

25th March 2026

Fast-track Approvals Act: Complex freshwater fisheries report

Section 51(2)(e) complex freshwater fisheries activity approval report
for – FTAA-2507-1089 Bendigo-Ophir Gold Project

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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 an approval and dispensations that would otherwise be applied for under regulation 42 or 43 of the Freshwater Fisheries Regulations 1983 (complex freshwater fisheries approvals) in relation to damming/diverting water courses and a culvert that will permanently block fish passage.
- 1.3 On 8 December 2025, in accordance with section 51(2)(e) 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 4 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. 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 the Department of Conservation (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 complex freshwater fisheries approvals.
- 2.2 In accordance with clause 4 of Schedule 9, this report must address the following matters:
 - The alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines; and
 - The management of risks to freshwater values or habitat, including prevention of access to or spread of invasive species; and
 - The availability and quality of the habitat upstream and downstream from the proposed activity; and
 - The presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity; and
 - The advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity; and
 - Any conditions that should be imposed in accordance with clause 6 or section 84.

3. The freshwater fisheries approvals sought

3.1 The applicant has applied for two complex freshwater fisheries approvals (CFF approval) which are described by the application in document A.11¹ as:

- I. **Dispensation** under Regulation 43 (damming or diverting a watercourse) of the Freshwater Fisheries Regulations for:
 - i. The Shepherds CWDC - being the realignment of Shepherds Creek around the Shepherds Service Corridor and Processing Plant Area within the Shepherds Valley Site;
 - ii. Various clean water diversion channels with the Shepherds Creek catchment - being the diversions of the Shepherds Creek and associated tributaries around the TSF, Shepherds ELF and other mine components; and
 - iii. Various clean water diversion channels within the Rise and Shine Creek catchment - being diversions of the Rise and Shine Creek and associated tributaries around the SRX ELF, SRX Open Pit and RAS Open Pit.
- II. **Approvals** in respect of complex freshwater fisheries activities in relation to Regulation 42 (culvert).

3.2 In short, the applicant is seeking dispensation from the requirement to provide fish passage facilities for the proposed diversions. The applicant is also seeking approval to construct a culvert in the bed of Rise and Shine Creek that could technically impede fish passage. The applicant is not seeking a CFF approval in relation to any dam as part of their proposal.

3.3 The indicative locations of the activities are shown in C.19 and C.36 of the substantive application.

4. Summary of DOC's report

4.1 Overall, DOC has no significant concerns with the proposed activities given the absence of fish demonstrated in impacted areas.

¹ [A.11-Section-4-Approvals-Sought- Redacted.pdf](#)

4.2 Whilst DOC has no significant concerns with the CFF approvals sought, should the proposed diversions or the location of the culvert change, then a new freshwater fisheries application may be required. It is recommended this is recorded in an approval document. Should the applicant make any material changes to the culvert or diversion proposals in this process, DOC can provide additional advice on those changes and any implications for fish passage issues.

5. Sources

5.1 This report draws on information from the substantive application and provided by the applicant post-lodgement, in particular:

- **Substantive application documents.** Provided as documents A.01 - A.17. In particular, this report draws on information from the Project Description (A.10) and Approvals Sought (A.11).
- **Bendigo-Ophir Gold Project: Assessment of Effects on Aquatic Habitat** (Water Ways Consulting, 2025). Provided as part of the application as B.17.
- **Bendigo-Ophir Gold Project: Assessment of Freshwater Ecological Effects** (Boffa Miskell, 2025). Provided as part of the application as B.18.
- **Substantive Application Updates Summary Memorandum** (provided 10 March 2026 to the EPA).

6. Statutory Context

6.1 Under the Act (clause 7 of Schedule 9), a complex freshwater fisheries activity approval is deemed to be issued under regulation 42 or 43 of the Freshwater Fisheries Regulations 1983 (FFR).

6.2 As outlined in Section 3 of this report the applicant is applying for approval of a culvert in the bed of Rise and Shine Creek (FFR regulation 42) and for a dispensation from the requirement to provide a fish facility as part of diversion activities (FFR regulation 43).

7. Detailed assessment of the proposals

7.1 DOC has used the report information requirements set out in Schedule 9 clause 4 of the Act as a framework for providing this advice.

The alignment of the proposed activity with best practice and the New Zealand Fish Passage Guidelines (clause 4(a))

7.2 The New Zealand Fish Passage Guidelines² set out the best-practice approaches and design standards for providing fish passage at instream structures. The Guidelines provide a basis for developing suitable infrastructure designs in the majority of situations regularly encountered in New Zealand.

Culvert approval

7.3 The applicant has not provided the full information required by clause 3, including the design characteristics and dimensions of the proposed culvert, leaving this detail to a later stage.

7.4 Notwithstanding the above, DOC's view is that providing for fish passage at this culvert would provide no significant benefits for freshwater values and that therefore alignment with best practice may not be required, given the:

- intermittent nature of the stream at the proposed structure's location;
- absence of fish in Rise and Shine Creek;
- absence of At-Risk or Threatened macroinvertebrate species that might warrant the provision of fish passage in the absence of fish; and
- habitat typology in the creek upstream and downstream of the structure;

7.5 Resource consent conditions should otherwise ensure best practise is considered.

Fish facility dispensation (diversions)

7.6 DOC has not identified any issues with the proposed fish facility dispensation based on the absence of fish and At-Risk or Threatened invertebrates. In addition, there are no established national best practice guidelines to consider this proposal against.

The management of risks to freshwater values or habitat, including prevention of access to or spread of invasive species (clause 4(b))

7.7 No specific risks to freshwater fish values or habitat have been identified by DOC in relation to either CFF approval sought based on the information provided by the applicant to date.

7.8 It is DOC's view that risks to broader freshwater values should be managed by appropriate resource consent conditions.

² See: [New Zealand Fish Passage Guidelines | Earth Sciences New Zealand | NIWA](#)

The availability and quality of the habitat upstream and downstream from the proposed activity (clause 4(c))

Culvert approval

- 7.9 Given the rationale provided in paragraph 7.4, DOC does not believe that there are any further considerations in relation to upstream and downstream habitat quality.

Fish facility dispensation (diversions)

- 7.10 DOC concurs with the applicant's assessments that were provided in relation to upstream and downstream habitat. DOC has not identified any issues or further considerations in relation to this specific approval and habitat.

The presence of threatened, data-deficient, or at-risk species under the New Zealand Threat Classification System in the vicinity of the proposed activity (clause 4(d))

- 7.11 There is no information which demonstrates the presence of Threatened, At-Risk species or Data Deficient species in the vicinity of the proposed activities and based on this information, DOC's view is that fish passage facilities would provide no additional benefit.
- 7.12 The applicant has provided information relating to species present in waterways in the vicinity of the proposed activity, as summarised in the Table 1 below. This information relates to the Bendigo Creek catchment – including Bendigo Creek, Rise and Shine Creek and Clearwater Creek.
- 7.13 Electric fishing surveys undertaken at Bendigo Creek only collected brown trout, and they were limited to a short perennial reach of Bendigo Creek.
- 7.14 In regard to Rise and Shine Creek and Clearwater Creek, electric fishing (Allibone 2020) and eDNA sampling (Water Ways 2025) have not detected any fish present. These results suggest that kōaro do not penetrate far upstream in the Bendigo catchment.

Table 1: Summary of species present in Bendigo Creek Catchment

Common name	Scientific name	New Zealand Threat Classification Status
Kōaro	<i>Galaxias brevipinnis</i>	At Risk – Declining
Brown trout	<i>Salmo trutta</i>	Introduced and naturalised

- 7.15 Kōaro have only been detected using eDNA sampling and the population appears to be centred in Bendigo Creek upstream of the brown trout population. Electric fishing upstream of the brown trout population by Water Ways (2025) and previous electric fishing (Allibone 2020) 100-200 metres further upstream did not locate kōaro. In this area of Bendigo Creek, access is difficult and the stream flows under boulders or deep pools that provide refuge from electric fishing.
- 7.16 DOC notes that the environmental DNA (eDNA) assessment provided by E3 Scientific indicates the presence of *Galaxias* DNA sequences other than kōaro (*G. brevipinnis*) but this was not recorded in the later assessment by Dr Allibone, nor did he comment on it. The sampling methodology uses a low replication of sample collection which could result in a low eDNA detection rate. This creates uncertainty as to the indigenous fishes in the Bendigo Creek Catchment.
- 7.17 If another *Galaxias* species is present, DOC assesses that it is most likely to be Clutha flathead galaxias (*Galaxias* “species D”), as outlined in the comments of Dr Dunn (See DOC Approvals Covering Report). Clutha flathead galaxias have a conservation threat status of Threatened – Nationally Vulnerable and are present in Lindis River tributaries, in Lake Dunstan and Clutha River tributaries between Cromwell and Queensberry on the true right of the Clutha River Valley.
- 7.18 As above, it is noted that there is some uncertainty regarding the indigenous freshwater fish present in the Bendigo Creek catchment. Whilst DOC does not consider this critical to these approvals further survey work in the Bendigo Creek catchment could be beneficial to inform which freshwater fish species are potentially present, their local population demographics, and extent of habitat occupied.
- 7.19 Based on the information provided in the application DOC concurs with the assessments provided as part of the broader Fast-track application that there are no freshwater fish species present in Shepherds Creek.

The advantages and disadvantages of providing fish passage upstream or downstream of the proposed activity (clause 4(e))

- 7.20 DOC’s view is that fish passage facilities would provide no significant advantage for freshwater values because of the lack of fish present.

8. Conditions

- 8.1 Clause 4(f) of Schedule 9 sets out that this report must include information about any conditions that should be imposed in accordance with clause 6 or section 84.
- 8.2 Clause 6 provides that a panel may impose conditions it considers necessary to manage the effects of the activity on freshwater fish species, taking into account best practice standards and the New Zealand Fish Passage Guidelines. Section 84 relates to the setting of conditions to recognise or protect a relevant Treaty settlement and obligations under other specified legislation.
- 8.3 DOC has not identified any conditions for either CFF approval that should be imposed by the panel.
- 8.4 The applicant has proposed conditions relating to culvert design as part of the ORC condition set in D.02 Otago Regional Consents and Conditions (page 6). DOC defers to ORC in relation to culvert design conditions.

9. Other considerations

- 9.1 Should the panel grant the CFF approvals sought, DOC recommends that it is clear that the CFF approvals relate to the locations identified in the substantive application as per application documents C.19 (Indictive Rise and Shine Creek Culvert Location) and C.36 (Proposed Stream Diversions).
- 9.2 Should the proposed activities or locations change materially as part of the approval process then DOC would seek further opportunity to comment to ensure its advice to the panel remains current.
- 9.3 These matters could also be considered as advice notes to any resource consent conditions.

10. Treaty of Waitangi settlement considerations and obligations

Treaty of Waitangi settlement obligations

- 10.1 Under section 7 of the Act the Panel must act in a manner that is consistent with obligations arising under existing Treaty settlements.
- 10.2 DOC has provided broader commentary on Treaty settlement considerations and obligations in the DOC Approvals Covering Report.
- 10.3 None of the species affected by the complex freshwater fisheries approvals application are taonga species under Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998, although they may still have significance to Treaty partners.

10.4 As noted in MFE's section 18 report, Shepherds Creek, Rise and Shine Creek, and Bendigo Creek are tributaries of Mata-au. Mata-au and Te Wairere are both subject to a Statutory Acknowledgement and Deed of Recognition under the Ngāi Tahu Claims Settlement Act 1998.