

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 NEW INFORMATION)

Dated 14 August 2026

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TO THE EXPERT PANEL

1. This Memorandum:
 - a. Requests leave to respond to information produced by Matakanui Gold Limited (**MGL**) and
 - b. Records Sustainable Tarras' concern regarding how responses to information that MGL is yet to produce in response to RFI 11 will be accommodated.

New information

2. In its Minute 37 (granting MGL's requested suspension), the Panel noted recent provision of new information in respect of which s51 parties and / or s53 invitees may in due course wish to comment (at [6]). The Panel acknowledged its inability to require any party or invitee to undertake any work, supply any information or respond to any outstanding issue but encouraged all parties and invitees to use the suspension period to advance all assessments and responses to the best of their resources and ability (at [7]). Sustainable Tarras has taken up that encouragement to progress responses to new information.
3. Minute 35 dated 12 June 2026 requested preparation of a GIS-based model suitable to enable a landscape assessment of the Bendigo Conservation Covenant (BCC) area sought to be uplifted, and a supplementary landscape assessment. MGL provided that information on 17 July 2026.
4. RFI 8 requested information on lighting and dark skies. MGL provided this information on 12 June 2026.
5. RFI 9 requested information on recreation, traffic and roads. MGL provided this information on 12 June 2026.
6. RFI 10 requested information on heritage. MGL provided this information on 17 June 2026.
7. RFI 11 requested information on multiple topics. On 22 July 2026, MGL provided a partially redacted response to questions 12-16 (bonding and long-term management) and 23-30 (economics). On 12 August 2026, MGL provided an unredacted version of that material pursuant to a confidentiality undertaking.
8. Panel Minute 40 requested additional geotechnical information. A response has not yet been provided.
9. Landscape conferencing on the information provided in response to Minute 35 is scheduled for next week in accordance with the Panel's direction in Minute 44.
10. Sustainable Tarras seeks leave to provide a written response:

- a. By Wednesday 19 August 2026 on MGL's new information on bonding and long-term management and economics.
- b. By Friday 21 August 2026 to:
 - i. MGL's new information on lighting and dark skies.
 - ii. MGL's new information on recreation, traffic and roads.
 - iii. MGL's new information on heritage.

Remaining RFI 11 and Minute 40 responses

11. Most of the information requested in RFI 11 and the response to Minute 40 is yet to be provided by MGL, and Sustainable Tarras understands it will be provided on Monday 17 August 2026 when the current suspension of processing ends. The suspension has afforded MGL almost two months (from 25 June 2026 to 17 August 2026) to prepare the information requested in RFI 11.
12. The information to come is very substantive, not matters of fine detail (e.g. new groundwater modelling), and some is entirely new (e.g. the Social Impact Assessment). The information is critical to fundamental questions as to the nature and significance of the Project's adverse impacts on the environment and community, and the appropriateness of measures to manage those impacts.
13. Sustainable Tarras is likely to seek leave to respond to much of the new information, because it goes to the heart of matters raised in Sustainable Tarras' comments and supporting evidence. It is not in a position to seek leave to respond on particular topics or suggest a date for its response until it has considered the new information.
14. Pursuant to s 67(5), there is no automatic right for persons or groups who have commented on the application to make further comments on the new information, but the Panel may request a response. It is submitted that the Panel's discretion to request a response should be exercised in accordance with the FTAA procedural principles (to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions, duties, or powers being performed or exercised) and with the established administrative law concept of procedural fairness. Those features support allowing a response on substantive new information that is important to the Panel's decision-making under ss 81 and 85 FTAA.
15. Based on counsel's recent teleconference with the Panel Chair, Sustainable Tarras understands that the Panel intends to commence deliberations on 21 August, focussing initially on information about the Project's benefits before moving to deliberate on adverse impacts in late August (noting that the Panel will receive MGL's revised conditions on 28 August). Sustainable Tarras records its concern that this may not

allow time for commenting parties to respond to the new information in a timeframe that is capable of influencing the Panel's deliberations.

16. No direction is sought on this issue at this stage, but it is raised as an issue of procedural fairness that will be revisited when Sustainable Tarras seeks leave to respond to the RFI 11 and Minute 40 new information.
17. Sustainable Tarras acknowledges that the Panel may be well aware of this issue, and that the Panel is required to make its decision within statutory timeframes.

14 August 2026

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

Sally Gepp KC
Counsel for Sustainable Tarras Inc