

BEFORE THE EXPERT PANEL

IN THE MATTER	of the Fast-track Approvals Act 2024 (FTAA)
AND	
IN THE MATTER	of an application for approvals under the FTAA for the Bendigo-Ophir Gold Project FTAA-2507-1089

**MEMORANDUM OF COUNSEL FOR ENVIRONMENTAL DEFENCE SOCIETY INC SEEKING
LEAVE TO RESPOND TO RFI 11**

19 August 2026

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Introduction

1. This memorandum is filed by the Environmental Defence Society Inc. (**EDS**) in relation to the Applicant's response to the Panel's request for further information (dated 25 June 2026) (**RFI 11**).
2. RFI 11 sought further information in relation to a range of topics, including bond and economics, landscape, ecology, water and ecotoxicity matters. The Applicant filed its response to questions relation to the bonding and economics questions on 22 July 2026. The remainder of further information in response to RFI 11 was received on 18 August 2026.
3. EDS has reviewed the responses to RFI 11 in consultation with Dr Morgan and Prof Webster-Brown (water), Dr Kaye-Blake (economics) and Ms Steven (landscape). Those experts have advised that they could usefully provide targeted comment on the RFI 11 responses, which EDS considers would benefit the Panel. EDS therefore seeks leave to respond to the Applicant's responses to RFI 11 in the manner set out below.

Bond and economics

4. The bond and economics responses provided to the section 53 parties included numerous redactions of relevant information, although the Panel was provided with unredacted versions. Following a conference with the Panel chair, counsel for EDS and Dr Kaye-Blake (economist) provided the Applicant with confidentiality undertakings in accordance with Minute 44. An unredacted version of the bonding and economics responses was received by EDS on 13 August 2026.
5. EDS seeks leave to file evidence from Dr Kay-Blake in relation to the bond and economics responses to RFI 11. Counsel acknowledges that the Panel intends to deliberate on benefits of the project on 20 and 21 August. EDS therefore seeks leave to file further evidence from Dr Kaye-Blake on Wednesday 19 August 2026.

Landscape

6. In relation to landscape matters, the landscape experts are due to undertake further conferencing on the further evidence of the Applicant's landscape witness (Mr Rhys Girvan) in response to Minute 35 (dated 12 June 2026).
7. The RFI 11 response also includes:
 - a. an assessment by the ecological and landscape expert addressing whether the revocation of the covenant will compromise values of regional, national or international significance; and
 - b. an updated landscape assessment which considers the amended Ardgour Rise alignment.

8. Counsel understands that:
 - a. matters relating to the impact of the revocation of the covenant on regional, national or internationally significant values are relevant to conferencing; and
 - b. some landscape experts have suggested to conference participants that these matters, alongside the assessment of the Ardgour Rise re-alignment, be addressed at conferencing.
9. EDS respectfully submits that this represents an efficient and appropriate approach to responding to this aspect of RFI 11. In the event that RFI 11 matters are not addressed at conferencing, EDS may seek leave to file a brief further statement from Ms Steven in advance of the Panel's scheduled deliberations on conditions and adverse impacts of the Project.

Water and ecotoxicity

10. A significant volume of new information has been filed in response to Questions 1 – 9, relating to water. In total, this information comprises an additional 600 pages, much of which contains highly complex analysis and modelling.
11. EDS wishes to record at the outset that the volume of information now being provided at this late stage in the process is not only significant, but is of a nature that ought to have been provided as part of the substantive application. The result is that other parties and the Panel are having to review essential information on an important topic under extremely tight timeframes. EDS is concerned that this approach gives rise to the risk that parties who have committed substantial resources to this process are disadvantaged and puts the Panel's decision-making process under significant pressure. EDS notes in that regard that the Panel has requested that the Applicant pause the application to enable more time for decision-making, but the Applicant has declined to do so.
12. RFI 11 relates largely to matters identified in the evidence of Dr Morgan and Prof Webster-Brown on behalf of EDS. EDS therefore seeks leave to file further evidence from Dr Morgan and Prof Webster-Brown addressing the RFI 11 responses on water-related matters.
13. EDS is mindful of the tight timeframes operating for the Panel to issue its decision. However, based on initial advice from Dr Morgan as to the volume and complexity of information requiring review, and the fact that Dr Webster-Brown is overseas until 27 August 2026 and is currently uncontactable, EDS respectfully seeks that this further evidence be provided by 7 September 2026.
14. EDS acknowledges that this timeframe overlaps with the Panel's scheduled deliberations on conditions and adverse impacts of the Project, which are scheduled for 3 September. However, EDS respectfully submits that:

- a. the need for further evidence so late in the process arises due to the incomplete and insufficient nature of the information provided by the Applicant to date;
 - b. the Applicant has declined to pause the application to allow sufficient time to consider the new material;
 - c. the potential for severe and irreversible effects on surface water and groundwater warrants robust testing of the Applicant's evidence;
 - d. the Panel would benefit from the robust consideration of the RFI 11 response by, and from the expertise of, Dr Morgan and Prof Webster-Brown;
 - e. Dr Morgan considers that 15 working days is the minimum required to review the volumous information and a lesser timeframe would limit the quality of Dr Morgan and Prof Webster-Brown's analysis and ability to assist the Panel; and
 - f. if sufficient time is not available to address these concerns, then this supports EDS's submission that the proposal must be declined on the basis of material uncertainties under s104(6) RMA (coupled with adverse impacts already identified under s85(3) FTAA).
15. EDS further notes that, while it has been invited to provide written feedback on conditions for consideration at the conditions workshops, it has not been invited to participate, nor has it been included in any correspondence relating to the workshops by the Applicant. Relevant to the RFI 11 response on water matters, EDS understands that the workshop on water-related conditions has been brought forward to 19 – 21 August. For that reason, the Applicant sought any feedback on water-related conditions to be provided in writing by Monday 17 August.
16. EDS has not provided feedback on these conditions, in part due to the fact that the information sought by the Panel in RFI 11 is highly relevant to whether water-related effects can be appropriately managed by conditions. EDS understands that parties participating in the water-related conditions workshops have been asked to come prepared to discuss the information provided in response to RFI 11. EDS wishes to record that it has not had the opportunity to provide feedback on the water-related conditions in light of RFI 11.
17. EDS is grateful to the Panel for its consideration of these matters.

Dated this 19 August 2026

Rob Enright/ Jen Vella