

BEFORE THE EXPERT PANEL

FTAA-2507-1089

**UNDER
IN THE MATTER**

Fast-track Approvals Act 2024
of the Bendigo-Ophir Gold Project

**MEMORANDUM OF COUNSEL (RESPONSE TO MINUTE 56 –
ALTERNATIVE ACCESS TO ARDGOUR RISE)**

Dated 12 October 2026

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TO THE EXPERT PANEL

1. In accordance with Minute 56, this Memorandum provides comment on behalf of Sustainable Tarras on the proposed alternative access to Ardgour Rise as set out in a memorandum from MGL dated 2 October 2026 in response to Minute 54.¹ The location of the proposed New Alternative Access Route (**NAR**) is shown on Appendix 1 to a memorandum from MGL dated 5 October 2026.²
2. Although the due date for such comments was 9 October 2026, Sustainable Tarras seeks leave to file these comments one working day later on the basis that counsel for Sustainable Tarras is currently overseas.

Summary

3. There is insufficient information to understand important details of the NAR proposed by Matakanui Gold Limited (MGL).
4. The effects of the NAR as a long-term public road have not been assessed.
5. Long-term ownership of the road by CODC raises issues given its location in close proximity to features such as the tailings dam wall. Part of the road appears to align with the paper road vested in CODC, for which there is no long-term authorisation post mining. There is no evidence provided that CODC has agreed to acquire responsibility for the NAR.
6. MGL aspirations for future mining beyond this application mean long-term use of the road as a haul road is likely. Integration with the underground mine portal is unclear.

Lack of information to assess nature of New Alternative Route

7. The paucity of detail makes comparison of the New Alternative Route (NAR) with Ardgour Rise challenging, but it is clear that the new route is not “like for like” with Thomson Gorge Road nor Ardgour Rise. Without horizontal and vertical sections, comparison is only guesswork, however it would appear significantly steeper in sections than Ardgour Rise Rev 5 and Thomson Gorge Road.
8. The limited detail of the Landscape Closure Plan “haul road” in the higher parts of the site also means we can only guess at its specifications, however haul roads are normally 10 or more metres wide and built with limited super elevation (i.e. a single plane) and require

¹ https://www.fasttrack.govt.nz/data/assets/pdf_file/0023/37265/Memorandum-of-counsel-response-to-minute-54.pdf

² https://www.fasttrack.govt.nz/data/assets/pdf_file/0023/37481/Memorandum-of-Counsel-New-Alternate-Route-5-October.pdf

significant maintenance if proposed for regular traffic. They are designed for experienced operators who traverse them regularly so crucially they have a different safety standard than what is required for recreational or irregular users. No safety assessment appears to have been undertaken. Gradient and other specifications are required to understand the nature of the road.

9. Consideration of the NAR can only occur once cross sections are prepared similar to the Ardgour Rise Rev 5³ submitted by CODC (as noted previously, this revision was not provided to other participants by MGL as part of MGL's RFI 11 material⁴). If the Panel is to consider this as a realistic option then Sustainable Tarras requests that this information is urgently prepared and provided by MGL for comment by participants.
10. The base map used to show the NAR is outdated⁵ (dated 21.7.25) and does not reflect the boundaries of the Battery Hill Sanctuary amongst other features that have been added or changed during the FTAA process. A new version of the basemap is necessary, showing all features now proposed by MGL.

Lack of effects assessment

11. There has been no assessment of the effects on the environment of the New Alternative Route or its geotechnical stability. Local and expert experience with rehabilitation would indicate this will look like a highly modified landscape for many years. Open pits, water management and tailings structures requiring ongoing maintenance are located immediately adjacent to the NAR.
12. One of the benefits of Ardgour Rise in comparison to the NAR is that it will be some distance from the structures and degraded environment of residual pit lakes, water management structures, and the tailings storage facility, which will still be obviously industrial in nature, compared with the surrounding ONL, for decades if not in perpetuity. The NAR therefore presents a lower value recreational experience for users.
13. MGL describes the route as "already required to be implemented by the Landscape Closure Plan and conditions" (para 37(2)(b)) and explains that it has already been included in the plans, is located in areas of

³ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0024/34872/Attachment-6-the-plan-set-entitled-BOGP-Ardgour-Rise-Rev-5-260729-provided-to-CODC-on-31-July-2026.pdf

⁴ As a result, Sustainable Tarras has not had an opportunity to comment on Rev 5 (as set out in the legal submissions dated 21 September 2026 on behalf of Sustainable Tarras at paragraphs 23 – 26 and 67).

⁵ https://www.fasttrack.govt.nz/_data/assets/pdf_file/0023/37481/Memorandum-of-Counsel-New-Alternate-Route-5-October.pdf

disturbance already understood and that the effects of the disturbances have already been assessed (para 37(d)). This assessment was for a privately used haul road, not a public road to be built and operated in perpetuity. As described above these are quite different. No information is provided regarding implications for water, ecology, landscape, recreation (4WD, cycling and wander at will covenant rights), TSF/ELF dust and heritage outcomes.

Construction and road / land Ownership

14. The assumption is that ownership should pass to CODC for the public road access in perpetuity. However, this creates challenges – for example the NAR traverses the top of the tailings storage facility wall, which is not something CODC should take responsibility for. It appears likely that this section might be closed on occasion for maintenance which does not reflect its public road nature.
15. MGL says all the land involved “is located entirely on land owned by Matakanui Gold” (Para 37 (d)(iii)). This is incorrect as ownership by MGL is reliant on gaining consent, but that aside it is unclear how the NAR relates to the CODC paper road. It would appear that part of the road aligns with the paper road that runs alongside Shepherds Creek, this being a section to the northwest of the RAS Pit. MGL has an access agreement with CODC for the operational period of the mine only and the long-term authorisation of access to the paper road is unclear as there is no evidence provided that CODC have agreed to this.
16. The NAR is proposed to be built starting year 25, at which time it is understood that the Matakiniui Trust will be responsible for all outstanding consents. Adding the construction of a public road to the Trust’s responsibilities is significant and Sustainable Tarras questions whether there is certainty in this outcome. Regardless this responsibility will need to be priced and added to the operational costs of the Trust and covered by the bond.

NAR interaction with Underground Operations & potential for future expansion

17. The NAR appears to cut across the entrance to the underground mine. More information is needed around the underground mining method and impact on land subsidence and impacts to Shepherds Creek in relation to the NAR.
18. Additionally, MGL has made repeated comments to the ASX that they will expand mining beyond the application site in several directions. These statements, coupled with MGL’s additional exploration requests for the Bendigo Historic Reserve, suggest that the road will be required as a haul road in the longer term as any future expansion of the mine will require the haul roads that form part of the NAR to be used for ore

transport to the processing plant and tailings transport to the tailings storage facility beyond the timeframe of this application. Sustainable Tarras considers that this undermines the feasibility of this proposal.

12 October 2026

A handwritten signature in black ink, appearing to read 'Sally Gepp'.

Sally Gepp KC
Counsel for Sustainable Tarras Inc