
MINUTE 48 OF THE EXPERT PANEL

Acknowledging Memorandum received Bendigo-Ophir Gold Project

[FTAA-2507-1089]

[28 August 2026]

[1] This Minute relates to This Minute responds to:

- (i) The joint memorandum of ORC and CODC of 26 August.
- (ii) MGL's memorandum of 28 August (and prior email foreshadowing the contents of same dated 27 August).
- (iii) ST's memorandum of 26 August 2026 and EDS's memorandum of 27 August.

ORC and CODC Memorandum

[2] ORC and CODC refer to the Panel's Minute 44 in which it indicated it was likely to issue an invitation under FTAA s 67 (5) if the parties/invitees took issue with MGL budgeting provisions for the Matakinui Trust. They suggest the Panel would gain "significant assistance" from their expert Mr. McInerney in this respect. They note that in Minute 46 the Panel has already provided the Councils with a general ability to comment (by 7 September) on the material filed by the Applicant on 17 August. They seek the s67(5) direction out of an "abundance of caution" given that the budgeting evidence was provided earlier (on 22 July).

[3] This Minute is to be taken as an invitation pursuant to s 67(5), with the result that ORC and CODC are invited to file Mr. McInerney's evidence. The Panel understands from the joint memorandum that this can occur within 1 business

day. Any reply by MGL is provided for within the existing timetable (i.e to be filed by 14 September 2026). The Panel also takes this opportunity to make it clear that the material which the parties/invitees were invited to voluntarily comment on in Minute 47 paragraph [6(iii)] includes all material provided between 12 and 17 June. The Panel addresses this further below.

MGL Memorandum

[4] MGL identifies that during the final workshop sessions it became apparent that it would be beneficial for the parties and ultimately the Panel to receive feedback on the full suite of conditions that MGL have circulated on 28 August 2026 (as opposed to the “water related conditions” in respect of which provision was made in Minute 47 for feedback by 7 September). The Panel agrees with the suggested utility of this approach.

[5] Accordingly the timetable directions in Minute 47 are amended to provide:

- (i) (In substitution for the direction in [6(iii)]) - On 7 September 2026 the parties/invitees (voluntarily) provide their response to MGL evidence that was filed between 12 and 17 June and in response to RFI 11 together with their response to the conditions, approvals and the Heritage and Archeological Management Plan to be circulated on 28 August 2026
- (ii) (In substitution for the direction in [6(v)(i)]) – On 14 September 2026 MGL files a final set of conditions and management plans following consideration of the feedback received from the parties on 7 September 2026.

[6] Note that in respect of [5(i)] above, the Panel has adopted MGL’s revised wording which references evidence filed in response to RFI 11 rather than “evidence filed 17 August 2026”. This makes the position unambiguous that the Panel is permitting party/invitee responses to all MGL evidence filed in response to RFI 11 whether MGL’s evidence was filed on 17 August or earlier (noting that

several party/invitee responses are already to hand). And for the avoidance of doubt, we include in MGL's responses to RFI 11 its response to Commissioner Johnson's questions which were raised during the initial processing suspension.

ST and EDS Memoranda

[7] The Panel does not consider it necessary to respond to ST and EDS's comments in respect of input re condition workshopping. It considers the latest timetable amendments adequately meet legitimate concerns. It further emphasises that, were it minded to grant the application, it has a statutory obligation pursuant to s70 to prior circulate proposed conditions and to invite comment on them. At this stage the Panel considers that, pursuant to s70 (2) (a), it would allow 10 working days for this purpose. Accordingly, there is in built provision for further comment on conditions if considered appropriate.

[8] Both ST and EDS raise what the Panel considers to be legitimate issues with respect to the authority given to MGL to file a final legal submission. The Panel clarifies its position accordingly.

[9] It has already recorded (Minute 39) that it regards the quality of the written legal submissions received to date as high, and that having regard to its composition and the expert advice received it did not (at least at the stage Minute 39 was issued) consider a further hearing on legal issues was required. It notes that many such issues were traversed at the Cromwell and Ōtākou Marae hearings and that MGL received rights of reply on both occasions. The Panel accepts that in the intervening period other legal issues may have emerged. Two are referenced in recent memoranda – possible scope issues emerging from the proposed substitution of the Battery Hill sanctuary and questions posed about the validity any condition relating to future compensation for cushionfields and spring annuals (see EDS Memorandum of 27 August at [10]).

[10] It is appropriate that there be a final “wash-up” in respect of any legal issues which have emerged since the April hearings. We anticipate that these are few. We

have provided a timetable for these to be addressed by MGL (14 September) and it is appropriate that we now provide an opportunity for party/invitee response and MGL reply. We set 21 and 28 September 2026 respectively for response and reply.

[11] To be clear, the Panel is not inviting or expecting MGL to provide a submission which readdresses any legal issues which were the subject of comprehensive submissions in the March/April period (and in respect of which advice has already been taken from Ms Carruthers KC). Nor is it inviting a submission which comments on the evidence with a view to persuading the Panel on the merits. The focus is to be on any new legal issues exclusively. The same applies to the permitted responses and reply.

A handwritten signature in blue ink, appearing to read 'M. A. Muir', with a stylized flourish at the end.

Hon Matthew Muir KC

Bendigo-Ophir Gold Project Expert Panel Chair