
MINUTE 57 OF THE EXPERT PANEL
Abley Limited Letter and Supplementary Information Provided by MGL
in Respect of RFI12
Bendigo-Ophir Gold Project
[FTAA-2507-1089]
[14 October 2026]

[1] This Minute addresses:

- (a) Issues arising out of Abley Ltd's letter of 9 October 2026 addressed to CODC and submitted in response to MGL's response to Minute 56.
- (b) The supplementary information provided by MGL in respect of its RFI12 response (comprising a map identifying land outside the BOGP consent area of 2880 ha to be made available for spring annual offset/compensation and a cover note addressing the nature and duration of the relevant interest in land).

CODC memorandum and Abley Letter

[2] The CODC memorandum and Abley letter make it clear that CODC interprets the Deed as to Road Stopping and Alternative Route dated 30 January 2026 as requiring an "alternative public road vested in Council" to be provided before the road stopping process is implemented and notes that "an easement does not fulfil this requirement and is unacceptable to Council".

[3] The Panel cannot be expected to arbitrate any potential differences of opinion between MGL and CODC as to the Deed's proper construction. It must

proceed on the basis that CODC will not undertake the relevant stopping process under the Public Works Act 1981 absent vesting of the alternative Ardgour Rise alignment. Moreover, its legal advice is that:

- (a) The FTAA does not give the Panel the power to direct or require a road stopping process.
- (b) Even if CODC could be persuaded to undertake the relevant stopping process on the basis of the proposed easement with contingent alternative access formed through the DDF on closure (a position CODC rejects) the absence of engineering, road safety, heritage, landscape and ecological evidence in respect of such alternative access counts significantly against the Panel's ability to rely on it as an enduring solution.

[4] Because stopping of Thomson Gorge Rd is axiomatic to MGL's ability to develop the mine as planned, the Panel sees little alternative (if it were minded to consent to the application) but to impose a condition precedent to the commencement of any works (having the potential to interfere with public access across Thomson Gorge Rd), that alternative access is vested in CODC. Such a position is consistent with its long-held view that any disruption to public vehicular access across the Dunstan Range would be among the most serious impacts to be weighed in any s85 assessment.

[5] Given the Panel's understanding that the vesting of Ardgour Rise through the Conservation land would trigger the right of first refusal of Ngai Tahu, and such an approval has not been given, such a condition precedent has the obvious capacity to delay if not permanently frustrate the project. The Panel would therefore need to consider whether the proposed condition was one it should or could even entertain or whether the more appropriate course would simply be to proceed with its assessment on the basis alternative access has not been provided and CODC will not co-operate in stopping Thomson Gorge Rd.

[6] The Panel is mindful that it has given MGL an opportunity to respond to CODC's position. It has taken the opportunity to ventilate its concerns now given how important it considers the issue to be.

Proposed Additional Area for Spring Annual Regeneration

[7] The Panel notes that the relevant land interest proposed for spring annual regeneration is held by MLL, not by the applicant.

[8] Its legal advice is that it requires formal confirmation by MLL that it agrees to spring annual protection/regeneration on land outside the project area such that any condition is not reliant on the post approval agreement of a third party. If MLL is intended to hold other lands relevant to the imposition of any conditions, similar confirmation will be required.

A handwritten signature in blue ink, appearing to read 'M. A. Muir', with a stylized flourish at the end.

Hon Matthew Muir KC

Bendigo-Ophir Gold Project Expert Panel Chair