

Under the **FAST-TRACK APPROVALS ACT 2024**

In the matter of an application for approvals by Matakanui Gold Limited to establish, operate, rehabilitate and ultimately close an open pit and underground gold mining operation known as the Bendigo-Ophir Gold Project

**MEMORANDUM OF COUNSEL FOR OTAGO REGIONAL COUNCIL
RESPONDING TO FURTHER INFORMATION SUBMITTED BY APPLICANT**

7 September 2026

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MAY IT PLEASE THE PANEL:

Introduction

1. This memorandum of counsel for Otago Regional Council (**ORC**) is submitted in response to Minute 46 of the Expert Panel (**Panel**) dated 19 August 2026. At paragraph 9 of the Minute, the Panel invited all parties to comment on further information submitted by the applicant on 17 August 2026, in response to the Panel's RFI 11.
2. ORC wishes to comment on information in the applicant's response in relation to the following topics:
 - (a) various matters relating to the effects of the proposal on groundwater and surface water; and
 - (b) effects on lizards.
3. These matters are addressed in turn below.

Effects on groundwater and surface water

4. ORC's comments in respect of groundwater and surface water are set out in the accompanying memoranda of:
 - (a) Ms Shay McDonald of ORC;
 - (b) Dr Michael Greer; and
 - (c) Ms Alexandra Badenhop.
5. The technical memoranda of Dr Greer and Ms Badenhop identify a number of important limitations regarding the material submitted by the applicant that are relevant to the Panel's decision-making.
6. Ms McDonald's memorandum summarises these points and makes a number of constructive suggestions regarding conditions that could be imposed to account for enduring information gaps and uncertainties. Accompanying her memorandum are two conditions documents (provided in Word format) showing her recommendations in tracking and comment boxes.

Effects on lizards

Introduction and summary

7. As the Panel will be aware, the applicant's response contains an updated proposal to manage effects of the project on lizards.¹ Ms Trudy Anderson, ORC's expert advisor, has reviewed this updated proposal and her feedback has informed ORC's position on these matters, which is outlined below. For the sake of efficiency, this memorandum incorporates Ms Anderson's views (which were provided by email), and Ms Anderson has reviewed and approved the text below.
8. As outlined in the applicant's response to RFI 11, the Ardgour Sanctuary has been removed from the application and replaced with the larger Battery Hill Sanctuary.
9. The applicant proposes to salvage 800 Southern Grass Skink and at least 7,700 Kowarau Gecko from the Direct Disturbance Footprint (**DDF**) and relocate the salvaged individuals of both species into the Battery Hill Sanctuary. Salvaged Kowarau Gecko will also be relocated into the Bendigo Sanctuary.
10. The proposal to release lizards into the Ardgour Restoration Area has been removed from the application, as has the proposal to salvage McCanns Skink. The number of lizards proposed to be salvaged has been significantly reduced in the revised proposal.
11. Ms Anderson considers that there is uncertainty in the quantification of suitable habitat within the sanctuaries and in the lizard population estimations purported by the applicant in its response to RFI 11, and that additional clarification is required in respect of proposed predator control in and around the sanctuaries.
12. Further, some benefits of the original proposal, such as the expected increase in Kowarau Gecko populations within the fenced sanctuaries, will no longer be realised under the revised proposal due to the use of the sanctuaries as release sites; no proportional alternative actions have been proposed.

¹ As outlined within the Applicant's response to Question 10 – Ecology – Lizard Response.

13. Ms Anderson also notes that the new proposal has not been quantified to understand the impact of the changes on proposed offsetting; that is, the applicant's experts have not presented updated biodiversity offset accounting modelling demonstrating the relative merits of the updated proposal (compared to the previous version) or quantifying the residual adverse effects of the updated proposal.
14. Based on Ms Anderson's advice, ORC considers the applicant's updated proposal will result in better survival outcomes for the salvaged individuals than the original proposal, which did not include the release of any lizards into predator-proof sanctuaries. However, the number of lizards proposed to be salvaged is small, both in absolute terms and as a proportion of the expected populations within the DDF.
15. Consequently, ORC considers that the revised proposal will continue to have significant residual adverse effects on lizards.
16. These matters are addressed in more detail below.

Uncertainty in quantification of suitable habitat

17. Based on mapping information previously provided by the applicant, Ms Anderson agrees that:
 - (a) the 52-hectare (**ha**) Battery Hill Sanctuary may provide approximately 4 ha of habitat suitable for Southern Grass Skink, but notes that only minimal field survey has occurred at this site and this has not been sufficient to confirm the extent and density of the existing population;
 - (b) the 29-ha Bendigo Sanctuary is likely to contain habitat that is suitable for Kowarau Gecko;
 - (c) the proposed Battery Hill Sanctuary contains habitat that is suitable for Kowarau Gecko, but the extent of this habitat cannot be determined from the available information. Specifically, some lower elevation areas of this sanctuary are south-facing and appear to contain fewer rocky areas, meaning that those areas do not appear to be favourable Kowarau Gecko habitat.
18. Certainty about the extent of suitable habitat is important because it informs the likely carrying capacity of the sanctuaries.

Uncertainty about lizard population numbers within the DDF

19. The RFI response suggests that the population of Southern Grass Skink within the DDF is likely to be in the order of 9,000 individuals but does not explain how this number has been derived. Ms Anderson considers the number of Southern Grass Skink within the DDF is highly uncertain due to:
 - (a) minimal use of trapping during lizard surveys, which, in Ms Anderson's opinion, is the method most likely to detect this species;
 - (b) minimal trapping survey effort in areas such as the Rise and Shine Creek wetlands (including the proposed Battery Hill Sanctuary) that are likely to provide suitable habitat for this species; and
 - (c) uncertainty in Southern Grass Skink identification during the field survey and reporting period.
20. Ms Anderson considers the estimated population to represent a low- to moderate density for Southern Grass Skinks in this area, whereas the information uncertainties warrant a more conservative approach i.e. to assume that the density of this species is higher.
21. Based on the advice of Ms Anderson, ORC considers that the proportion of Southern Grass Skink proposed to be salvaged may therefore be lower than the 8% indicated by the applicant.
22. With respect to Kowarau Gecko, Ms Anderson considers that estimated population numbers are uncertain because, in her experience, Kowarau Gecko favour areas where rocky habitat is in abundance, and are typically present at lower densities in colder, shady areas such as south facing slopes. There is no information to suggest the applicant has taken the likely variable population density across the DDF into account when estimating the Kowarau Gecko numbers within the DDF. Therefore, the actual population numbers may be higher or lower than the 160,000 predicted by the applicant.
23. Based on the advice of Ms Anderson, ORC considers that there is some uncertainty in the proportion (5%) of Kowarau Gecko proposed to be salvaged from the DDF.

Predator control

24. The updated proposal involves release of salvaged lizards exclusively into the Bendigo and Battery Hill (predator-proof) Sanctuaries. Ms Anderson considers that this will result in better survival outcomes for salvaged lizards as compared with the original proposal to release lizards into the Ardgour Restoration Area.
25. Ms Anderson considers that a 'halo' of predator control surrounding the fenced sanctuaries is of critical importance to avoid or minimise instances of pest incursion through the fences. This is because any pest incursion into a sanctuary will likely necessitate the use of toxins to eradicate the pest, and toxin use will negatively impact the survival of lizards.
26. ORC understands that predator control outside the sanctuaries will be achieved by implementing the Mammalian Pest Management Plan. Consent condition C97 in D.03 *Common Conditions to the Central Otago District Council and Otago Regional Council* sets out the objective and success criteria for each target pest, and this is supported by Attachment 9 which sets out thresholds for additional controls.
27. Ms Anderson is concerned with the success criteria that are set in Condition C97 for rats and mice. These targets do not appear to have been updated to accommodate the revised proposal as it relates to lizards. Specifically, her concerns include:
 - (a) rat and mouse control targets are expressed in relation to the Ardgour Restoration Area (rather than the Sanctuaries) and in relation to undefined 'high value areas' and 'key landscape areas';
 - (b) the target for rats relates to completion of monitoring activities rather than a low population target as detailed for the other predators;
 - (c) the target for mice of 30% occupancy is, in the opinion of Ms Anderson, inappropriately high for 'halo' areas immediately surrounding the sanctuaries and is likely to increase the likelihood of incursions into the sanctuaries; it is also noted that mice are absent from the table in Attachment 9; and

- (d) in addition, the thresholds for all predators need to detail clearly whether the thresholds relate to halo areas surrounding sanctuaries, and / or other management areas separately.
28. ORC considers that Condition C97 requires updating to reflect the revised proposed with respect to lizards. This issue was not identified during the recent conditions workshops due to time constraints.
29. ORC understands that the Ardgour Sanctuary (now removed from the application) was proposed as a 'special case' in respect of rabbit management, whereby rabbit populations within the sanctuary were proposed to be controlled rather than eradicated. The purpose of this was to provide for the specialised management of cushionfield ecosystems within that sanctuary.
30. It is not clear from the response to RFI 11 whether this method of rabbit management is proposed to be undertaken within the new Battery Hill Sanctuary, or whether rabbits will be eradicated from this sanctuary. This should be clarified by the applicant.
31. Ms Anderson notes that there is a degree of incompatibility in trying to achieve good outcomes for both lizards and cushionfield ecosystems within the same sanctuary. This is because, in simple terms, cushionfield ecosystems benefit from herbivory, but lizards benefit from the vegetation cover that would be removed by rabbits. Furthermore, adequate control of rabbits within a sanctuary that is devoid of other mammalian pests would, in Ms Anderson's opinion, almost certainly require regular use of toxins. As noted above, toxin use within the sanctuaries would have negative impacts on lizards.
32. Ms Anderson also notes that successful lizard salvage is predicated on a lizard habitat uplift within the sanctuary areas equivalent to that which has been achieved at Mokomoko Sanctuary near Alexandra.² Mokomoko Sanctuary management includes predator control across the surrounding landscape and an entirely mammal-free environment with minimal toxin use in the fenced sanctuary. It is not clear from the information provided if an equivalent level of management is proposed for the Sanctuaries in this proposal.

² [Mokomoko Dryland Sanctuary](#)

33. Based on the advice of Ms Anderson, ORC considers that, if the Battery Hill Sanctuary is proposed primarily as a measure to reduce the adverse effects of the proposal on lizards, then rabbits must be eradicated from the sanctuary in order to achieve necessary increases in vegetation habitat to support the release of the salvaged lizards. It is likely that this is a simple matter that can be quickly clarified by the applicant.

Uncertainty about lizard populations in the Bendigo and Battery Hill Sanctuaries

34. Ms Anderson notes that RFI 11 did not detail the number of resident Southern Grass Skink expected to be present in the Battery Hill Sanctuary, or the impact on these resident lizards from the release of 800 additional individuals.
35. If the current density of Southern Grass Skink within the areas of suitable habitat within the Battery Hill Sanctuary is assumed to be in the order of 200 lizards per hectare (which is a reasonable density estimate based on the observations of Ms Anderson in nearby areas of Central Otago) then, in order to support the proposed release of 800 additional individuals, sanctuary management would need to achieve a doubling of suitable habitat.
36. ORC considers that the uncertainties in the current population of Southern Grass Skink and Kowarau Gecko within the Sanctuaries, combined with the uncertainty as to what is proposed in terms of pest control, mean that the future carrying capacity of the Sanctuaries, and the ability to sustain resident lizard populations within the Sanctuaries, cannot be estimated with confidence.

McCanns Skink

37. The revised application no longer provides for the salvage of any individuals of McCanns Skink from the DDF. The consequence of this the likely mortality of over 400,000 McCanns Skink within the DDF.
38. While Ms Anderson acknowledges that the previously proposed release of 76,800 McCanns Skink into the Ardgour Restoration Area was undesirable, she considers that the removal of the salvage proposal without the

introduction of other actions to reduce the adverse effects on this species is unacceptable.³

Conclusions as to effects on lizards

39. Ms Anderson agrees with the applicant's experts Dr Ussher, Dr Baber, and Mr Barber, that the revised proposal will not materially reduce the magnitude of no net loss for lizards.⁴ Accordingly, it is Ms Anderson's view that the updated proposal remains inadequate and does not appropriately address the significant adverse effects of the proposal on lizards.
40. Based on Ms Anderson's advice, ORC considers the applicant's updated proposal is an improvement on the previous proposal, primarily due to likely improved survival outcomes for salvaged lizards compared to the original proposal. However, the benefits of improved salvage success should be balanced with the very small proportion of lizards to be salvaged.
41. The revised proposal does not materially change the substantial net loss and significant adverse effects that are detailed the original documentation. From a purely ecological perspective, adverse effects on lizards remain unacceptable.

Dated this 7th day of September 2026



Dave Randal
Counsel for Otago Regional Council

³ It is acknowledged that creation of rocky habitat is proposed for the rehabilitated DDF and within the Ardour Restoration Area, with mesopredator control also proposed in the latter. However, these were already proposed in the original application and are not additional measures to address effects of not salvaging McCanns Skink.

⁴ As stated in the final paragraph on page 13 of Response to Question 10 RFI 11 – Ecology – Lizards.