

NEW ZEALAND

**CONSERVATION AUTHORITY**  
TE POU ATAWHAI TAIAO O AOTEAROA

## Your Comment on the Bendigo-Ophir Gold Project application by Matakanui Gold Limited

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email.

<b>1. Contact Details</b>	
Please ensure that you have authority to comment on the application on behalf of those named on this form.	
<b>Organisation name (if relevant)</b>	New Zealand Conservation Authority
<b>First name</b>	Dr Rick McGovern-Wilson
<b>Last name</b>	Executive Officer
<b>Postal address</b>	PO Box 10420, Wellington 6143
<b>Home phone / Mobile phone</b>	<b>Work phone</b> [REDACTED]
<b>Email (a valid email address enables us to communicate efficiently with you)</b>	<a href="mailto:nzca@doc.govt.nz">nzca@doc.govt.nz</a>

<b>2. We will email you draft conditions of consent for your comment</b>	
<input checked="" type="checkbox"/> I can receive emails and my email address is correct	<input type="checkbox"/> I cannot receive emails and my postal address is correct

**Thank you for your comments**

# **New Zealand Conservation Authority – Comments under the Fast-track Approvals Act 2024**

---

## **Bendigo-Ophir Gold Project - Matakanui Gold Limited (Santana Minerals Limited)**

### **1. Introduction**

The New Zealand Conservation Authority (NZCA) acknowledges and appreciates the opportunity given by the Expert Consenting Panel (Panel) to comment on this application, pursuant to section 53(2)(m) of the Fast-track Approvals Act 2024 (FTAA). The NZCA offers these comments in line with its statutory role as an independent body established under the Conservation Act 1987. The Authority's responsibilities include advising on matters of national conservation importance, overseeing the development and implementation of conservation strategies and plans, and ensuring the management of natural and cultural resources aligns with the principles of the Treaty of Waitangi.

These comments are based on the application and material required under section 18 of the FTAA, which identifies relevant iwi authorities, Treaty settlement entities, and MACA applicants, as well as the Crown's statutory obligations in relation to existing Treaty settlements and customary rights. The NZCA's views also take into account the Director-General of Conservation's technical advice prepared under sections 51(2)(a), (b) and (c) of the FTAA regarding concessions, partial revocation of a conservation covenant, and wildlife approvals sought for lizards and avifauna.

In doing so, the NZCA offers a national conservation perspective to help the Panel ensure the application is assessed in a way that protects the environment, statutes, and mana whenua rights. The Authority acknowledges the significance of infrastructure development at a national level but stresses that such development must not compromise Aotearoa's conservation duties or the Crown's responsibilities under Te Tiriti o Waitangi.

## **2. Application Summary Relevant to NZCA Functions**

Matakanui Gold Limited (a wholly owned subsidiary of Santana Minerals Limited) has submitted an application, under the FTAA for the Bendigo-Ophir Gold Project – a project to mine world class Rise and Shine (RAS) gold deposit and satellite deposits.

The Project will involve four open pits in the first instance, with a larger stage for underground mining and a variety of ancillary mining activities, which include sterile rock storage, a tailings storage dam, processing facilities, water treatment facilities and access roads.

As part of this proposal, the applicant seeks approvals under the Wildlife Act 1953 to disturb, handle, and relocate lizards. Complex freshwater fisheries approval is also sought to divert some streams and creeks within the site to accommodate the mine and associated infrastructure, and to partially revoke a conservation covenant which also protects a nationally significant heritage landscape.

The proposal also engages the Conservation Act 1987, particularly section 4, which requires that all conservation decisions give effect to the principles of the Treaty of Waitangi.

The Ngai Tahu Treaty Settlement Act 1998 is relevant given the impacts potentially on whenua, waterways, mahika kai and taonga species, and the relationship with waahi tupuna (ancestral landscapes) Consideration of cultural values and assessment of mātauranga in the mitigation and rehabilitation proposals are not overly evident in the application.

These matters fall within the NZCA's statutory functions to:

- Provide oversight of conservation and wildlife management
- Ensure consistency with DOC's statutory responsibilities and best practice standards
- Uphold Treaty principles in conservation-related decision-making; and
- Advise on matters of national conservation importance, including protecting taonga species and the integrity of coastal and marine and freshwater ecosystems.

## **3. Assessment Against the Conservation Management Framework**

The NZCA has evaluated this proposal against its statutory conservation oversight role, including under the following legislation:

- Conservation Act 1987
- Wildlife Act 1953
- National Parks Act 1980
- Reserves Act 1977
- Resource Management Act 1991 (and relevant national direction)

The proposal is also assessed against:

- General Policy for Conservation (2005)
- General Policy for National Parks (2005)
- Relevant regional Conservation Management Strategies (CMSs) or Plans
- Current Department of Conservation (DOC) operational standards and guidelines.

### **Comments:**

The New Zealand Conservation Authority has considered the Bendigo-Ophir Gold Project application within the context of the **Conservation Act 1987**, including section 4 (Treaty of Waitangi obligations), the **Wildlife Act 1953**, and the **Otago Conservation Management Strategy**, alongside the provisions and intent of the Bendigo Conservation Covenant.

This submission focuses on whether the proposal is consistent with the statutory requirement to **protect and enhance conservation values**, including indigenous biodiversity, landscape integrity, and historic heritage, and whether it gives proper effect to Treaty obligations.

In particular, the Authority has assessed the proposal across the following key areas:

- the integrity and perpetual obligations of the conservation covenant
- the application of section 4 of the Conservation Act and the Treaty framework
- effects on indigenous wildlife, with a focus on lizards and associated ecosystems
- effects on historic heritage as an interconnected heritage landscape

The central question for the Authority is whether the proposal can be undertaken in a manner that **maintains and enhances the values protected in perpetuity**, without fragmentation, and with sufficient certainty to meet statutory and Treaty obligations.

### **NZCA Position**

The NZCA consider that the proposal **does not** demonstrate that obligations that sit within the conservation statutory framework can be met.

Our concerns centre around the impacts on a perpetually protected covenant landscape, uncertainty in ecological outcomes, particularly for lizards and associated habitats, and significant and irreversible heritage effects. Also of concern is incompleteness of the assessments and information provided.

The scale of effects, combined with uncertainty in ecological outcomes, incomplete information, and reliance on unproven mitigation approaches, is significant, and **the NZCA recommend the application should not proceed.**

## 4. Conservation Covenant – Perpetual obligations and integrity

### 4.1 Perpetual nature and purpose

- The Conservation Covenant, created under section 77 of the Reserves Act 1977, and applying to the lands that form an integral part of the application is a binding agreement between the Crown and the landholder, registered against the land title and expressed to apply **in perpetuity**.
- The Covenant was established to protect the following conservation objectives<sup>1</sup>:
  1. Protecting and enhancing the natural character of the land with particular regard to the natural functioning of ecosystems and to the native flora and fauna in their diverse communities and dynamic inter-relationships with their earth substrate and water courses and the atmosphere.
  2. Protecting the land as an area representative of a significant part of the ecological character of the Dunstan Ecological District as referred to in the draft survey report for the Protected Natural Areas Programme for the Lindis Pisa and Dunstan Ecological Districts dated February 1987.
  3. Maintaining the landscape values of the land as referred to in the “Application for exchange of property rights” submitted to the Commissioner of Crown Lands.
  4. Maintaining the historic values of the land as referred to in 'The rich fields of Bendigo' by Jill Hamel February 1993.”<sup>2</sup>
- It establishes clear and enduring obligations to:
  1. Protect and enhance natural character, ecosystems, flora and fauna
  2. Maintain representative ecological values
  3. Protect landscape values.
  4. Protect historic heritage values
- These obligations are not discretionary. They run with the land and apply to all subsequent owners.
- The covenant reflects a considered outcome of Crown processes and carries with it an expectation of **enduring protection and enhancement of significant values**, not their diminution.

### 4.2 Status and increasing significance of covenant values

- The values protected by the covenant are **regionally and nationally significant**, particularly in relation to:
  - dryland ecosystems
  - indigenous biodiversity

---

<sup>1</sup> See E.04-Bendigo Conservation Covenant 2000 Redacted.pdf

- intact landscape and heritage systems
- Since the covenant was developed in the 1990s and signed in 2000, recognition of the importance and rarity of these values has increased.
- The protections in place are therefore of **greater importance** than when agreed between the Crown and the landholder, not lesser.

#### 4.3 Applicant characterisation of site condition

- The applicant states:

“the site is degraded due to existing and historic land use practices – including as a result of pest species in the catchment”.<sup>3</sup>

- This characterisation is **not** accepted.
- Since execution of the covenant, the landholder has been obligated to:
  - protect and enhance ecological values
  - manage pest plants and animals
- The factors described as “existing and historic” are therefore, at least in part, matters for which the landholder has held ongoing responsibility under the covenant.
- In addition the ‘historic land use practices’ referred to also include those that the covenant refers to in ‘The rich fields of Bendigo’ document.
- This framing raises clear concerns as to the applicant’s recognition of, and commitment to, the existing obligations associated with the covenant, as well as any future commitments the applicant may seek to make.

#### 4.4 Integrity of the covenant and limits of modification

- The covenant is a **perpetual protection mechanism**, not a flexible land-use tool.
- Any proposal to amend or revoke the covenant must be:
  - exceptional
  - clearly justified
  - strictly limited to the minimum footprint required for direct disturbance
- No wider revocation, enabling of future expansion, or “land banking” approach is appropriate.
- Existing activities (such as exploration) have occurred within the covenant without full revocation, indicating that blanket removal of protections is not necessary for all activities.

---

<sup>3</sup> See Applicant’s comments in Section 5 ‘Adverse effects’ in E.04-Bendigo-Conservation-Covenant-2000\_Redacted.pdf

#### 4.5 Fragmentation and ongoing obligations

- It is critical that the covenant area is not fragmented in ecological, landscape, or heritage terms.
- The mine, if considered, must remain a **contained activity within a wider protected landscape**, not a mechanism for reducing the standing of that landscape.
- At all times, the landowner's obligations under the covenant must continue to apply, including:
  - pest plant and animal control
  - maintenance and enhancement of ecological values
- Any proposal must demonstrate that:
  - covenant values remain intact
  - those values are strengthened and enhanced
  - adjoining and remaining covenant land receives **increased and enduring protection**, not reduced protection
- The proposal should be understood and delivered in a way that supports and enhances **existing protections**.

We note that the partial revocation of the conservation covenant is not supported by DOC.

## 5. Treaty Framework – Section 4 and tenure context

### 5.1 Statutory obligations

- Section 4 of the Conservation Act requires that the Act be interpreted and administered so as to give effect to the principles of the Treaty of Waitangi.
- This includes:
  - active protection of taonga
  - partnership with Ngāi Tahu
  - informed decision-making
- The covenant sits within this broader statutory framework, including obligations arising from the Ngāi Tahu Claims Settlement Act 1998.

### 5.2 Adequacy of information and assessment

- Available reporting identifies limitations in the applicant's technical material and supporting assessments.
- At the time of reporting (24 March 2026), a number of technical reports remained unavailable, including following the close of consultation with Ngāi Tahu.
- This raises concern that:

- assessment has occurred on an incomplete evidential basis
- mitigation and rehabilitation proposals lack sufficient certainty
- further trials or adaptive responses may be required to address unresolved effects
- This level of uncertainty is not consistent with the requirement for informed decision-making under section 4.

### **5.3 Tenure review context and origin of protections**

- The covenant arises from Crown pastoral tenure review processes involving multiple agencies and Ngāi Tahu engagement.
- Land identified as having significant conservation, landscape, and cultural values was secured through protective mechanisms, including conservation covenants.
- The protections at Bendigo Station are therefore the result of a considered Crown process, informed by iwi interests and public values, rather than an incidental outcome.
- Any proposal to alter those protections must be considered in light of that origin and the expectations attached to it.

### **5.4 Cultural values and mātauranga**

- Cultural values and mātauranga Māori are not strongly evident within the mitigation and rehabilitation framework presented.
- This raises questions as to whether sufficient regard has been given to relationships with:
  - whenua
  - waterways
  - mahika kai
  - taonga species
  - wāhi tupuna
- The Ngāi Tahu Claims Settlement Act 1998 is relevant in this regard, particularly in relation to the recognition of these relationships.

### **5.5 Taonga species and kaitiakitanga**

- Statutory lists of taonga species noted in the Ngai Tahu Act are not exhaustive.
- The absence of particular species, including some invertebrates affected by the proposal, does not preclude their recognition as taonga.
- The principle of kaitiakitanga applies across the full range of indigenous biodiversity and habitats.

### **5.6 Treaty context and covenant relationship**

- Care is required to ensure that section 4 principles – partnership, active protection, and informed decision-making – are properly given effect.

- This is particularly important given that the covenant is a binding agreement between the Minister of Conservation, on behalf of the Crown, and the landholder.
- The pace and structure of the fast-track process may limit the ability to fully work through complex cultural, ecological, and landscape matters.
- Any proposal to amend or revoke that covenant therefore directly engages those Crown obligations and relationships and must be approached in a manner that fully reflects them.

## 6. Wildlife – Effects on indigenous species (lizards and invertebrates)

### 6.1 Significance of affected populations and habitat

- The proposal affects indigenous wildlife protected under the Wildlife Act 1953, with a particular concentration of effects on lizard species, alongside likely but less well understood impacts on avifauna and indigenous invertebrates.
- The habitats within the covenant area are characteristic of Central Otago dryland ecosystems and support **high-value lizard assemblages** and associated invertebrate communities. These habitats are regionally and nationally significant due to their rarity, intactness, and ecological function.
- The scale of habitat affected represents a meaningful proportion of local populations, with some populations likely extending beyond currently surveyed areas.
- The proposal is understood to affect a measurable proportion of the **national habitat of Kawerau skink**, with estimates indicating approximately **7% of its known habitat** may be impacted. This represents a significant effect at a national scale for a highly vulnerable species.
- Not all areas subject to disturbance have been fully surveyed. This creates uncertainty as to the full extent of affected populations and includes the potential presence of rarer species, including **Lake's skink**, which is of very high conservation significance.
- Indigenous invertebrate communities are also likely to be affected through habitat disturbance and modification. These effects are not well characterised in the application, despite their integral role in dryland ecosystem function and their association with lizard habitat.

### 6.2 Nature and scale of effects

- The proposal includes habitat clearance and modification across areas known to support lizard populations and associated invertebrate communities.
- It also involves the capture, handling, and translocation of lizards, with associated risks of stress, injury, and mortality.
- The Department of Conservation estimates, based on the applicant's data, that approximately 500-750,000 lizards will be affected, with a mortality potentially at 400-650,000 lizards.

- A substantial proportion of habitat within the project area will be directly or indirectly affected, including habitat that supports both lizards and invertebrates.
- Mortality rates associated with capture and relocation are expected to be significant, with residual effects remaining high even after mitigation.
- The proposal seeks broad authorisation for the **accidental harm or death of protected wildlife** during construction and operation. Such a blanket allowance is not consistent with the level of protection afforded under the Wildlife Act and is not considered acceptable, particularly given the scale of potential effects and the presence of high-value species and habitats.

### 6.3 Uncertainty and limitations of mitigation

- There is uncertainty in baseline ecological information, including incomplete survey coverage across the covenant area.
- There is limited confidence in the effectiveness of large-scale translocation and habitat reconstruction for lizard populations.
- The extent and nature of effects on indigenous invertebrates are not well understood or adequately assessed.
- Proposed mitigation relies on methods that are not well proven at the scale proposed.
- The long-term survival and recovery of affected populations and ecological communities remains uncertain.
- Overall, the application does not demonstrate sufficient understanding of, or provision for, the ecological relationships between lizards, invertebrates, and the habitats that support them.

### 6.4 Statutory context

- These effects engage the Wildlife Act 1953, which affords full protection to indigenous fauna and in particular lizard species.
- They also engage the Conservation Act and the Otago Conservation Management Strategy, which require protection and enhancement of indigenous biodiversity, including ecosystem function.
- Given the scale of impact, the presence of high-value species and habitats, and the level of uncertainty in outcomes, the proposal does not demonstrate consistency with the level of protection required for indigenous wildlife, including taonga species and associated ecological systems.

## 7. Historic Heritage – Landscape integrity and protection

### 7.1 Nature and significance of heritage values

- The Bendigo area comprises an **interconnected archaeological and cultural landscape**, rather than a series of isolated sites. It is one of the only heritage goldfields landscapes remaining in New Zealand that exhibits a full suite of late 19<sup>th</sup> through early 20<sup>th</sup> century mining technology.
- This includes 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.
- The significance of the site derives from:
  - the continuity of historic features across the landscape
  - the relationships between sites, landforms, and historic activity
  - its ability to convey the history and patterns of use of the area as a whole
- These values are recognised as being of **high heritage significance**, extending beyond individual recorded sites.
- Dr Matthew Schmidt, in Appendix H of the DOC s51 Covering Report, states “*The [Conservation] 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 area is preserved. The tangible remains present, alongside Dr Lloyd Carpenter’s detailed social history of Bendigo (the intangible component of the history of Bendigo), means we have a rare continuous insight into the history of a sluicing, then hard rock gold mining community, that lived at Bendigo from the 1860s through to the Depression.*”
- The applicant’s Revised B.34 Heritage Assessment diminishes the value of the historic heritage by assessing the archaeological sites as individual sites, rather than as part of an integrated heritage landscape. This is non-sensical and not accepted archaeological practice in New Zealand.
- It also fails to consider previous work undertaken by experienced goldfields archaeologists, nor does it evaluate the loss of sites against the early landscape analysis undertaken by Dr Jill Hamel in the early 1990s.<sup>4</sup>

### 7.2 Nature and scale of effects

- The proposal would result in:
  - destruction of key archaeological features
  - modification of landforms associated with historic activity

---

<sup>4</sup> Hamel, Jill. 1993. The Rich Fields of Bendigo. Report for the Department of Conservation.

- loss of context for remaining features
- These effects extend beyond individual sites to impact the **integrity of the wider historic landscape**.

### 7.3 Fragmentation and loss of context

- The proposal would fragment the relationships between sites that give the landscape its meaning and coherence.
- Treating sites as discrete features understates their value and does not reflect the way in which the landscape is experienced or understood.
- Once the continuity of the landscape is disrupted, it cannot be meaningfully restored.

### 7.4 Limitations of mitigation

- Proposed mitigation measures are not sufficient to address the scale of impact.
- Recording or partial preservation of individual features does not compensate for:
  - loss of landscape context
  - loss of inter-site relationships
  - loss of cumulative heritage value
- The effects are therefore **permanent and irreversible**.

### 7.5 Statutory and policy context

- These heritage values are recognised within the statutory framework, including protections relating to archaeological sites and historic heritage.
- There is an expectation that such values will be protected for present and future generations.
- The scale and nature of effects proposed are not consistent with that expectation.

## 8. Concluding Statement

### 8.1 Overall position

The NZCA thanks the Panel for the opportunity to comment on this application under the FTAA. The Authority acknowledges the strategic importance of nationally significant projects such as mining and recognises the role of the FTAA in facilitating the timely delivery of such projects.

However, it also emphasises that this should not come at the expense of Aotearoa New Zealand's conservation responsibilities, the protection of taonga species, or the Crown's obligations under Te Tiriti o Waitangi.

## 8.2 Conservation Covenant

The Conservation Covenant applying to the lands that form an integral part of the application establishes an enduring obligation to **protect and enhance a landscape of very high ecological, heritage, and cultural value, in perpetuity.**

- These obligations sit within a statutory framework that include:
  - Conservation Act (including section 4 Treaty obligations)
  - Wildlife Act
  - Otago Conservation Management Strategy
- Together, these require:
  - active protection of taonga
  - maintenance and enhancement of indigenous biodiversity
  - protection of landscape and heritage integrity
  - informed decision-making in partnership contexts

## 8.3 Assessment of the proposal

- The proposal does not demonstrate that these obligations can be met.
- In particular, it does not provide confidence that:
  - covenant values will be protected and enhanced in perpetuity
  - Treaty principles, including active protection and partnership, are able to be fully given effect
  - taonga species, including lizards and associated ecosystems, will be adequately protected
  - the integrity of the historic and cultural landscape will be maintained
- The scale of effects, combined with uncertainty in ecological outcomes, incomplete information, and reliance on unproven mitigation approaches, is significant.

## 8.4 Threshold for consideration

- Any proposal would need to meet a **very high threshold**, including:
  - no fragmentation of covenant values across the wider landscape
  - covenant modification limited strictly to the minimum footprint required
  - demonstrable protection and enhancement of ecological, heritage, and landscape values
  - high certainty of outcomes, supported by robust and complete information
  - enduring strengthening of protection for remaining covenant land
- The proposal, as presented, does not meet this threshold.

## 8.5 Final position

- The combination of:
  - impacts on a perpetually protected covenant landscape
  - uncertainty in ecological outcomes, particularly for lizards and associated habitats
  - significant and irreversible effects on a nationally significant heritage landscape
  - limitations in information and process

indicates that the required standard is unlikely to be achieved.

In the absence of a demonstrably robust and precautionary approach that fully gives effect to the covenant and the principles of the Treaty of Waitangi, the **application should not proceed**.