mining activities. He has more than 45 years of experience and, in 1997, was part of a small team which developed an

[440] Resource Management Act 1991, Section 108A.
[441] Request for Information, 1 April 2026, Question 59.
[442] Common Conditions for Otago Regional Council and Central Otago District Council
[443] Common Conditions for Otago Regional Council and Central Otago District Council
[444] Legal Submissions for Sustainable Tarras, at [84] – [86], Otago and New Zealand Fish and Game Councils, Comments, at [108], Legal Submissions for Environmental Defence Society, at [274] – [275].
[445] Legal Submissions for Sustainable Tarras, at [86], Otago and New Zealand Fish and Game Councils – Fish and Game, Comments, at [108], Legal Submissions for Environmental Defence Society, at [275],
[446] Legal Submissions for Sustainable Tarras, at [87] – [95], EDS para 275, Otago and New Zealand Fish and Game Councils, Comments, at [108].
[447] Legal Submissions for Sustainable Tarras, at [92], Otago Regional Council s53 Comments, Appendix 3 – ORC recommended conditions – changes to D.03.

approach for deriving bonds which have since become the standard in New Zealand.[448]

405. Mr Lane notes that the bond introduction report (B.44) was always a preliminary and illustrative document, and was never designed to provide a definitive bond quantum or to address every aspect of the projects long term obligations. He confirms that the first formal bond assessment will be undertaken based on the confirmed Year 1 mine plan and will capture all relevant activities, including non-mining commitments such as offset environmental programmes and costs incurred beyond the life of the mine, with the bond thereafter subject to annual review and update to account for the forthcoming year's planned disturbance and rehabilitation, applicable risks, and post-mining management and monitoring obligations at then-current rates.

406. On scope, he confirms the bond will cover on and off-site risks through its risk cost component, will provide for TSF dam safety inspection costs, and will extend to long-term post-closure management in perpetuity where required.

407. On quantum, he notes that he has prepared the annual bond assessments for both the Waihi and Macraes operations, the very comparators relied upon by Sustainable Tarras — and that the same proven methodology will be applied to the project.

408. On timing, he does not support the requirement for a bond prior to first exercise of the consent, on the basis that this would introduce an unreasonable and potentially material delay to the commencement of early site works, which are limited in nature and scale and carry only modest financial risk, and submits that the 12-month window in the draft conditions is appropriate and does not expose the councils to unnecessary risk.

409. We consider that Mr Lane has provided a robust methodology describing his approach to developing and formulating all aspects of the proposed bond and, as such, The Panel should prefer the evidence of Mr Lane.

Department of Conservation Being a Party to the Bond

410. DOC's Section 51 report includes recommended conditions for the proposed Wildlife and concession approvals.

411. MGL have accepted these conditions. This includes a bond in favour of DOC in relation to the concession approvals.

[448] Statement of Evidence of Malcolm Lane, Response to Comments, dated 17 April 2026, at [2].

New and Amendment National Direction

412. The Panel has requested information on the impact of new and amended national direction that came into force on 15 January 206. The key aspects of the national direction instruments are addressed in **Appendix C**.

AMENDMENTS TO CONDITIONS

413. In response to RFIs received from the Panel and comments received under the Section 53 process from a wide range of parties, Mr Chrisp has proposed amendments to its conditions. These amendments are described further in his evidence.

414. These amendments are set out in the updated conditions lodged with the response. As described by Mr Chrisp[449] we anticipate that details of conditions around can be worked through with parties during expert conferencing.

NEXT STEPS

415. MGL has received Minute 6 and Minute 7 of the Expert Panel dated 17 April 2026 and will respond in due course in accordance with those Minutes.

416. MGL recognises that the Panel may make further Requests for Information. To the extent the expert evidence on behalf of MGL does not address any comments the Panel considers require further input, or where the Panel considers additional information is necessary, we invite the Panel to request additional information.[450]

Dated this 17th day of April 2026

Joshua Leckie / Sarah Anderton / Mia Turner
Counsel for Matakanui Gold Limited

[449] Statement of Evidence of Mark Chrisp, Responding to Section 53 Feedback, dated 17 April 2026 at [93].
[450] Fast-track Approvals Act 2024, Section 67.

Appendix A

DATED 30th January 2026

MATAKANUI GOLD LIMITED
("Company")

CENTRAL OTAGO DISTRICT COUNCIL
("Land Owner")

ACCESS ARRANGEMENT

CONTENTS

THIS AGREEMENT is dated the 30TH day of January 2026

BETWEEN **MATAKANUI GOLD LIMITED** ("Company")

AND **CENTRAL OTAGO DISTRICT COUNCIL** ("Land Owner")

BACKGROUND

A. The Company holds the mineral permits in the Second Schedule to this Access Arrangement which together encompass an area of about 29,191.21 hectares in and around the Dunstan Mountains in Central Otago.

B. The Land Owner owns the fee simple to Thomson Gorge Road and a paper road known as Shepherds Creek Road both of which roads are located in the Dunstan Mountains within the area of the mineral permits in the Second Schedule.

C. The Company proposes constructing and operating a gold mine on a significant area of the Dunstan Mountains which area is adjacent to and includes Thomson Gorge Road and Shepherds Creek Road ('Bendigo-Ophir Gold Project').

D. On or about 31 October 2025, the Company lodged an application under the FTA with the Environmental Protection Authority for resource consents under the RMA to enable it to construct and operate the Bendigo-Ophir Gold Project.

E. In anticipation of the Company being granted fast-track approval for the Bendigo-Ophir Gold Project the Land Owner and the Company have agreed to terms of an access arrangement under section 54 of the CMA whereby the Company will have access to:

(a) The section of Thomson Gorge Road to the east of Matilda Rise Road to the Thomsons Saddle;

(b) All of Shepherds Creek Road;

(c) 20-metre strips of land either side of the section of Thomson Gorge Road above and all of Shepherds Creek Road; AND

(d) Any other roads situated within the Mineral Permit areas owned by CODC as the controlling authority and 20 metres either side thereof.

F. The parties have also agreed that the duration of this agreement is to extend beyond the Bendigo-Ophir Gold Project and remain in force for the full terms of the mineral permits in the Second Schedule hereto.

G. The parties wish to record their arrangement as to road and land strip access and the duration of those arrangements and other matters in this agreement.

1. Definitions

In this Agreement (including the Background) unless the context requires otherwise:

Access Arrangement	has the same meaning as in the CMA.
Administering Authority	means any one or all of the Minister, Ministry, Council and/or Territorial Authority.

Business Day	means any day on which registered banks are open for business in Otago.
CMA	means the Crown Minerals Act 1991 and any amendments thereof and any Acts passed in substitution therefor.
Commencement Date	means the date of execution of this agreement by both parties.
Commercial Gold Production	means the earlier of the following events: a. the date on which the Company declares by public announcements on the Australian or New Zealand stock exchange that it has completed the cycle of continuous ore flow and gold ore production from its process plant at its planned capacity; or b. three (3) calendar months after the date on which the Company's process plant commences the processing of gold ore pursuant to the Mining Permit.
Council	means the Central Otago District Council, the Otago Regional Council or any other Council responsible for administering any aspect of the Operations.
Default Interest Rate	means the Bank of New Zealand base lending rate applicable from time to time plus 5%.
Exploration	has the same meaning as in the CMA and also includes, for the purposes of this agreement (and without limitation) groundwater testing and evaluation, resource drilling and evaluation, bulk sampling, trial mining, mining, geotechnical, and metallurgical investigations, and environmental impact assessment studies.
Exploration Area	means that part of the Land which is subject to Exploration.
FTA	means the Fast-track Approvals Act 2024 and any amendments thereof and any Acts passed in substitution therefor.
HSWA	means the Health and Safety at Work Act 2015 and any amendments thereof and any Acts passed in substitution therefor.
Land	means the land described in the First Schedule
Manager	means the person appointed from time to time by the Company to manage the Operations.
Mine Area	means that part of the Land designated for Mining Operations.
Mineral Permits	means the mining permit, exploration permit and the prospecting permit described in the Second Schedule granted to the Company over the Land pursuant to the CMA and/or any

	new permits or rights granted under the CMA in substitution thereof and including any variations or extensions thereto.
Mining	has the same meaning as in the CMA
Mining Operations	has the same meaning as in the CMA.
Mining Permit	means the mining permit described in the Second Schedule and any subsequent mining permit granted to the Company over all or part of the Land pursuant to the CMA and/or any new mining permits or rights granted under the CMA in substitution thereof and including any variations or extensions thereto.
Minister	means the Minister of Business Innovation and Employment or such other Minister of the Crown for the time being charged with administering the CMA.
Ministry	means the Ministry of Business Innovation and Employment.
MOU	means the Memorandum of Understanding between the Company and the Landowner dated 16 October 2025.
Notification Date	means the date upon which the Company notifies the Land Owner of its decision to commence Mining Operations.
NPAT	means the Company's audited net profit after tax (as published in the Company's annual report).
Operations	means Exploration and/or Mining and any ancillary activity required to give effect to the terms of this Agreement which the Company may carry out pursuant to the Mineral Permits.
Party	means the Company and the Land Owner or either of them and includes a reference to that party's successors and permitted assigns.
Programme of Work	means a programme relating to the scope location and timing of Operations.
Quarter	means a period of 3 calendar months.
Related Company	as defined in the Companies Act 1993.
Rented Property	means any dwelling on the Land other than a dwelling occupied or used by the Land Owner.
Restoration Plan	means the Company's plan for the restoration of the Land (after the completion of Operations) as provided for in clause 10.
RMA	means the Resource Management Act 1991 and any amendments thereof and any Acts passed in substitution therefor.

RMA Consent	means any resource consent as defined in Section 87 of the RMA and, for the avoidance of doubt, and also includes any application which is approved under the FTA (and any amendments thereof and any Acts passed in substitution therefor).
Territorial Authority	means the Council or any other Council responsible for administering any aspect of the Operations.

2. Interpretation

In the interpretation of this Agreement, unless there is something in the subject or context inconsistent therewith:

(a) The singular includes the plural and vice versa;

(b) A reference to any gender includes the other genders;

(c) The headings used in this Agreement and the table of contents (if any) in this Agreement are for convenience only and shall not form part of this Agreement and shall not be used in the interpretation or construction of this Agreement.

(d) References to recitals, clauses, sub-clauses, paragraphs, schedules or annexures are references to recitals, clauses, sub-clauses, paragraphs, schedule and annexures respectively of this Agreement unless specifically stated otherwise;

(e) A reference to any statutory provision shall include any statutory provision which amends, consolidates, re-enacts or replaces it and any subordinate legislation made under it;

(f) References to currency or dollars means New Zealand currency;

(g) An agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;

(h) "Including" and similar words do not imply any limitation.

3. Conditions Subsequent of Agreement

3.1 Subject to clause 5.8, this Agreement is subject to the condition subsequent of MGL obtaining all required RMA consents, permits, covenants, concessions, authorities and requirements necessary to undertaking Mining and Mining Operations on the Land

4. Access Arrangement

4.1 Subject to the provisions of this agreement and in consideration of the Company agreeing to make the payments provided for in this agreement the Land Owner grants to the Company sole and exclusive access to the Land by its agents, licensees, employees, contractors, invitees and nominees for the purposes of carrying out Operations pursuant to the Mineral Permits and any relevant RMA Consents.

4.2 The Parties acknowledge that this Agreement is an Access Arrangement for the purposes of the CMA.

4.3 The payments to be made by the Company pursuant to this agreement are inclusive of and in full satisfaction of the Company's obligations under section 76 of the CMA. The Land Owner agrees that it will not make any claim against the Company for any further compensation (whether under the CMA, Public Works Act 1981, Local Government Act 1974, Local Government Act 2002 or otherwise) and will indemnify the Company against any claim by any person or party for any such further compensation.

4.4 The Company and its agents, licensees, employees, contractors, invitees and nominees when on the Land shall be bound in addition to the provisions of this agreement, by the terms and conditions of the Mineral Permits and any RMA Consents, together with any additional conditions which may apply pursuant to an approved Programme of Work.

4.5 This Agreement shall remain in force for the full terms of the Mineral Permits and any renewal thereof and until completion of all restoration work required by the conditions attached to any of the Mineral Permits and relevant RMA Consents and under the terms of this Agreement unless earlier terminated pursuant to the terms of this Agreement.

5. RMA Consents, Authorisations and Mineral Permits

5.1 The Company shall prepare and lodge any applications for Mineral Permits and RMA Consents and any other required authorisations with respect to the Operations.

5.2 The Company shall consult with the Land Owner prior to lodging applications for any Mineral Permits or RMA Consents and shall provide the Land Owner with copies of the said applications.

5.3 Strictly in its capacity as owner of the Land only and not in its capacity as a regulatory authority, the Land Owner agrees to consent to and support the Company's applications for any Mineral Permits. or RMA Consents on the Land, or any consent or approval required from the Overseas Investment Office relating to any matters arising from this agreement, and agrees to procure the consent and support (where required) to and of the Company's applications by any person which has rights of occupation in respect of the Land or any part thereof by arrangement with the Land Owner.

5.4 The Company and the Land Owner (strictly in its capacity as owner of the Land and not in its capacity as regulatory authority) shall do all such acts and things as may be necessary or desirable for the purposes of procuring any such Mineral Permits or RMA Consents or any other required authorisations. Without limiting the generality of this clause, the Land Owner will, at the request of the Company, provide written approval of any applications by the Company for any Mineral Permits or RMA Consents.

5.5 The Company will give prior notice to the Land Owner of any application for variation or extension of any of the Mineral Permits or RMA Consents and, provided any variation or extension is in accordance with the terms of this Agreement, then the Land Owner will (strictly in its capacity as owner of the Land and not in its capacity as regulatory authority) support and consent to any such applications.

5.6 The Company shall at all times keep the Land Owner fully informed as to progress with any applications for Mining Permits or RMA Consents.

5.7 When any Mineral Permits or RMA Consents have been issued, the Company shall forward copies to the Land Owner. Within 10 Business Days of the Company's receipt of any Mineral Permits or RMA Consents, the Company shall either:

(a) Confirm to the Land Owner its acceptance of their terms; or

(b) Advise the Land Owner in writing of any conditions which the Company considers are unacceptable; or

(c) Withdraw from this agreement pursuant to clause 13 or lodge an appeal or an objection if the required RMA Consents have been refused.

5.8 If the Company in its sole discretion decides to lodge an objection or appeal against the granting of any Mineral Permit or RMA Consent, the Company will promptly pursue the objection or appeal and the Company will promptly provide a copy of the decision of the relevant Administering Authority on any such objection or appeal as soon as it receives it. If the Administering Authority's decision is acceptable to the Company, it shall confirm acceptance to the Land Owner, but if the Company in its sole discretion considers that the decision of the relevant Administering Authority on any such objection or appeal is unsatisfactory, the Company may either:

(a) Lodge an appeal with the relevant Court or Administering Authority; or

(b) Elect to cancel this agreement pursuant to clause 3.

6. Operations, Programme of Work and Notifications

6.1 The Company shall provide the Land Owner with a proposed Programme of Work prior to the commencement of Mining Operations and annually thereafter. The Land Owner shall be provided with a copy of the Programme of Work not less than 20 Business Days or such lesser time to which the Land Owner agrees, before implementation of the work programme therein.

6.2 The Parties shall agree in writing on the proposed Programme of Work within 5 Business Days of a copy being provided to the Land Owner provided that the Land Owner shall be deemed to have agreed to a proposed Programme of Work if having been consulted with in respect of that proposed Programme of Work the Land Owner has not responded in writing within 5 Business Days of being provided with a copy. The agreement of the Land Owner shall not be unreasonably or arbitrarily withheld, particularly in the event that the proposed Programme of Work is generally in accordance with industry standards for the undertaking of Operations as proposed by the Company.

6.3 It is acknowledged by the Land Owner that any Programme of Work may be subject to modification on a day-to-day basis as Operations proceed. Modifications that will affect the Land Owner shall be made in consultation with the Land Owner and recorded in writing where the Programme of Work has been agreed to in writing.

6.4 The Parties shall meet on a regular basis to be determined at the time of approval of the Programme of Work to discuss and resolve issues. The Company shall keep the Land Owner regularly informed on progress of Operations.

6.5 The Land Owner shall appoint and the Company shall also appoint a person to be a point of contact between the Parties. The default contact for the Company shall be the Manager.

7. Conditions of Access for Operations

7.1 In exercising the right of access granted herein the Company shall ensure that the Operations are carried out in accordance with the terms and conditions of the Mineral Permits and RMA

Consents and Programme of Work agreed upon between the Parties.

7.2 The Company shall have ready access to and upon the Land using all existing roads and tracks and where necessary keys will be provided by the Land Owner for gates that are usually locked.

7.3 The Company and its agents, licensees, employees, contractors, invitees and nominees will ensure that all gates are left as found, and that vehicles and equipment do not unnecessarily stray from formed tracks.

7.4 For the duration of the Operations, the Company will maintain tracks in a good usable condition and will comply with the instructions of the relevant Administering Authorities relative to the formation of, maintenance of or drainage of the tracks. All such maintenance is to be at the cost of the Company.

7.5 Should the Company require additional access routes it will consult with the Land Owner as to the location of any additional access routes, consent to which will not be unreasonably or arbitrarily withheld by the Land Owner and the Company shall be responsible for constructing and maintaining any additional access routes. Upon completion of the Operations the Land Owner may at its discretion retain the use of any access ways constructed by the Company or require that they be removed and the Land restored.

7.6 The Company will ensure that no litter or rubbish reasonably attributable to its Operations will be left on the Land and that, where Operations are conducted from a permanent or semi-permanent site, the Company will provide a portable toilet on the site for its employees.

7.7 For the duration of the Operations, the Company will ensure that no fires shall be lit unless:

(a) Specifically required for Operations or reasonable domestic use; and

(b) A permit has been obtained where necessary; and

(c) It is under direct supervision at all times; and

(d) It is completely extinguished immediately after use; and

(e) The Company has a current fire insurance policy or public liability policy over the Land such cover being for damage and fire-fighting costs, such policy to include provision of cover for damage caused to any neighbouring land.

7.8 At all times during Operations any trenches, pits, excavations and machinery shall be fenced by the Company to prevent entry by stock or children should the Land Owner so require or if fencing is required to comply with the requirements of the HSWA.

7.9 The Company will take all practicable precautions to avoid pollution and erosion and will comply with the directions of the Administering Authority in that regard.

7.10 The Company shall be entitled (at its cost) to remove all improvements and infrastructure as required to effectively undertake and carry out the Operations. The Company shall replace all improvements and infrastructure which it removes with like improvements and infrastructure of at least the same standard and quality as those removed and as soon as practical after restoration of the Land. At the reasonable request of the Land Owner the Company shall modify or upgrade the improvements and infrastructure provided that if the cost is greater than that of replacing like with like then the difference in cost will be paid by the Land Owner.

7.11 The sites surrounding the Operations shall be designated hazardous areas pursuant to the HSWA and all the Parties and their agents, licensees, employees, contractors, invitees and nominees entering such areas shall comply with the requirements of the HSWA, Health and Safety Policy of the Company and instructions of the Manager as the case may be.

7.12 To the extent that the Operations may affect the domestic and stock water supply on the Land the Company will ensure that at all times during the Operations and on termination of the Operations the said water supply is maintained at seasonal levels equivalent to those predating the Operations.

7.13 At all times during the currency of the Operations, the Mineral Permits and this agreement the Company shall be responsible for all acts and omissions of its agents, licensees, employees, contractors, invitees and nominees, and the Company will pay all proper damages or compensation for any loss or damage caused by them which is not already covered by the compensation provisions of this agreement and agrees to indemnify the Land Owner against any claim by any person or party as a result of or caused by the activities of the Company or its agents, licensees, employees, contractors, invitees or nominees.

8. Mining Operations

8.1 On or before the Notification Date, the Company will define in consultation with the Land Owner the boundaries of the proposed Mine Area.

8.2 Notwithstanding anything else contained in this agreement or the CMA, in the event that the Land Owner ceases to own the Land or any part thereof by virtue of the Company (or a Related Company) purchasing the Land, all rights and obligations under this agreement shall continue to apply for the entire term of this agreement as if the Land Owner still owned the Land or part thereof.

9. Solatium Payments

9.1 This agreement shall remain in force for the full terms of the Mineral Permits and any renewals thereof and until completion of all restoration work required by the conditions attached to any of the Mineral Permits or RMA Consents or under the terms of this agreement.

9.2 The Company will make the following payments:

(a) A non-refundable payment of $250,000 in full without deduction within 5 Business Days of the Commencement Date to the Land Owner or its nominee

(b) $1,250,000 in full without deduction payable 6 months after the first achievement of Commercial Gold Production to an account nominated by the Land Owner; and

(c) $1,250,000 in full without deduction on each anniversary of the payment under clause 9.2(b) to the same account nominated by the Land Owner in clause 9.2(b).

9.3 The Land Owner shall, in its annual audited and publicly available accounts, fully and transparently account for the receipt of funds from the Company under clause 9.2 and the expenditure of such funds to benefit the Central Otago community.

9.4 In addition, the Land Owner shall provide to the Company a report including details of funds received and expended under clause 9.2 and 9.3, in the form and timeframe to enable the Company to meet its contractual, statutory and stock exchange reporting and disclosure obligations.

9.5 Payments under clause 9.2(c) will be inflation-adjusted by way of the annual percentage increase in the Consumer Price Index in the Quarter prior to the date of payment.

9.6 If NPAT from all of the Company's mining operations within the areas of the Mining Permits falls below $100,000,000 in the sixth or subsequent year of this agreement, the payment under clause 9.2(c) for that year will be adjusted downwards on a pro rata basis. For example, if the NPAT for a year is $90,000,000 (10% below $100,000,000) then the annual payment for that year under clause 2(c) will likewise be reduced by 10%.

9.7 The Parties acknowledge that payments by the Company to the Land Owner hereunder shall not cease once the Bendigo-Ophir Gold Project has ended but shall continue for all the time that the Company and/or a Related Company continues to mine any part of the land within the areas of the Mining Permits for gold.

9.8 The Company's payments hereunder will be in consideration for access to the Land only and not in consideration or recompense for any other debt obligation or liability of any kind that may be due by the Company to the CODC as regulator now or at any time in the future.

10. Restoration of Land

10.1 The Company shall provide the Land Owner with a proposed Restoration Plan prior to the Company applying for any RMA Consent for Exploration. The Land Owner shall be provided with a copy of the Restoration Plan not less than 20 Business Days (or such lesser time to which the Land Owner agrees) before any such application for RMA Consent is lodged with the relevant Council.

10.2 The Restoration Plan shall be designed and scheduled to remediate impacts on the Land and on the Land Owner's enjoyment of the Land to as near as practicable the state that the Land was in prior to Operations.

10.3 The Parties shall agree in writing on the content of the proposed Restoration Plan within 10 Business Days of a copy being provided to the Land Owner, provided that the Land Owner shall be deemed to have agreed with the proposed Restoration Plan if having been provided with it the Land Owner has not responded in writing to the Company within 10 Business Days thereafter. The agreement of the Land Owner to the content of the Restoration Plan shall not be unreasonably or arbitrarily withheld

10.4 Where the Parties cannot agree on the content of the Restoration Plan, the dispute resolution provisions in clause 15 shall apply with all necessary modifications as if the reference therein to Programme of Works was a reference to the Restoration Plan.

10.5 For as long as any dispute between the Parties about the content of the Restoration Plan remains unresolved, the operation of clauses 5.3 and 5.4 shall be suspended. The Company shall direct the relevant Council to notify the Land Owner of any RMA Consent application which the Company lodges which relates to the subject matter of the disputed Restoration Plan. The Land Owner may in that capacity and in its absolute discretion lodge a submission in respect of such application, but with such submission being confined to Land restoration considerations.

10.6 The Company shall restore that part of the Land that was disturbed by Operations in accordance with any terms and conditions set out in any relevant Mineral Permits, any associated RMA Consents and any relevant Programme of Work using the best available current technology.

11. Land Owner's Warranties and Covenants

11.1 The Land Owner warrants to the Company that:

(a) No party other than the Company holds any rights to explore for or mine all or any minerals on or under the Land.

(b) No other Access Arrangement or land use rights under the CMA, FTA, RMA or otherwise in respect of the Land has been or will be negotiated, entered into or undertaken by the Land Owner which will directly or indirectly conflict with or adversely affect the expressed and implied rights on the part of the Company, without the consent of the Company, provided such consent shall not be unreasonably withheld.

(c) No rights to explore or prospect for or mine any minerals owned by the Land Owner on or under the Land have been or will be granted to any person during the term of this agreement nor shall the Land Owner consent to the granting of any exploration or mining rights in respect of the Land, to any person, other than the Company.

11.2 The Land Owner covenants with the Company that:

(a) It will not undertake or carry out Operations on the Land in competition with the Company.

(b) It will not transfer, assign, charge or otherwise encumber or deal with any minerals on or under the Land which may be owned or occupied by the Land Owner. Prior to mortgaging the Land at any time hereafter the Land Owner shall procure the consent of and the mortgagee shall consent to the registration of this agreement, and consent to the ongoing interests of the Company, and the mortgagee's rights shall at all times be subject to the terms, conditions and provisions of this agreement to the end and intent that the mortgagee's interest will be subject to the terms, conditions and provisions of this agreement.

(c) It waives any non-compliance by the Company with section 59 of the CMA.

12. Assignment by the Company

12.1 The Company shall not without the prior written consent of the Land Owner:

(a) Assign any interest of the Company in this agreement; or

(b) Assign any Mineral Permit or RM Consent held by the Company in relation to the Land.

12.2 The Land Owner shall give its consent under clause 12.1 if the following conditions are fulfilled:

(a) The Company demonstrates to the reasonable satisfaction of the Land Owner that the proposed assignee is responsible and of sound financial standing with the resources to meet the Company's obligations under this agreement.

(b) The Company demonstrates to the reasonable satisfaction of the Land Owner that the proposed assignee has the technical capability to carry out Operations on the Land in accordance with best industry practice.

(c) The Company has performed all of its obligations under this Agreement up to the date of the proposed assignment.

(d) The assignee executes an agreement or a Deed of Covenant with the Land Owner agreeing to observe and perform the obligations of the Company as the assigning party (including the corresponding obligations under this clause 12).

12.3 Notwithstanding clause 12.1, the Company shall be entitled to sell, transfer or assign the whole or any part of its interest in this agreement to a Related Company without being required to obtain the consent of the Land Owner provided the Related Company covenants to abide by the terms of this agreement on the same terms and conditions as contained herein.

13. Assignment or Transfer by the Land Owner

13.1 The Land Owner shall not, without the prior written consent of the Company (which may be withheld for any reason) assign, transfer, rent, lease, sublet or otherwise dispose of any interest or part of its interest in the Land. The Company will not be obliged to give its consent under this clause 13.1 if at the relevant time the Land Owner has not duly performed all of its obligations under this agreement.

13.2 If the Company gives its prior written consent to the Land Owner assigning, subletting, transferring or otherwise disposing of its interest or part of its interest in the Land to a third party (the "Assignee"), the Land Owner will take all steps necessary to ensure that the Assignee executes an agreement or Deed of Covenant with the Company (prepared by the Company's solicitor) agreeing to observe and perform the obligations of the Land Owner as the assigning party (including the corresponding obligations under this clause 13) and agreeing that the rights granted to the Company under this agreement run with the Land and also agreeing not to seek separate compensation from the Company, other than future payments if they are so entitled. Notwithstanding any such assignment, the Land Owner will remain responsible for the Assignee's compliance with its obligations under this agreement.

13.3 The benefit of any future payments will pass to the successors in title and/or the Assignee.

13.4 In the event that there is a Rented Property already on the Land or one is constructed then the Party who has rented or sublet the Rented Property will rent it on the basis that the tenant will not object to the Company's Operations on the Land and will not seek any compensation from the Company.

14. Termination

14.1 On termination of this agreement the Company shall:

(a) If applicable, give Notice to the District Land Registrar of the termination of this Agreement requesting the removal of the notification on the title to the Land lodged pursuant to section 83 of the CMA; and

(b) Make all payments for access and compensation due as at the date of termination and complete all restoration obligations outstanding at the time of termination in accordance with this agreement.

14.2 On termination, and subject to the Company satisfying all of its obligations under this agreement, the Company shall be released from any further obligation or liability and the Land Owner shall do everything necessary to ensure release of any bonds in respect of the

Mineral Permits and associated RMA Consents held by the Administering Authorities.

14.3 For the avoidance of doubt, on termination of this agreement for whatever reason, all and any payments that would otherwise have been payable after the date of termination are no longer payable.

14.4 The Parties' obligations as to confidentiality (clause 29) survive the termination for whatever reason, of this agreement.

15. Dispute Resolution

15.1 In the event of a dispute between the Parties as to the calculation of compensation or any other payments contemplated herein, the Company and the Land Owner shall attempt to resolve that dispute by negotiation and should such dispute not be remedied in a timely manner, such dispute shall be determined at the request of either the Company or the Land Owner by a suitably qualified person (agreed upon by the Company and the Land Owner and failing agreement appointed by the President for the time being of the Australasian Institute of Mining and Metallurgy) who shall act as an expert and not as an arbitrator. The reasonable costs of and incidental to preparation of any referral to the expert, the appointment of the expert and the expert's determination shall be shared equally by the Company and the Land Owner. The expert's finding shall bind the Company and the Land Owner.

15.2 In the event of dispute between the Parties as to a Programme of Work, a copy of which may have been provided by the Company to the Land Owner pursuant to clause 6.1, the Parties will meet together forthwith and will use their respective best endeavours to resolve such dispute. Should they be unable to reach agreement within 10 Business Days of the Land Owner being provided with a copy of the said Programme of Work, a mediator shall be appointed at the request of any party (to be agreed upon by the Parties and failing agreement a mediator is to be appointed by the President of the Australasian Institute of Mining and Metallurgy). Should such dispute not be resolved by the mediation, it shall be determined at the request of either the Company or the Land Owner by a suitably qualified person appointed by the President of the Australasian Institute of Mining and Metallurgy, with such person acting as an expert and not as an arbitrator. The reasonable costs of and incidental to preparation of any referral to the expert, the appointment of the expert, and the expert's determination shall be shared equally between the Company and the Land Owner. The expert's finding shall bind the Company and the Land Owner.

15.3 If the dispute is in respect of a Programme of Work proposed after the commencement of Mining, the Company shall continue Mining in accordance with the conditions agreed to in relation to the previous Programme of Work pending resolution of the dispute and payments required under this Agreement shall continue.

16. Force Majeure

16.1 If any of the Operations are unable to be carried out or continued by any cause reasonably beyond the control of the Company, including acts of God, strikes, lock outs, riots, acts of war, epidemics, government actions superimposed after the Commencement Date, fire, flood, earthquakes, or other disasters ("Force Majeure") then:

(a) The Company may terminate this agreement by giving Notice to the Land Owner and this agreement will terminate pursuant to clause 14; or

(b) In the event this agreement remains in effect, the Company's obligations during such period (including any payment obligations) shall cease for the period during which the Operations are unable to be carried out or continued as a consequence of the Force Majeure and will recommence once the conditions of the Force Majeure no longer apply. The Company will make all reasonable efforts to recommence the Operations as quickly as possible.

17. Notification

17.1 Any notice, consent or other communication required or permitted by this agreement shall be in writing and shall be deemed sufficiently served if delivered by hand or sent by facsimile, email or certified mail, postage prepaid, addressed to the Party to whom it is to be given at the following addresses:

The Company: 15a Chardonnay Street
Cromwell 9310
Tel No: [redacted]
Email: [redacted]

The Land Owner: 1 Dunorling Street
Alexandra 9320
Tel No: [redacted]
Email: [redacted]

17.2 Unless a later time is specified, a notice takes effect from the time it is actually received or deemed to be received.

17.3 A notice sent by post is deemed to be received on the third Business Day after posting.

17.4 A notice sent by email to the specified email address is deemed to be received on the third Business Day after sending, unless the recipient acknowledges receipt of the email sooner.

18. Costs

18.1 The Parties each shall each bear its own costs in respect of this agreement. The Company shall also pay all registration fees and other incidental costs in connection with registration of this agreement pursuant to section 83 of the CMA.

19. Default

19.1 If either of the Parties fails to fulfil its obligations under this agreement (the "Defaulting Party"), then the other Party ("the Non-Defaulting Party") shall give Notice to the Defaulting Party as to the nature of the default. If the Defaulting Party does not remedy the default with 10 Business Days of receiving Notice, then without prejudice to any other rights or remedies the Non-Defaulting Party may:

(a) Sue for specific performance and/or damages of any nature; and/or

(b) Cancel this agreement and sue for damages.

20. Entire Agreement

20.1 Subject to clause 20.2 below, the provisions of this agreement constitute the entire understanding and agreement between the Parties as to the subject matter of this agreement.

All previous negotiations, understandings, representations, warranties, agreements (including any previous access arrangements entered into by the Parties and communications, whether verbal or written, between the Parties in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by this agreement and shall be of no force or effect.

20.2 For the sake of certainty, the terms of this agreement are subject to any supplementary agreement which may be entered into between the Land Owner and the Company from time to time. In the event that any conflict arises between the terms of this agreement and the terms of any supplementary agreement, the supplementary agreement shall prevail.

21. Further Assurances

21.1 Each Party shall promptly execute all documents and do all things that the other Party from time to time reasonably requires of them so as to effect, perfect or complete the provisions of this agreement and any transaction contemplated by it and to give to the other Parties the full benefit of this agreement.

22. Severance

22.1 If any covenant or obligation of this agreement or the application thereof to either Party or circumstances shall be or become invalid or unenforceable, the remaining covenants and obligations shall not be affected thereby and each covenant and obligation of this agreement shall be valid and enforceable to the fullest extent permitted by law.

23. Governing Law

23.1 This agreement is governed and is to be construed in accordance with New Zealand law.

24. Variation

24.1 No modification, amendment or other variation of this agreement shall be valid or binding on a Party to this agreement unless made in writing, duly executed or signed by or on behalf of that Party, and where necessary approved by the relevant Administering Authority.

25. Default Interest

25.1 Without prejudice to the other rights, powers and remedies of the Land Owner, the Company shall pay to the Land Owner interest at the Default Interest Rate on any monies payable under this agreement by the Company to the Land Owner from the date being 5 Business Days from the due date for payment thereof until the date of actual payment thereof.

26. GST

26.1 The sums payable pursuant to this agreement are inclusive of GST. The Land Owner will deliver a tax invoice or tax invoices to the Company on the earliest of such dates as the Company is entitled to delivery of such an invoice or such invoices under the Goods and Services Tax Act 1985.

27. Registration

27.1 Due to the Land not being contained within separate records of title, the parties do not anticipate registration of this agreement against any records of title for the Land.

27.2 Notwithstanding clause 27.1, if the Company requires registration of this agreement and such registration is lawfully possible pursuant to the CMA or any other statute, the Parties agree to do all things necessary to enable registration of this agreement under the CMA, including amending the terms of this agreement as may be necessary and the Land Owner will obtain mortgagee consent to such registration.

27.3 The Land Owner agrees that the Company may register a caveat against the records of title(s) pertaining to the Land, and such caveat shall remain in force until this agreement is registered against the Land, provided that the Company shall on request grant its consent to any subsequent dealings with the Land to the Land Owner, provided such registrations do not prejudice the rights of the Company under this agreement.

28. Counterparts

28.1 A Party may execute this agreement by:

(a) Signing any number of copies each of which will be treated as an original and all of which together will constitute a single document; and

(b) Signing a copy of this agreement and sending it to the other Party by email.

29. Confidentiality

29.1 Subject to clause 29.2, the provisions of this agreement are strictly confidential to the Parties. Neither of the Parties may disclose the existence of this agreement or permit to be disclosed any provision of this agreement, or any information relating to this agreement to any person not a Party to this agreement, other than that Party's professional advisers, without first obtaining the written consent of the other Party. Consent is required both as to the person to whom disclosure is to be made and the terms of such disclosure. The consenting Party may insist that the recipient of the confidential information execute a confidentiality agreement in a form acceptable to it.

If a Party becomes legally compelled to make disclosure of any provision of, or any information relating to this agreement, that Party shall:

(a) Immediately notify the other Party in writing, so that the other Party may seek an interim injunction or other remedy; and

(b) Disclose information only to the extent legally required; and

(c) Use the Party's reasonable endeavours to obtain a written undertaking from the person to whom it is disclosed that confidential treatment will be accorded to the disclosed information.

29.2 Notwithstanding clause 29.1, either Party may disclose the existence, any provision or any information obtained from or relating to this agreement (Confidential Information), where:

(a) such disclosure is to an employee, director, officer, agent, adviser, contractor or subcontractor of the Party who 'needs to know' for the purpose of the Party exercising its rights or discharging its obligations under this agreement and such person is bound by a legally enforceable duty of confidentiality;

(b) such disclosure is to a prospective or actual financier, assignee or acquirer of the project, the Party or its ultimate holding company or their professional advisers who

reasonably require disclosure and such person is bound by a legally enforceable duty of confidentiality;

(c) such information is already in the public domain (otherwise than as a result of a breach of confidentiality by a Party or any person to whom the Party has disclosed the Confidential Information); or

(d) a Party is required by any law or requirement of a stock exchange to disclose the Confidential Information, provided that the Party only discloses the minimum amount that the Party considers reasonably necessary to disclose to comply with the law or requirement of the stock exchange.

29.3 Prior to the Company or the Land Owner issuing or publishing any statements or publication to the media or any other third party, the parties must first consult with each other in good faith to reach agreement as to the content and timing of the said statement or publication. This clause is subject to clauses 29.1 and 29.2.

30. Capacity of Land Owner

31.1 The Company acknowledges that the Land Owner enters this agreement in its capacity as owner and/or occupier of the Land. The Land Owner does not enter this agreement in its separate capacity as a regulatory authority.

EXECUTION

Signed for and on behalf of
MATAKANUI GOLD LIMITED by:

[redacted]
Director

[redacted]
Director

[redacted]
Full name (please print)

Director
Occupation (please print)

[redacted]
Address (please print)

Signed for and on behalf of
CENTRAL OTAGO DISTRICT COUNCIL
in the presence of:

[redacted]
Authorised Signatory

[redacted]
Witness signature

[redacted]
Full name (please print)

Director
Occupation (please print)

[redacted]
Address (please print)

FIRST SCHEDULE

DESCRIPTION OF LAND

Land means all of the legal roads (whether formed or unformed) which are located within the area contained in the Mineral Permits and are owned, operated or controlled by the Central Otago District Council, together with an area on either side of all the said roads of twenty (20) metres in width.

SECOND SCHEDULE

MINERAL PERMITS

Type	Number	Area	Units	Status	Commence	Expiry
Exploration	60311	21,896	Ha	Active	13/4/2018	12/04/2028
Prospecting	60882	4,029	Ha	Subsequent Permit Pending	1/12/2023	30/11/2025
Exploration	61444.01	4,029	Ha	Under Evaluation	To be advised	To be advised
Mining	61326	3,265	Ha	Active	5/11/2025	4/11/2055

Appendix B

CENTRAL OTAGO
DISTRICT COUNCIL

Between

MATAKANUI GOLD LIMITED

And

CENTRAL OTAGO DISTRICT COUNCIL

DEED AS TO ROAD STOPPING AND ALTERNATIVE ROUTE

Central Otago District Council

A TERRITORIAL AUTHORITY UNDER THE LOCAL GOVERNMENT ACT 2002
P O BOX 122, 1 DUNORLING STREET, ALEXANDRA
PHONE (03) 448-6979: FACSIMILE (03) 448-9196
E-MAIL codcalex@codc.govt.nz

DEED made this 30th day of January 2026

BETWEEN **MATAKANUI GOLD LIMITED ('Company')**

AND **CENTRAL OTAGO DISTRICT COUNCIL ('Land Owner')**

BACKGROUND

A. The Company holds the mineral permits in the First Schedule to this deed which together encompass an area of about 29,191.21 hectares in and around the Dunstan Mountains in Central Otago.

B. The Land Owner owns the fee simple to Thomson Gorge Road and a paper road known as Shepherds Creek Road both of which roads are located in the Dunstan Mountains within the area of the mineral permits in the First Schedule.

C. The Company proposes constructing and operating a gold mine on a significant area of the Dunstan Mountains which area is adjacent to and includes Thomson Gorge Road and Shepherds Creek Road ('Bendigo-Ophir Gold Project').

D. On or about 31 October 2025, the Company lodged an application under the Fast-track Approvals Act 2024 ("FTA") with the Environmental Protection Authority for resource consents under the Resource Management Act 1991 to enable it to construct and operate the Bendigo-Ophir Gold Project.

E. In anticipation of the Company being granted fast-track approval for the Bendigo-Ophir Gold Project the Land Owner and the Company have entered a written agreement for an access arrangement under section 54 of the Crown Minerals Act 1991 whereby the Company will have access to:

   (a) The section of Thomson Gorge Road to the east of Matilda Rise Road to the Thomsons Saddle;

   (b) All of Shepherds Creek Road;

   (c) 20-metre strips of land either side of the section of Thomson Gorge Road above and all of Shepherds Creek Road; and

   (d) Any other roads within the mineral permit areas owned by the Land Owner as the controlling authority and 20 metres either side thereof.

   ('access arrangement')

F. In addition to the access arrangement, the parties have also agreed as to terms by which the roads in Background subparagraphs E (a) and (b) above ('roads') may be stopped so that the access agreement can proceed.

G. The parties wish to record their agreement as to stopping the roads as well as other related matters in this deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

Conditions subsequent

1. The performance of this deed is subject to and conditional on:

   1.1 The parties entering the access agreement.
   1.2 The same condition subsequent as in the access agreement.

Road stopping

2. Immediately on the parties entering the access arrangement and this deed, the Land Owner will proceed and use its best endeavours to have the roads stopped [redacted]

3. [redacted]

4. Upon the roads (or either one of them) being stopped, the Land Owner will immediately close these to the public.

5. Upon the roads being stopped, the Land Owner will sell the fee simple in the roads to the Company (or its nominee) for a consideration of $1.00 ("Consideration"), subject to the Company obtaining all permits, covenants, concessions or authorises and satisfying all other requirements of the law of New Zealand necessary to effect the sale at the Company's cost in all respects. For the avoidance of doubt, the Land Owner shall not be entitled to receive any additional compensation for the sold road land over and above the Consideration and the payments received under the access arrangement, under the Public Works Act 1981, Local Government Act 1974, Local Government Act 2002 or otherwise.

6. In addition to its road stopping obligations in paragraphs 2 and 3 above, the Land Owner will during the access arrangement use its best endeavours to stop any other road or part of a road within the areas of the mineral permits in the First Schedule, that the Company may reasonably require for the purposes of gold mining or undertaking mining operations. Any such roads stopped shall be offered for sale to the Company in accordance with paragraph 5 above.

7. The Land Owner's obligation to use best endeavours to stop roads in paragraph 6 above is subject to the following:

   7.1 An alternative route is reasonably available or can be constructed by the Company to a design and specification approved and consented to by the Land Owner pursuant to all its applicable policies and regulatory procedures including but not limited to the resource consent procedure in the RMA or any legislation enacted in replacement or substitution therefor.

   7.2 The Company constructing the alternative route ready for use by the public at its own expense in every practical respect.

8. The Company will meet all applicable reasonable costs of and associated with road stopping hereunder which costs will include but not necessarily be limited to those in the Second Schedule to this deed.

9. Upon satisfaction of the conditions subsequent in paragraph 1 above, the Land Owner (in its capacity as the local roading authority) will continue to grant temporary road closures from time to time in accordance with its standard roading policy, following receipt of the appropriate road closure application documentation from the Company.

Alternative route to Thomson Gorge Road

10. The Company and the Land Owner agree that the Company will at its cost construct an alternative route to Thomson Gorge Road through nearby Ardgour Station so members of the public can travel over the Dunstan Mountains as they would be able to do using Thomson Gorge Road ('alternative route').

11. The Company has applied to the Land Owner in its regulatory capacity for a resource consent to construct the alternative route which application is now under consideration.

12. The Company and the Land Owner will cooperate with each other so that the Company's resource consent may be processed and a decision given at an early opportunity.

13. The Company will commence constructing the alternative route as soon as the Land Owner grants the resource consent and it will construct the alternative route:

    13.1 According to the resource consent in every respect.

    13.2 According to the Land Owner's stated policies and procedures in every respect (including those as to roading).

    13.3 At its own expense in every practical respect.

14. [redacted]

15. MGL will construct and complete the alternative route ready for use by the public no later than the time at which the roads have been stopped.

16. As soon as the alternative route is ready for use by the public it will be subdivided and vest in the Land Owner in the usual way. For the sake of certainty, the vesting of the alternative route in the Land Owner will not entitle the Land Owner to any additional compensation payments above those contained in the access arrangement.

17. The Company will not be liable to contribute to the maintenance or upkeep of the alternative route in any way.

Preliminary civil works

18. The Land Owner will progress the Company's application to re-align Thomson Gorge Road from west of Matilda Rise and within the boundary of Ardgour Station into the adjacent road reserve in accordance with its stated policies and procedures (including those as to roading).

19. The Land Owner will consider the Company's application to upgrade Thomson Gorge Road from Ardgour Road to the turnoff to the alternative route turnoff taking into account the Early

Works consent and the Company's application under the Fast-track Approval Act 2024 with a view to enabling sealing to be completed before the winter sealing close-off of 15 May 2026.

20. When any of the civil works referred to in paragraphs 18 and 19 above is approved by the Land Owner, the Company will undertake these expeditiously at its cost in every practical respect and according to the approved design and all conditions among other things.

Clauses incorporated from access agreement

21. This deed will be taken to include the following paragraphs from access agreement:

21.1 Paragraph 2 - Interpretation.

21.2 Paragraph 10 - Land Owner's Warranties and Covenants.

21.3 Paragraph 11 - Assignment by the Company.

21.4 Paragraph 12 - Assignment or Transfer by the Land Owner.

21.5 Paragraph 16 - Force Majeure.

21.6 Paragraph 17 – Notification.

21.7 Paragraph 18 – Costs.

21.8 Paragraph 19 – Default.

21.9 Paragraph 20 – Entire Agreement.

21.10 Paragraph 21 – Further Assurances.

21.11 Paragraph 22 – Severance.

21.12 Paragraph 23 – Governing Law.

21.13 Paragraph 24 – Variation.

21.14 Paragraph 28 – Counterparts.

21.15 Paragraph 29 – Confidentiality.

THIS DEED is executed on the 30th day of January 2026.

Executed by **MATAKANUI GOLD LIMITED** in accordance with section 180 of the Companies Act 1993:

[redacted]
Authorised signatory

[redacted]
Director

[redacted]
Name of Authorised signatory

[redacted]
Name of director

Executed by the **CENTRAL OTAGO DISTRICT COUNCIL** by:

Authorised Signatory

Peter Kelly
Print Name

FIRST SCHEDULE

MINERAL PERMITS

Type	Number	Area	Units	Status	Commence	Expiry
Exploration	60311	21,896	Ha	Active Subsequent Permit	13/4/2018	12/04/2028
Prospecting	60882	4,029	Ha	Pending	1/12/2023	30/11/2025
Exploration	61444.01	4,029	Ha	Under Evaluation	To be advised	To be advised
Mining	61326	3,265	Ha	Active	5/11/2025	4/11/2055

Road Stopping Costs and Fees

Where a road stopping is initiated by the Council, the costs and expenses associated with the road stopping (including Council staff time) are to be funded from the Business Unit initiating the road stopping.

Where any other person applies to stop a road, then that person shall be responsible for meeting all costs and expenses associated with the road stopping process as determined by the Council (including Council staff time).

The Council may, in its discretion, determine that there is an element of public benefit to the proposed road stopping, and may agree that the costs associated with the road stopping should be shared between the applicant and the Council in such proportions as the Council shall determine. This will normally only be considered in the situation where a section of formed road is located on private property, and a road stopping process is being undertaken in tandem with legalising the existing road alignment.

The Council shall not commence any road stopping procedure unless it obtains a written agreement in advance from the applicant to pay all costs and expenses incurred.

The costs and expenses associated with the road stopping process will include:

(a) Application Fee

An application fee shall accompany a road stopping application to the Council (unless the application is made by a Council Business Unit). The purpose of this fee is to cover the administration and staff costs incurred by the Council as a result of evaluating the application in accordance with this Policy. This fee is included in the Council's Annual Plan.

(b) Processing Fee

If the applicant wishes to proceed with the road stopping application after evaluation by Council staff of the application and the preparation and presentation of the first report to the relevant Community Board or the Corporate Services Manager (as applicable), then a further non-refundable fee of $1,000 (GST inclusive) will become due and payable to the Council to cover the staff time in processing the application from that point.

(c) Other Costs

Other costs and expenses that an applicant will be liable to meet should a road stopping application proceed, include (but are not limited to):

- **Survey Costs**
  Includes identification and investigations of the site and professional fees associated with the compilation of a survey office plan.
- **Cost of Consents**
  Any costs associated with obtaining consents to the proposal including, but not necessarily limited to, the Minister of Lands.

- **Public Advertising**
  Includes the cost of public notification required under the Local Government Act 1974.
- **Accredited Agent Fees**
  Includes professional and other fees incurred as a result of any gazettal actions required.
- **Land Information New Zealand (LINZ) Fees**
  Includes lodgement fees associated with survey office plan approval, registration of gazette notice, easement instrument or any other dealing, and raising of new certificate(s) of title.
- **Legal Fees**
  The applicant will be responsible to meet their own legal costs, as well as those incurred by the Council including, but not limited to, the preparation of an Agreement for Sale and Purchase and the settlement of the transaction.
- **Valuation Costs**
  The costs to obtain an independent registered valuation of the proposed stopped road, including any additional costs that may be incurred by any ensuing discussions with the valuer as a result of the applicant querying the valuation.
- **Cost of Court and Hearing Proceedings**
  Pursuant to the Tenth Schedule LGA, if any objections are received to a road stopping application, and the application is referred to the Environment Court for a decision, then the applicant shall meet all of the Council's legal and other costs associated with the conduct of the legal proceedings in that Court.
- **Staff Time**
  Staff time to be calculated on a time and attendance basis according to individual staff charge-out rates.

Appendix C

National Policy Statement for Natural Hazards

1. The new NPS-NH seeks to provide a framework for managing the risk of specified natural hazards to people and property.[1] The NPS-NH requires decision makers to assess and manage natural hazard risks using a standardised risk matrix that combines likelihood and consequence categories.

2. As outlined in the evidence of Mr Chrisp the NPS-NH is not considered relevant to the BOGP as mining (and ancillary activities) are captured within the definition of primary production which is exempt from the NPS-NH.[2]

National Policy Statement for Infrastructure

3. The NPS-I is a new instrument that recognises the national significance of infrastructure and provides an enabling policy framework for infrastructure development, maintenance and upgrades.

4. The BOGP activities do not fall within the extended definition of Infrastructure in the NPS-I and we agree with the evidence of Mr Chrisp that the NPS-I does not apply to the BOGP.[3]

5. The Project includes new 66 kV overhead powerlines, extensions to existing 11 kV lines, and a new 11 kV underground electricity network. However, these electricity upgrades are not part of the Substantive Application, as they will be installed, owned, and operated by Aurora Energy. All electricity conveyed through this infrastructure will be used solely to support mining operations at the BOGP and will not be supplied to any other users.[4]

National Policy Statement for Highly Productive Land

6. The key amendment to the NPS-HPL is the removal of Land Use Capability Class 3 land (**LUC3**) from the definition of highly productive land (**HPL**).

7. The BOGP seeks approvals for non-operational infrastructure on the Bendigo and Ardgour Terraces, parts of which were previously identified as LUC3 land.[5] The non-operational infrastructure at the Ardgour Terrace site includes an administration building, security and medical facilities, a geology complex[6], waste management areas, contractor laydown yards, a high voltage substation, temporary construction workers accommodation and a caravan park.

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[1] National Policy Statement for Natural Hazards, Clause 2.1.
[2] Statement of Evidence of Mark Chrisp, 17 April 2026 at [17].
[3] Statement of Evidence of Mark Chrisp, 17 April 2026 at [21].
[4] Statement of Evidence of Mark Chrisp, 17 April 2026 at [22].
[5] Substantive Application A.09 Section 2, Existing Environment.
[6] Including a core storage area, offices and laboratory.

8. The amendment to the NPS-HPL to remove LUC3 land from the definition of the HPL is directly relevant to the BOGP as the Ardgour Terrace site is no longer classified as HPL and is not subject to the NPS-HPL. As such the policy framework in the NPS-HPL governing the protection of HPL are no longer applicable to the Panel's consideration of the BOGP.[7]

National Policy Statement for Indigenous Biodiversity

9. The amendments to the NPS-IB are part of a broader package of amendments to provide for more consistent and enabling regulation and management of mining and quarrying activities. The sole objective and the associated policies of the NPS-IB remain unchanged, with the key amendment of relevance to the BOGP relating to Clause 3.11 of the NPS-IB. The key amendments to Clause 3.11 are:

   (a) amending use of the term "*mineral extraction"* to *"extraction of minerals and ancillary activities"* and align definition across other National Direction;[8]

   (b) amending use of the term "*aggregate extraction"* to *"quarrying activities"* and align definition across other National Direction;[9]

   (c) removing requirements that the benefits be to the public, and that the activity "*could not otherwise be achieved using resources in New Zealand"*;[10] and

   (d) adding the ability to consider "*regional benefits".*[11]

10. While these amendments to the NPS-IB do not change the assessment provided in the Substantive Application we submit these changes further align the NPS-IB with the scheme of the FTA, and promote the development of projects such as the BOGP.[12] As has been displayed throughout the BOGP application, the BOGP will provide significant regional and national benefits. This should be considered in the Panel's analysis of the NPS-IB and its applicability to the BOGP.

[7] Statement of Evidence of Mark Chrisp, 17 April 2026 at [30] – [36].
[8] National Policy Statement for Indigenous Biodiversity 2020 amended December 2025, Clause 3.11.
[9] National Policy Statement for Indigenous Biodiversity 2020 amended December 2025, Clause 3.11.
[10] National Policy Statement for Indigenous Biodiversity 2020 amended December 2025, Clause 3.11.
[11] National Policy Statement for Indigenous Biodiversity 2020 amended December 2025, Clause 3.11.
[12] Statement of Evidence of Mark Chrisp, 17 April 2026 at [42].

National Policy Statement for Freshwater Management and National Environmental Standards for Freshwater

11. Changes to the add NPS-FM and NES-F add "*operational need*" to the gateway test in addition to "*functional need"* for activities in wetlands.[13]

12. The amendments to the NPS-FM that came into effect on 15 January 2026 are part of a broader package of amendments to provide for more consistent and enabling regulation and management of mining and quarrying activities. The amendment does not alter the conclusions of the Substantive Application which found there was operational need for the BOGP to locate key mine components in close proximity to the pits and underground mine and on land that MGL either owns or has access arrangements over.[14]

[13] National Policy Statement on Freshwater Management 2020 amended December 2025, Clause 3.22.
[14] Statement of Evidence of Mark Chrisp, 17 April 2026 at [47].