

25<sup>th</sup> March 2026

# Fast-track Approvals Act Conservation covenant report

Section 51(2)(b) conservation covenant report for –  
FTAA-2507-1089 Bendigo-Ophir Gold Project

## Contents

Introduction	2
Purpose of the report	2
Proposed revocation of conservation covenant	2
Summary of DOC's report	3
Statutory context	5
Assessment	5
Covenant background	12
Alternative options for consideration	13
Additional information	14
Conditions	15
Treaty of Waitangi settlement considerations and obligations	15
Appendices	17

## 1. Introduction

- 1.1. Matakanui Gold Limited (the applicant / MGL) seeks approvals under the Fast-track Approvals Act 2024 (the Act / FTAA) to establish, operate, rehabilitate and ultimately close an open pit and underground gold mining operation known as the Bendigo-Ophir Gold Project (BOGP).
- 1.2. As part of the application, MGL is seeking approval pursuant to s 42(4)(g) for the (partial) revocation of a conservation covenant, being a covenant in force under section 77 of the Reserves Act 1977.
- 1.3. On 8 December 2025, in accordance with section 51(2)(b) of the FTAA, the Panel Convener directed the EPA to obtain a report prepared by the Director-General of Conservation (D-G) in accordance with clause 43 of Schedule 6.
- 1.4. This report is one of a suite related to various conservation approvals sought by MGL, and for efficiency a covering report has been prepared that discusses matters common to the approvals sought. The DOC approvals covering report should be read in conjunction with the individual approval reports.

## 2. Purpose of the report

- 2.1. This report has been prepared by DOC on behalf of the Director-General of Conservation. It provides commentary on information provided by the applicant to support the Panel's assessment of the application for the partial revocation of a conservation covenant.

## 3. Proposed revocation of conservation covenant

- 3.1. The Applicant has applied for a partial revocation of the existing s 77 Reserves Act conservation covenant that applies to the project site.
- 3.2. It is noted that throughout the application documents the applicant describes the activity as an amendment, DOC does not support this interpretation and refers to the proposal as a partial revocation (see Appendix C Legal submissions for further information).
- 3.3. During workshops held in February 2026 the Applicant explained that the proposed partial revocation area (outside the defined project site) had been determined for "cleanliness" (i.e. to create a single, simplified boundary following cadastral land parcel boundaries). The applicant also outlined that this would result in a streamlined process, should they wish to undertake further exploration works or small-scale ancillary mining activities (DOC notes approval for these activities can be sought (and have been authorised) under the existing covenant).
- 3.4. The area of the Bendigo Conservation Covenant proposed to be uplifted from parts of Bendigo Station is shown in red in Figure 1 below.

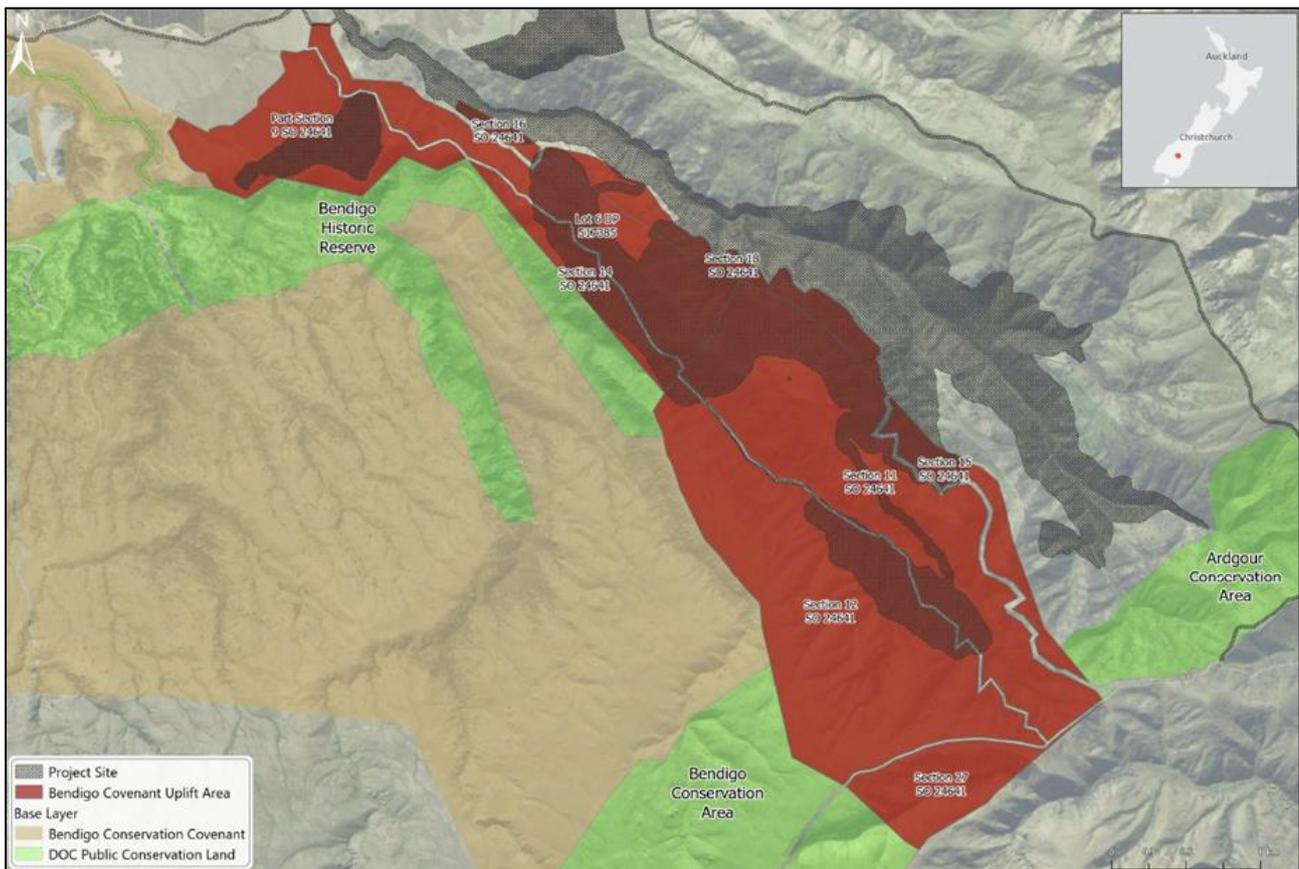


Figure 1: Proposed Bendigo Conservation Covenant Uplift Area

## 4. Summary of DOC's report

- 4.1. The intent of the conservation covenant, in favour of the Minister of Conservation, is primarily to protect and enhance the significant biodiversity values alongside protecting and maintaining the high landscape and heritage values of the area in perpetuity.
- 4.2. DOC's assessment is that the values the covenant was put in place to permanently protect will be significantly adversely affected, and in many cases permanently lost if a revocation is approved.
- 4.3. DOC's assessment is that the effects management proposed by the applicant will result in a large-scale net loss of biodiversity and heritage values, and that the magnitude of loss has been systematically underestimated by the applicant.
- 4.4. DOC considers that the revocation will compromise values of regional and national significance, which have not been appropriately represented or considered in the application.
- 4.5. The revocation would remove the covenant's in-perpetuity protection, meaning ongoing legal protection for these values would be lost during operations and beyond mine life.
- 4.6. The proposed revocation also extends beyond the Direct Disturbance Footprint (DDF) to enable what the applicant has described as minor impact ancillary activities (including further exploration), these activities can be facilitated through the existing covenant or potentially through an amendment as opposed to revocation over these areas.

- 4.7. Whilst the impacts associated with the proposal are extreme the applicant has not proposed any direct conditions relating to the covenant revocation to address the specific impacts of the revocation on the conservation values protected by the covenant.
- 4.8. DOC does not support the applicant's proposal to partially revoke the existing conservation covenant for the following key reasons:
- **Impacts on heritage & landscape.** The Bendigo historic reserve and through into the covenant area all the way up the Rise and Shine Creek is a nationally unique connected historic landscape; the uplift would break the connections that make it readable through the destruction of individual historic artefacts. The applicant's proposal seeks to manage effects on a limited number of sites but overlooks and underrepresents the impacts on the heritage landscape; it does not avoid fragmentation of this key value.
  - **Impacts on terrestrial flora.** The BOGP as proposed would result in severe, permanent and irreversible net loss of ecologically significant dryland ecosystems, primarily through the loss of large numbers of Nationally and Regionally Threatened and At-Risk plant species, including the largest known population of Threatened - Nationally Critical *Ceratocephala pungens*. The revocation of the covenant would further result in the loss of ongoing protection of these species. For this species at a high risk of extinction the covenant area contains its national stronghold. More generally DOC is fundamentally concerned that the application understates the vegetation values present whilst overestimating the ecological benefits of the projects. A net loss scenario (i.e. the losses outweigh any gains), the actual extent of this loss is unknown due to insufficient data provided. From a conservation perspective, the proposed effects management does little to adequately address the loss of these highly significant biodiversity values.
  - **Impacts on ecosystems (wetlands).** Wetland (seep, fen, swamp, marsh) values are known and sensitive, but the application does not fully assess the impact on wetlands so the extent of the impact of values is not clearly represented. It is highly unlikely that draw down effects and the loss of wetlands can be feasibly addressed in a like-for-like manner and is also anticipated to result in a net loss for wetlands. New Zealand has lost 90% of our wetlands. This pattern is reflected internationally – over 400 million hectares of wetlands have been lost since 1970. If the loss continues at its current rate, a further fifth of the world's remaining wetlands could be gone by 2050.
  - **Impacts on lizards.** The potential loss of covenant protection has implications for three lizard species identified on the project site, with the greatest effect expected on Kowarau gecko at both local and national scales. The scale of impact is significant given approximately 500-750,000<sup>1</sup> individual's will be affected and an estimated 7% of Kowarau Gecko habitat nationally. It is anticipated that other species could be with high ecological values which in areas not adequately surveyed by the applicant. Again, while issues have been identified with the data informing the effects assessment it is clear that the project as proposed will result in a significant net loss for protected lizard species and habitat.
  - **Impacts on invertebrates.** Invertebrate values across the project site are high with at least 18 species of high conservation interest identified and several threatened species. The assessments provided by the applicant do not clearly define the impacts on species (and did not capture all species confirmed to be present). Whilst it is clear there will be significant

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<sup>1</sup> Figure clarified by the applicant through post lodgement engagement above the initial figures provided in the application.

impacts on invertebrates and habitat the extent of impact and loss is unknown again due to insufficient in the application information.

- **Treaty settlements consistency.** Given the Ngāi Tahu Claims Settlement Act instruments and DOC–Ngāi Tahu protocols, a cultural values assessment with the relevant rūnaka would ordinarily inform any change to perpetual protections; this is absent in the applicant’s request.
  - **Effects management.** The impacts on conservation values have not been accurately represented by the applicant. Whilst it is acknowledged that the effects will be extremely significant. The scale of loss is understated due to inadequacies in the assessment of effects, with adverse impacts minimised and claimed gains overstated. The proposed mitigation measures rely heavily on experimental methods with uncertain, if not unlikely prospects of success. Further, the proposal to rely on a future covenant in favour of the District Council at the end of mine life presents significant concerns. The approach appears to lack support, would provide no immediate protection, and the values it purports to safeguard as well as their long-term management remain undefined.
  - **Crown and public investment.** The Covenant was created and funded by the Crown through the Land Act 1948 review of the pastoral lease specifically to secure perpetual protection of values important for conservation. Revoking or weakening protection would defeat the purpose for which public and Crown funds and effort were invested. Refer to section 6.2 for further context on the tenure review purpose and process.
- 4.9. Whilst DOC’s view is that the revocation should be avoided, it is appreciated that in making a decision on the proposal the panel must give the greatest weight to the purpose of the FTAA. To further support the decision-making process DOC has provided other opportunities the panel could consider to reduce the impacts of the proposal (Section 8).

## 5. Statutory Context

- 5.1. The Legal Submissions (Appendix C) discuss the nature of conservation covenants as statutory instruments enabled by either s 27 Conservation Act 1987 or, as in the Bendigo case, s 77 Reserves Act 1977.
- 5.2. In accordance with clause 43 of Schedule 6, this report must include information about:
- a. *the purpose of the conservation covenant and the conservation values of the land concerned; and*
  - b. *whether the amendment or revocation will compromise values of regional, national, or international significance; and*
  - c. *any conditions that should be imposed in accordance with clause 46 or section 84.*

## 6. Assessment

### Overview

- 6.1. DOC has used the information requirements as set out in Schedule 6, clause 43 as a framework for providing advice on the application.
- 6.2. **Purpose of the conservation covenant (clause 43(a))**

- 6.2.1. Section 77 Reserves Act conservation covenants are agreed between the landowner (covenantor) and may be made in favour of the Minister of Conservation, local authorities or any other body approved by the Minister of Conservation (MOC).
- 6.2.2. The effect of these conservation covenants is to protect and preserve identified conservation values on the covenanted land in the public interest.
- 6.2.3. The s 77 Reserves Act covenant over the Bendigo site was established to secure permanent protection of land with exceptional ecological (natural environment), landscape, and historic values. It requires the land to be managed in a way that protects its natural character and functioning ecosystems, preserves a representative part of the Dunstan Ecological District, and maintains nationally significant landscape features and historic heritage, including the well-documented Bendigo goldfield remnants.
- 6.2.4. The covenant arose during an early Land Act 1948 review, undertaken before formal tenure review was provided for under the Crown Pastoral Land Act 1998. At that time, the Crown was responding to long-standing environmental pressures in the high country and seeking ways to ensure sustainable land management and protect areas vulnerable to degradation, while also supporting the New Zealand export industry particularly in relation to wool and lamb. Because the Land Act framework lacked tools for separating high-value conservation land from pastoral use, the Reserves Act covenant provided the most effective legal mechanism available to secure Crown conservation objectives on land proposed to be made freehold.
- 6.2.5. Its establishment was a negotiated outcome between the Crown and the lessee and was publicly consulted on, ensuring transparency and alignment with community and stakeholder expectations. The Crown funded the protective mechanism, recognising that enduring conservation outcomes required compensating the lessee for permanent land-use restrictions. This process ran for approximately nine years and was completed in 2000.
- 6.2.6. Overall, the covenant was established to provide legally binding protection in perpetuity for Bendigo's significant ecological and heritage values, safeguard land that was regionally representative and nationally significant, and ensure those values remained protected regardless of future ownership or land-use changes, while still allowing pastoral production to continue on the remainder of the property.

### 6.3. Conservation values of the land (clause 43(a))

- 6.3.1. As outlined above, the covenant was established to protect in perpetuity the land's exceptional ecological, landscape, and historic values, including nationally significant landscape features and historic heritage, including the well-documented Bendigo goldfield remnants.
- 6.3.2. The existing covenant provides protection to a wide range of conservation values, including
  - Threatened species
  - Historic heritage

- Landscape and natural character
- Threatened habitats
- Recreation.

- 6.3.3. More detail on the conservation values is provided in the following sections of this report and can be found in the expert statements attached to the DOC Approvals Covering Report, particularly those of Max Crowe, Dr Mandy Tocher and Dr Matthew Schmidt, Dr Warren Chinn and Meg Emberton-Muir.
- 6.3.4. A further detailed assessment of values and effects is provided in Appendix A.
- 6.3.5. DOC notes that a common theme across all of the applicant's assessments and documentation is the lack of detailed analysis of how the proposal will impact and compromise the values relating to the covenant. The applicant's lack of focus on these issues may explain what DOC views as a lack of an appropriate effects management response.

#### Biodiversity values

- 6.3.6. The covenant contains exceptionally high and nationally significant botanical values within dryland herbfield/cushionfield and shrubland mosaics, supporting numerous Threatened and At Risk plants—notably the nationally important spring-annual strongholds of *Ceratocephala pungens* (Threatened – Nationally Critical) and *Myosotis brevis* (Threatened – Nationally Vulnerable).
- 6.3.7. The covenant supports high-value lizard assemblages, with Kawarau gecko (At Risk – Declining), southern grass skink (At Risk – Declining) and McCann's skink (Not Threatened) occurring across rocky outcrops/tors, boulder fields, cushion vegetation and damp margins; these micro-habitats together form an important habitat network on the western slopes of the Dunstan Mountains.
- 6.3.8. Open drylands, shrublands and wetland/creek margins within and adjoining the covenant provide habitat for mobile native birds including New Zealand falcon/kārearea and pipit, with seasonal nesting possible in suitable localities; these bird values interlink with pest management and the condition of wetlands and dryland vegetation.
- 6.3.9. Terrestrial invertebrate values are diverse and conservation-relevant, including threatened moths (e.g. *Sporophyla oenospora* – Nationally Critical) and other species of interest associated with cushionfield, tussock and shrubland habitats; the assemblage reflects Central Otago endemism and ecological linkages across plant communities and micro-habitats.

#### Freshwater values

- 6.3.10. Within the covenant, diverse inland wetland types—seep, fen, swamp, and marsh—occur as a hydrologically linked mosaic. Their groundwater connections, local water-table levels, hyporheic exchange, and seasonal hydroperiods underpin key ecological functions and sustain characteristic dryland biodiversity at wetland margins.

- 6.3.11. These wetlands regulate flows and microclimate, help maintain water quality and provide specialised habitat for wetland plants and invertebrates that interlace with cushionfield/tussock drylands.
- 6.3.12. In the national and global context, wetlands are scarce and irreplaceable: New Zealand has lost about 90% of its natural wetlands since human settlement, and the Global Wetland Outlook 2025 reports ~22% global wetland loss since 1970 with remaining wetlands delivering ecosystem services valued in the tens of trillions of USD annually, underscoring the conservation importance of the covenant's remaining wetlands.

#### Recreational values

- 6.3.13. The covenant secures public foot-access along Thomson Gorge Road and to Mt Moka, and provides front-country walking and interpretation experiences at Rise and Shine Creek though to the Come-in-Time Battery setting, connecting visitors directly with goldfields heritage and Dunstan dryland landscapes.
- 6.3.14. The impacts on other conservation values which relate to recreational experience (e.g. heritage and biodiversity) are also a relevant consideration.

#### Cultural and heritage values

- 6.3.15. The covenant was established to protect the Rise and Shine historic mining landscape as a connected system—water-races/reservoirs/dams ↔ battery terraces/platforms ↔ routes/settlements—and to enable public understanding through foot-access and interpretation in perpetuity; these values contribute to the regional–national significance of Bendigo's goldfields heritage and are expressly recognised in the covenant's objectives and Condition 9.

#### 6.4. Whether revocation will compromise values of significance (clause 43(b))

- 6.4.1. The applicant states that removal of the Bendigo Conservation Covenant from the Project Site will not compromise values of regional, national or international significance.
- 6.4.2. Overall, DOC considers the partial revocation as proposed will compromise values of regional and national significance as discussed further below.
- 6.4.3. The applicant appears to rely on the fact that only part of the covenant is proposed to be revoked, with a large area remaining protected by the covenant. The application states that:
- comparable examples of all sites affected by the BOGP can be found elsewhere in the covenant area and the Bendigo Quartz Reef Historic Area, and are generally better maintained, more accessible and visited more regularly by the public than those proposed for removal.
  - The areas of highest heritage values within the Bendigo Conservation Covenant and the Bendigo Quartz Reef Historic Areas also fall outside the Project Site and will not be impacted by the BOGP.

- Comprehensive mitigation, offsetting and compensation measures are proposed by MGL in the form of ecological restoration and habitat enhancement across approximately 2,219 hectares of habitat in the BOGP Area surrounding the DDF. Several of these components – including the Bendigo Sanctuary Areas and part of the MRZs – are located within the Bendigo Conservation Covenant.

6.4.4. The applicant does acknowledge that due to the nature of the proposed works, the overall impact of the works on the heritage values of both recorded and unrecorded sites will be major and sets out net losses for many of the biodiversity values present.

#### Values of regional or national significance

6.4.5. The extent to which values are of regional or national significance depends on rarity/irreplaceability, representativeness, connectivity, and public-interest provisions associated with the covenant.

6.4.6. DOC considers the values of regional or national significance and would be compromised by the proposal.

#### 6.4.7. Biodiversity evidence highlights:

- the potential impacts on *C. pungens* (Threatened – Nationally Critical), including on the largest known population.
- There are 64 species and 9 ecosystem types of National and Regional significance.
- the high significance of remaining undeveloped lowland areas in Central Otago which are nationally important for indigenous biodiversity.

#### 6.4.8. Heritage evidence highlights:

- The whole of the covenant area is considered to have high heritage values and particular national significance due to the heritage landscape, which is about the interconnectivity between sites and not necessarily their individual value - effectively, the whole is greater than the sum of its parts. This is heavily reflected in the information which informed the establishment of the existing covenant. Removal of the covenant will not result in an area of 'lesser heritage value' being affected.
- DOC considers that the revocation proposed (seemingly for convenience) to cadastral/operational lines would sever connections between the elements and compromise the covenant's historic/landscape purposes. The applicant's March 2026 updates manage discrete effects but do not avoid loss of landscape legibility.
- Updated maps confirm the issue. C.12–C.14 clarify the proposed covenant uplift geometry and show uplift areas intersecting key water-race and terrace linkages, reinforcing that boundaries remain operational, not values-based.

#### 6.4.9. Lizard evidence highlights:

- The scale of impacts on lizard species and habitat, including the loss of up to 7% of the national habitat for the Kawarau gecko (At-Risk – Declining) being lost and broader effects on an estimated 500,000-750,000 individuals with 80% of effects being residual.

- The potential to impact Kawarau gecko at a regional and national level and southern grass skink at a regional level, potentially elevating these species regional and national threat status.

#### 6.4.10. **Wetlands evidence highlights:**

- Within the covenant, seep, fen, swamp and marsh form a type-specific ecohydrological mosaic, integral to biodiversity and landscape processes (e.g. groundwater/surface-water linkages, seasonal hydroperiods, and water-quality functions).
- Wetlands are critically important ecosystems and the identified wetland ecosystem types are among New Zealand's most depleted and threatened. Swamps, fen and marshes are identified as priority wetland types for protection elevating their national significance.

#### ***Weight to applicant's assessment***

- 6.4.11. As DOC's experts traverse in their statements, given the gaps in the information provided by the applicant, including the failure to accurately and thoroughly identify species present on the land, DOC does not consider much weight can be given to the applicant's assessment of impacts.
- 6.4.12. DOC does not concur that comparable examples of all sites affected by the BOGP can be found elsewhere in the covenant area and this claim is not substantiated by evidence or data in the application documents.
- 6.4.13. DOC notes that the applicant's Heritage Assessment provides an overview of the loss, which is extensive, but it does not provide a comprehensive illustration of the effects on sites and their wider significance within the landscape that will be destroyed. Multiple issues with the assessment have been identified. The heritage assessment has not followed best practice methods and misrepresents the values present. This feedback has been consistently provided to the applicant but has not been successfully integrated into the application and does not appear to have further informed the initially proposed effects management.
- 6.4.14. It is again noted that the values compromised have not in DOC's view been compensated or offset directly or to any relative scale.

#### ***Process tools vs values based protection***

- 6.4.15. A project-wide Archaeological and Heritage Management Plan (G.22); a proposed HNZPT archaeological authority (D.05); blast-vibration controls (K.06); and a 'biodiversity and heritage' fund manage or resource discrete effects (e.g. investigation/recording, accidental discovery, PPV thresholds).
- 6.4.16. Vibration controls may minimise effects, but don't resolve the issue of concern. Blast peak particle velocity design and monitoring (K.06) can reduce damage to fabric, yet even with compliant peak particle velocity the system still fractures if perpetual protection is lifted across the connective fabric. Good construction management ≠ no compromise of landscape value.

- 6.4.17. Process plans are not a substitute for values-based boundaries. The AHMP (G.22) and the HNZPT authority (D.05) explain how heritage will be recorded/managed during works; however, they do not demonstrate that uplift areas are delineated by reference to heritage-landscape values, nor do they maintain the public foot-access and interpretation experience in the Rise and Shine Valley secured by Condition 9. Recording of heritage sites prior to destruction are legal requirements, not proposed mitigations.
- 6.4.18. The applicant's proposed offsetting and compensation measures for biodiversity values rely heavily on experimental and untested methods, which carry risk and the future values of the site are undetermined, the future values will not be relative to loss in the short, medium or even long term due to the residual effects of the proposal.
- 6.4.19. The reliance on future covenants to protect areas also has high risk associated due to uncertainty around the feasibility of the proposed longer-term management to support any future gains and the overarching unknowns around what values (and their significance) will be present in the future to protect.
- 6.4.20. The proposed mitigation/compensation are also not considered to be relative to the major losses which will be incurred through the revocation of the covenant.
- 6.4.21. Compensation for heritage loss should be project focused and based on agreed and deliverable outcomes where the New Zealand ICOMOS Charter 2010 provides the foundation for conservation. Heritage conservation only succeeds where there are known and targeted outcomes and this is generally how such projects are funded internationally. The applicant has not demonstrated this approach.
- 6.4.22. As set out elsewhere in this report biodiversity effects management places significant emphasis on experimental methods to achieve gains and does not in DOC's view adequately account for the associated risks with this strategy.
- 6.4.23. The provision of a biodiversity and heritage fund is proposed. DOC provided feedback on the lack of heritage compensation or offsetting during workshops and the fund, which was initially positioned as a biodiversity fund, was renamed a biodiversity and heritage fund, with no reassessment of the amount of the fund proposed to achieve benefits for loss. This again demonstrates the lack of outcomes-focused (or evidence-based) effects management. Expert heritage advice (attached to the DOC Approvals Covering Report), further demonstrates that the fund proposed is unlikely to achieve compensation proportionate to losses.

***Covenant purpose and public interest***

- 6.4.24. The Conservation Covenant is the overarching protection mechanism of the heritage values and the heritage landscape at Bendigo. Hence, it is the key driver for the management of the heritage present irrespective of the protection of pre-1900 archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) and the Resource Management Act 1991 (RMA).

- 6.4.25. The Covenant preserves historic values of the Bendigo gold mining landscape as a place of national significance to the history of mining in New Zealand. This is because the Covenant ensures the sequence of sluicing and hard rock mining heritage at Bendigo which stems from the Bendigo Historic Reserve all the way up through the Rise & Shine Creek is preserved.
- 6.4.26. Public funds were utilised specifically to secure protection of the significant values on the land, and the applicant has not proposed any direct compensation for the loss of those values that the Crown invested in for public benefit.

### Values of international significance

- 6.4.27. While there are no directly internationally identified/recognised values or features on the land, DOC notes that New Zealand is a party to the United Nations Convention on Biological Diversity (CBD) which adopted the Kunming-Montreal Global Biodiversity Framework (GBF) in December 2022. Target 4 of the GBF is (emphasis added):

*Ensure urgent management actions to halt human induced extinction of known threatened species and for the recovery and conservation of species, in particular threatened species, to significantly reduce extinction risk, as well as to maintain and restore the genetic diversity within and between populations of native, wild and domesticated species to maintain their adaptive potential, including through in situ and ex situ conservation and sustainable management practices, and effectively manage human-wildlife interactions to minimize human-wildlife conflict for coexistence.*

- 6.4.28. New Zealand submitted 13 national targets to the CBD in October 2024 in response to adoption of the GBF. National target 10 states *inter alia* that by 2030:

- There is no loss of the extent or condition of indigenous land, wetland, freshwater ecosystems...which have been identified as having high biodiversity value
- The state of indigenous species known to be at risk of extinction stabilises or improves.

- 6.4.29. As discussed above, DOC's experts have assessed that revocation of the covenant to enable open pit mining is likely to result in national-scale population impacts on a minimum of two species (*Ceratocephala pungens* and Kawarau gecko) with a potential contribution towards extinction of the former.

## 7. Covenant background

- 7.1. This section collates source documents that explain the covenant's origin, values, and management intent.
- 7.2. The 1993 Application for Exchange of Property Rights Draft Proposal (Appendix D) was produced to inform the Land Act review. It sought to secure the Upper Rise and Shine valley (~576 ha) under a Reserves Act conservation covenant expressly to preserve the integrated heritage landscape and its legibility (silver-tussock valley floor-to-ridge sequence, wetland flushes, water-races, dams, revetted road, stone cottages) as a coherent complex rather than isolated sites.

- 7.3. The covenant's management intent was to maintain the existing character (allowing limited measures such as patch-burning over sowing and topdressing where needed for vegetation condition), prohibit mining/forestry/track formation, and retain public foot access via Thomson Gorge Road and easements, thereby giving enduring, landscape-scale protection to the Rise and Shine heritage and ecological values.
- 7.4. The document provided is a draft because the final, executed copy is not held on Land Information New Zealand's records, believed to have been lost during the 2010–2011 Christchurch earthquakes, when a number of paper files were destroyed.
- 7.5. The Jill Hamel report (Appendix E) was commissioned by DOC to support Protected Natural Areas Programme implementation, i.e., to identify, document, and recommend legal protection (including covenanting) and access arrangements for significant historic/archaeological landscapes at Bendigo; it was intended to underpin reserve/covenant decisions with mapped evidence, site records and management advice.
- 7.6. The current Bendigo covenant was subject to compensation arrangements with the landowner at the point of entering the covenant. Where land is removed from a covenant, by agreement, this is generally where the conservation values have been lost or did not exist on those parcels, meaning the covenant objectives to preserve conservation values are maintained. This would not be possible for this application.

## 8. Alternative options for consideration

- 8.1. As set out in Section 4 of this report DOC does not support the applicant's proposal to revoke the conservation covenant due to the significant impacts on the significantly high conservation values it protects and the large-scale residual nature of these effects.
- 8.2. Acknowledging the panel's role is to give the greatest weight to the purpose of the Act, the panel may when considering the broader range of application information progress this proposal to an approval. It is DOC's view that, any change to the conservation covenant should be minimal, values-neutral, and anchored by appropriate conditions to safeguard conservation values as far as practicable.
- 8.3. Whilst DOC considers that the appropriate conservation response is the avoidance of effects through not progressing the revocation, if the Panel is minded to approve any change to the covenant the options presented below (A-C) could be considered to minimise the actual and potential impacts, a combination of these approaches could also be considered to further support better conservation outcomes.

### A. Reduce and vary.

- Reduce any revocation to the hatched footprint only (see Figure 1).
- Vary the remainder (red) only for listed activities demonstrably aligned with covenant purposes and no more than minor effects (tested against a pastoral baseline).

**B. Impose decision grade conditions**

- Values based no go mapping (heritage connective fabric; *C. pungens* stronghold; high value flora/fauna microhabitats; wetland buffers).
- Ecohydrology gate (type specific performance standards; augmentation chemistry/thermal envelopes; catchment mass balance; post closure end state).
- Threatened flora baselines (full 2025 spring annuals dataset; nonvascular survey; fine scale retying; dust/edge triggers).
- Lizards (detections map; targeted surveys; prebuilt fenced receiver; outcomes based LMP with stop work triggers).
- Invertebrates (inventory/vouchers; hotspot mapping; probability based>NNL; audit/reporting).
- Condition 9 access/interpretation parity, continuous access or equal quality detours; like for like interpretation; reinstatement key parameter indicators (KPIs); verification.

**C. Direct funding/compensation).**

- The scale of impacts and the significant net loss to conservation alongside consideration that no true equivalent exists for Rise and Shine's landscape scale heritage and the spring annual strongholds, any revocation should in DOC's view require a compensation deed (condition precedent) to fund projects which will deliver conservation projects relative to the scale of impacts and values lost.

**9. Additional information**

- 9.1. The Applicant proposes a new covenant be created post-mining in favour of Central Otago District Council (CODC) under resource consent conditions, rather than having a specific conservation values purpose. CODC have indicated it does not support adopting or holding the new covenant. As the proposal stands DOC would not hold or support any substitute covenant, as the proposal would permanently reduce values protected by the existing Bendigo conservation covenant, and a post-mining instrument would not constitute an equivalent replacement or restore the covenant's perpetual-protection intent. DOC is concerned about the lack of long-term management to secure any gains in relation to the fenced sanctuary areas also proposed to be covered by a new covenant, if the fences are compromised benefits will be at high-risk.
- 9.2. The Applicant has not provided a covenant-specific conditions package in relation to the revocation; instead, reliance is placed mainly on RMA conditions and management plans to manage the impact on the values which will be incurred if the covenant is revoked or amended.
- 9.3. In contrast, a decision under the conservation covenant pathway can be supported by specific covenant-decision conditions as per Schedule 6 clause 46.
- 9.4. Whilst DOC anticipates that the applicant may advocate that the proposal to protect a future area via a new covenant(s) and the proposed enhancement of values via broader rehabilitation aligns with the intent of these provisions, DOC does not support that perspective.
- 9.5. DOC is concerned that the future plans to establish a new covenant over the project site are not well considered. This is because consultation has demonstrated a lack of support from CODC the

proposed benefitted party and the reliance on a private party to take on a covenantor poses uncertainty, particularly in relation to fenced sanctuary areas which would need to be managed on an ongoing basis to realise and maintain the gains as are proposed by the applicant.

- 9.6. Further there is a lack of certainty around the values which will be present at the time a future covenant is established.
- 9.7. Notwithstanding broader concerns around the appropriateness of the proposed 'Biodiversity and Heritage Fund' DOC does also not support in principle that the fund forms part of the proposed resource consent conditions (application document D.03 condition C46), and recommends any compensation or fund is addressed in a condition specific to the covenant approval and facilitated by a deed in favour of DOC as the relevant administering agency.

## 10. Conditions

- 10.1. Under Schedule 6 clause 46 the Panel may set conditions relating to the use of land when amending or revoking a conservation covenant, including:
- a) In the case of revocation, the protection by the applicant of equivalent land outside the covenant area; and
  - b) In the case of variation: the carrying out by the applicant of works to enhance conservation values on land that remains within the covenant.
- 10.2. DOC's view is that the panel's ability to set specific conditions in relation to a covenant revocation is not limited to the above and there is opportunity for the panel to consider additional conditions that have regard to the approval sought and which may lessen the impacts on conservation values that will be compromised and/or improve conservation outcomes.
- 10.3. If the Panel is of a mind to progress the proposed revocation DOC strongly supports that conditions create direct positive obligations in relation to the revocation of the covenant and relative to the impacts on conservation that will be directly incurred (as per Section 8)
- 10.4. As part of the ongoing process, and at the applicant's request<sup>2</sup> DOC is undertaking further work to determine an adequate, outcomes-based compensation package which could inform a future compensation deed.
- 10.5. DOC has provided example of conditions which could be adopted if the panel amended the existing covenant in Appendix B.

## 11. Treaty of Waitangi settlement considerations and obligations

- 11.1. Under section 7 of the Act the Panel must act in a manner that is consistent with obligations arising under existing Treaty settlements.

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<sup>2</sup> Noting the applicant has only requested detail around potential heritage projects which could be directly attributed to the fund

- 11.2. DOC has provided broader commentary on Treaty settlement considerations and obligations in the DOC Approvals Covering Report. Further considerations specific to the covenant are addressed below.
- 11.3. DOC notes the covenant is on private land and the instrument contains no explicit NTCSA recognition and was primarily developed before the enactment of the NTCSA. Nevertheless, DOC supports ongoing engagement with mana whenua on freshwater and biodiversity matters linked to augmentation, hydrology, and threatened species protection.
- 11.4. Decisions to amend/revoke the Bendigo covenant should reflect the Ngāi Tahu Claims Settlement Act 1998 (Statutory Acknowledgements in Otago, e.g., Mata-au/Clutha River) and DOC–Ngāi Tahu protocols issued under the settlement, which together require meaningful Ngāi Tahu participation and recognition of cultural associations when altering conservation protections.
- 11.5. Recent planning material for nearby upper-slope development in the southern part of the covenant (JKH Holdings, SH8) records mana whenua submissions (Aukaha on behalf of Kāti Huirapa Rūnaka ki Puketeraki, and Te Ao Mārama Inc for Waihōpai Rūnaka) expressing concern that built development and removal of schist outcrops domesticate culturally significant upper-slope landscapes. The planner notes no Cultural Impact Assessment (CIA) was provided and treats cultural effects as at least minor and potentially more than minor, aligned with landscape effects. While that case is distinct, it illustrates local rūnaka concerns about cumulative change to cultural landscapes within the wider Dunstan/Upper Clutha context.
- 11.6. The Bendigo conservation covenant was created under Land Act 1948; Te Rūnanga o Ngāi Tahu was consulted, and cultural values formed the decision to protect the area as conservation covenant.
- 11.7. While cultural values are not expressly mentioned in the covenant objectives, the covenant impliedly protects those values including landscape and any native flora and fauna species that are considered taonga.

## 12. Appendices

**Appendix A:** Detailed Assessment of Effects

**Appendix B:** Conditions related to a partial revocation or amendment

**Appendix C:** Legal Submissions DOC re Conservation Covenant

**Appendix D:** Application for exchange of property rights – 1993

**Appendix E:** The Rich Fields of Bendigo, Jill Hamel - 1993

