Before the Expert Panel

Under the Fast-track Approvals Act 2024 (**FTAA**)

And

In the matter of an application for approvals by Taharoa Ironsands Limited to continue existing mineral sand extraction, including land preparation works, constructing a water supply reservoir, extracting ironsand material, processing extracted material, and transporting raw and processed material on 911 hectares at Taharoa Road, Taharoa, approximately 8 kilometres south of Kawhia and 45 kilometres northwest of Te Kūiti (**Central and Southern Block Mining Project** or the **Application**)

Memorandum of Counsel on behalf of Taharoa Ironsands Limited to the Expert Panel

Dated 5 October 2026

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MAY IT PLEASE THE PANEL

1. Taharoa Ironsands Limited (**TIL**) refers to Minute 23 of the Expert Panel dated 4 August 2026, which provides the Panel's response to a number of the procedural concerns TIL raised in the Memorandum of Counsel dated 30 July 2026.

2. In Minute 23 the Panel expressed its view that "much of the content of the Memorandum is without substance". TIL does not accept this assertion. The Panel also stated that it takes matters regarding issues of procedural fairness very seriously. However, the Panel has not meaningfully engaged with many of TIL's concerns, or in some cases has not responded to matters raised by TIL.

3. The purpose of this memorandum is to respond to some of the specific matters raised in Minute 23, specifically:

   (a) the procedure adopted by the Panel with respect to the hui held at Aaruka Marae on 8 June 2026, in terms of both the day's proceedings and how the transcript and recording have been made available on the EPA's website; and

   (b) issues of procedural fairness arising out of the Panel Facilitated Conference held on 22 and 23 July 2026.

4. We set out TIL's responses in relation to these matters below.

HUI AT AARUKA MARAE

5. In Minute 23, the Panel asserted that many of the procedural concerns previously raised by TIL are "repetition of matters canvassed in previous Memoranda of Counsel for the Applicant that have been addressed by the Panel in previous Minutes (most notably as to the hui at Aaruka Marae, and the hui held at Te Kooraha Marae on 2 May)." TIL felt compelled to raise these matters again in its Memorandum of Counsel dated 30 July 2026 because the Panel has not previously addressed its concerns in any meaningful way.

6. For example, in Minute 9 dated 13 May 2026 the Panel diminished the concerns raised by TIL in the Memorandum of Counsel dated 8 May 2026

regarding the arrangements for the hui held at Aaruka Marae on 8 June 2026. These were responded to in passing only, referred to as "logistical challenges likely faced by all parties", with no assurance provided to TIL that [redacted] It was for this reason (amongst others) that TIL elected not to attend the hui.

7. TIL continues to have serious concerns with respect to the procedure adopted at the hui held at Aaruka Marae and the limitations on its ability to substantively respond to all matters that were discussed by attendees and/or the Panel on the day.

8. TIL has carefully reviewed all transcripts, video recordings and presentations from the hui that have been made available on the EPA's website. As highlighted in the Memorandum of Counsel dated 30 July 2026, these materials only cover approximately 2.5 hours of what was a full day hui, and the transcripts only record the presentations provided by attendees despite them specifically referencing additional conversations held between the Panel and attendees during breaks. These separate discussions were not recorded, meaning that TIL has no ability to respond to what was said by those involved.

9. TIL has since received further information regarding the hui from one of the attendees. This information indicates that the Panel heard additional presentations that are not among those published on the EPA's website, in addition to a number of comments about TIL and its operations at the mine that were derogatory in nature. TIL understands that some attendees went so far as to question and insult the character and integrity of TIL staff, in a derogatory and potentially defamatory manner, which is entirely inappropriate in any context, not least at an EPA-administered hui. Yet TIL has not been provided with an opportunity to respond as it has not been provided with any documents, recordings or transcripts of these relevant parts of the hui. This is disappointing given TIL was very clear that it was not attending the hui for the reasons previously advised to the Panel (and summarised at paragraph 6 above) and had therefore requested a full recording and transcript be provided.

10. The Panel states in Minute 23 that "the transcript of the hui provided to the Applicant is the full record of information that it needs to respond to" and that, from its perspective, TIL has sufficient information from the transcript to know "the case it needs to respond to". TIL disagrees with this statement. With respect, it is not for the Panel to determine which matters TIL may or may not wish to respond to, particularly where these are matters raised at a hui arranged and administered by the EPA and heard by the Panel (whether formally as part of a presentation or informally over breaks).

11. TIL does not dispute that the Panel are experienced RMA practitioners and notes the advice set out in Minute 23 regarding the Panel's ability to disregard unsolicited information and that it "can and would only consider evidence and information presented at the hui proper". However, TIL is concerned that matters raised in informal discussions cannot be unheard, and that it would be difficult for the Panel to distinguish between and keep separate information that was provided as part of a formal presentation from that provided informally during breaks, when the former directly referred to the latter.

12. TIL also notes that the Panel did not address the concern raised in its previous Memorandum regarding an unregistered attendee presenting to the Panel at the hui. This presentation was not recorded, meaning that TIL has not been afforded the opportunity to respond to any matters raised by this individual. Under section 57(2) of the Fast-track Approvals Act 2024 (**FTAA**), TIL has a right to be heard in respect of any matters in relation to which an invited party is heard. TIL maintains that it cannot respond fully (or, at least, will not be able to confirm if it has responded fully) to matters raised at the hui on the basis of an incomplete or partial transcript.

13. The Panel notes that it was mindful to respect tikanga in accepting the lunch offered by mana whenua at the hui. TIL appreciates and acknowledges that the Panel did not want to offend tikanga. However, matters of procedural fairness must still weigh heavily in the Panel's decision-making on such matters. TIL notes that the commissioners who heard TIL's previous resource consent application took their breaks, including lunch, in private when a hearing day was also held at Aaruka Marae in 2024.

14. In light of the above concerns, TIL respectfully requests the EPA (via the Panel) urgently provide a fully copy of *all* material presented, all recordings (not limited to the edited version provided to TIL and the public), and any notes of conversations held between the Panel and attendees, at the hui at Aaruka Marae on 8 June 2026. TIL requests this information before it is due to present to the Panel on 13 October 2026, so that it may have an opportunity to respond. If all material has been provided, then TIL requests confirmation of the same.

PANEL FACILITATED CONFERENCE

15. In terms of the procedure followed at the Conference and TIL's concerns regarding limitations imposed on its participation, the Panel stated in Minute 23 that TIL was represented by independent experts as well as its planning advisor, legal staff and staff mining engineers. TIL does not dispute this. However, Minute 23 fails to acknowledge that the Panel, on several occasions throughout the Conference, prohibited TIL's representatives from speaking on certain matters and/or limited the time allocated to them to speak.

16. TIL's representatives also attended the Conference on the understanding that the parties were unable to present submissions or positional statements and that legal counsel could only raise procedural issues with the Panel or make suggestions to the Panel of questions to be put to experts. The extent of participation allowed was therefore unclear and inconsistent.

17. In Minute 23, the Panel stated that "for any form of hearing under the Act, a Panel must avoid unnecessary formality". TIL acknowledges this requirement; however, this is not an excuse for lack of proper procedure. TIL would also highlight that the Panel has other obligations under the FTAA in respect of any hearings it holds, some of which were raised in the Memorandum of Counsel dated 30 July 2026. For example, section 58(1)(d) of the FTAA provides that panels must "not permit any person other than the chairperson or members of a panel to question a party or witness" at a hearing held under the FTAA. In the Memorandum of Counsel dated 30 July 2026, TIL noted that the Panel allowed Mr Kelsey to ask questions of experts at the Conference, effectively acting as a fourth member of the Panel for the purposes of the Conference. This appears to be in direct conflict with section

58(1)(d). The Panel has not confirmed the legal basis on which Mr Kelsey was permitted to ask questions of parties at the Conference.

18. The Panel further states in Minute 23 that "The Applicant is reminded that, at its request, the Panel agreed that no other parties needed to attend the Overview Conference":

    (a) In its Memorandum of Counsel dated 7 April 2026, TIL proposed that a Project Overview Conference, led by TIL, was held to familiarise the Panel with the Project (**Overview Conference**). TIL's proposal for the Overview Conference was consistent with the guidelines set out in the Panel Conveners' Practice and Procedure Guidance and consistent with procedure held for similar conferences for the Sunfield Masterplanned Community and Bendigo-Ophir Gold Fast-track projects under the FTAA.

    (b) While TIL proposed that the other parties did not need to attend the Overview Conference (because of the factual nature and focus of assisting the Panel), TIL did propose in the interests of fairness to the other parties, and the consistency with other Fast-track projects, that the entirety of the Overview Conference was recorded and uploaded to the EPA's Fast-track website to ensure that all commenters have access to the information that TIL provided to the Panel. This approach is consistent with the Overview Conference for the Bendigo-Ophir Gold project.[1]

    (c) We also note that the Bendigo-Ophir Gold Project conference was held between the Applicant and Panel.[2] In the Sunfield Project, the conference was held between the Applicant and the Panel with only representatives from Auckland Council invited to attend.[3]

19. In respect of the Panel's comments regarding the presentation provided at the first site visit, TIL sought that this was not circulated to third parties for reasons of commercial sensitivity, which is a legitimate reason for information to be withheld under the Official Information Act 1982. The purpose of the

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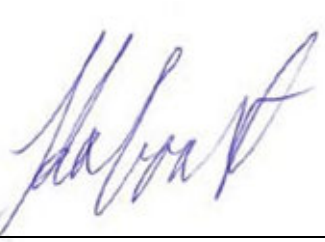
1 Minute 1 of the Expert Panel – Bendigo-Ophir Gold Project dated 25 February 2026.

2 Ibid.

3 Minute 1 of the Expert Panel – Sunfield Masterplanned Community dated 26 June 2025.

information was also to facilitate and inform the Panel's understanding of mining operations at the site – which are both proprietary and unique to TIL. This is distinct from any information or presentations provided by other parties at the hui at Aaruka Marae, for example, which has been presented to the Panel in support of a particular party's view on the Application. As noted above, TIL has a right to respond to these matters under section 57 of the FTAA.

DATED this 5th day of October 2026



Stephanie de Groot / Tom Atkins
Counsel for Taharoa Ironsands Limited