

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 14 August 2026

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MAY IT PLEASE THE PANEL

1. We refer to Minutes 22 and 23 of the Expert Panel dated 28 July and 4 August respectively:
 - (a) Minute 22 sets out (in Appendix 1 to Minute 22 and the Addendum to Appendix 1) a request for information from TIL and other parties who attended the Panel Facilitated Conference (**Conference**) on 22 to 23 July 2026 (**Further RFI**).
 - (b) Minute 23 grants TIL's request for a suspension of processing of the Application for 21 working days to enable TIL additional time to prepare a robust and comprehensive response to the Further RFI and other matters arising from the Conference.
2. The purpose of this memorandum is to:
 - (a) set out TIL's proposed alternative approach to responding to some aspects of the Further RFI and requesting directions from the Panel to provide for this alternative approach;
 - (b) provide the Panel with an update regarding further mine planning that is currently being undertaken by TIL to provide additional certainty about the staging and timing of mining activities and rehabilitation in the northern area of the Central Block, to address concerns raised by other parties and the Panel, and to inform TIL's response to the Further RFI; and
 - (c) request an extension of the suspension period previously granted by the Panel in Minute 23 to enable sufficient time for the matters in (a) and (b) to be addressed.
3. Each of these matters is addressed in turn below.

ALTERNATIVE APPROACH TO RESPONDING TO ASPECTS OF FURTHER RFI

4. In Minute 23, the Panel granted TIL's request for a suspension of processing of the Application for a period of 21 working days. TIL sought this suspension to enable the preparation of a robust and complete response to

the Further RFI and additional matters arising from the Conference that TIL considers are critical to the Panel's understanding of the project.

5. TIL has considered the Further RFI in additional detail, including the manner in which the Panel has requested the information is to be prepared and presented.
6. A number of the RFIs call for conferencing or engagement between experts in relation to specific proposed conditions of consent. TIL accepts that expert conferencing can be an effective procedural step in RMA and Fast-track processes to narrow issues in appropriate circumstances. However, in this case, there are five RFIs where the Panel has requested conferencing between experts in respect of conditions where TIL considers that an alternative approach is necessary and / or more appropriate. These are:
 - (a) RFI 1 (Mitiwai Stream minimum environmental flow);
 - (b) RFI 2 (8.53m RL cease take trigger);
 - (c) RFI 4 (matters recorded in Joint Witness Statement (JWS) dated 6-7 July 2026); and
 - (d) RFIs 9 and 10 (air discharge permit).
7. TIL's proposed alternative approach to each of these RFIs is set out below. While there are reasons for TIL's proposed alternative approach that are specific to each of the matters addressed in these RFIs, TIL's overarching concern is that while expert conferencing is a helpful tool to narrow issues, expert conferencing is neither an appropriate nor an effective mechanism for the development of conditions in this context because:
 - (a) It is critical that TIL is able to actively participate in any discussions on the matters pertaining to the conditions identified by the Panel in these five RFIs. The Application relates to an existing mine that has been in operation for over five decades and for which TIL holds a wealth of historic data and empirical expertise. In this context, development of conditions of consent cannot occur in isolation of TIL, who is uniquely informed and has a deep understanding of the operational and practical elements of the mine. These matters must be factored into

any conditions to ensure that they are fit for purpose, reasonable and operationally feasible.

- (b) TIL has a range of qualified and experienced mining personnel who have specialist knowledge of the matters addressed in these RFIs – the relevant knowledge is not limited to the experts who appeared at the Conference. It is not practical for this critical input to be provided as part of expert conferencing. For instance:
 - (i) there may be a large number of TIL personnel who have relevant expertise or information to contribute to the discussion, and which ought to be involved in the discussions;
 - (ii) it is unlikely that experts for other parties (who would rightly be focused solely on matters pertaining to their area of expertise) would be able to meaningfully engage with technical matters relating to mining operations or engineering; and
 - (iii) many of TIL's experts are also not resource management practitioners and are not experienced with the process of expert conferencing.
- (c) When TIL has prepared its proposed conditions of consent for this application, the usual process that has been followed is that TIL's planning team will work with TIL's technical resource management experts, legal counsel and relevant TIL engineers and management (as required) to develop conditions – taking into account their advice, and any feedback that is on the table from third parties or the Panel. To develop conditions in isolation from any of these team members would inevitably create a real risk that the conditions proposed are incomplete or problematic and do not adequately meet the requirements of the FTAA.

8. TIL proposes the following alternative approaches to responding to these RFIs:

- (a) **RFI 1 (Mitiwai Stream minimum environmental flow):**
 - (i) The matters which the Panel has raised relating to the Mitiwai Stream are narrow and technical in nature and can readily be

resolved through technical assessment and advice from TIL's experts (which TIL proposes would then be provided to the other parties' experts for review and feedback, as set out below). In addition, the proposed condition(s) imposing a limit on groundwater drawdown cannot reasonably be considered or drafted in the absence of TIL's input from a practical and mining operations perspective.

- (ii) TIL proposes that its hydrology and hydrogeology experts, Mr Williamson, Mr Mawer and Mr Scherberg, and its freshwater ecology expert, Ms Bennett, consider and confirm their view on each of the matters raised by the Panel (in consultation with TIL and Mr Eccles), enabling Mr Eccles to draft any proposed amendments or replacement conditions on behalf of TIL.
 - (iii) TIL would then provide any proposed amended or alternative conditions to the Department of Conservation (**DOC**), Waikato Regional Council (**WRC**), Ngaati Mahuta ki te Hauaauru (**NMKTH**) and Te Nehenehenui for review and feedback. Following receipt of feedback, TIL and its expert team would incorporate further amendments to the proposed conditions, to the extent such amendments are considered appropriate. Where TIL does not include amendments proposed by another party, it will provide reasons as part of its response to this RFI.
 - (iv) If desired by the Panel, TIL can provide copies of all feedback received from DOC, WRC, NMKTH and Te Nehenehenui to the Panel, along with its response to the RFI.
- (b) **RFI 2 (8.53m RL cease take trigger):**
- (i) Conferencing is not considered necessary in this context, as the views of other experts (namely Mr Blythe, on behalf of the DOC) were made clear at the Conference and TIL's experts are well aware of the matters they need to address in

responding to this RFI. It would also not be appropriate to conference on the cease take trigger to the exclusion of TIL.

- (ii) TIL proposes that its hydrology and hydrogeology experts, Mr Williamson, Mr Mawer and Mr Scherberg, prepare a response to this RFI, explaining the rationale behind the 8.53m RL cease take trigger. This response would also address the matters raised by Mr Blythe (on behalf of the DOC) at the Conference on this point, including the figure Mr Blythe produced during the course of the Conference.
 - (iii) TIL would then provide the response to DOC, WRC, NMKTH and Te Nehenehenui for review and feedback. Following receipt of feedback, TIL and its expert team would consider any amendments or clarifications sought by other parties and update its response, to the extent such amendments are considered appropriate. Where TIL does not include amendments proposed by another party, it will provide reasons as part of its response to this RFI.
 - (iv) If desired by the Panel, TIL can provide copies of all feedback received from DOC, WRC, NMKTH and Te Nehenehenui to the Panel, along with its response to the RFI.
- (c) **RFI 4 (matters recorded in Joint Witness Statement (JWS) dated 6-7 July 2026):**
- (i) In relation to setbacks and/or planted buffers from wetlands, TIL considers that no additional conferencing is necessary as the parties' views have been well canvassed in the JWS and at the Conference. The views expressed by the parties' experts indicate that agreement is unlikely to be reached on an appropriate setback or buffer extent. In addition, TIL has a strong view on the need and implications of setbacks. TIL also wishes to be involved in the development of conditions resulting from the JWS at [40] and [44], given it will need to develop the wetland offset / compensation area and operate within any conditions applied to natural inland wetlands.

- (ii) TIL therefore proposes that Mr Dean, together with TIL's terrestrial fauna expert, Ms Mueller, work together to develop any amendments or replacement conditions relating to wetlands, based on the JWS.
 - (iii) TIL would then provide any proposed amended or alternative conditions to DOC, NMKTH, TNNN and WRC for review and feedback. Following receipt of feedback, TIL and its expert team would consider any amendments or clarifications sought by other parties and update the conditions, to the extent such amendments are considered appropriate. Where TIL does not include amendments proposed by another party, it will provide reasons as part of its response to this RFI.
 - (iv) If desired by the Panel, TIL can provide copies of all feedback received from DOC, NMKTH, TNNN and WRC to the Panel, along with its response to the RFI.
- (d) **RFIs 9 and 10 (air discharge permit):**
- (i) TIL does not consider that an air discharge permit is needed and maintains its position that it is appropriately managing the potential for offensive and objectionable dust discharges beyond the boundary of the site. This is supported by Mr Curtis' expert assessment, dust monitoring data collected on-site in respect of the Eastern Block and a lack of verified dust discharge incidents / compliance issues. TIL appreciates that comments about lived experiences can be considered by the Panel in determining TIL's application – however, this cannot be relied on in place of technical expert evidence.
 - (ii) TIL proposes to clarify the above position, supported by expert assessment from Mr Curtis and Mr Eccles, in its response to RFIs 9-11.
 - (iii) However, TIL's experts (Mr Curtis and Mr Eccles) will consider the request for conditions set out in RFIs 9 and 10, with input from TIL, as appropriate.

- (iv) Both elements of TIL's response to these RFIs would then be provided to Waikato Regional Council (**WRC**) for review and feedback. Following receipt of feedback, TIL and its expert team would incorporate further amendments to the proposed conditions, to the extent such amendments are considered appropriate. Where TIL does not include amendments proposed by WRC, it will provide reasons as part of its response to this RFI.
 - (v) If desired by the Panel, TIL can provide a copy of the feedback received from WRC to the Panel, along with its response to the RFI.
- 9. As can be seen above, for each of the five RFIs where TIL is proposing an alternative approach to expert conferencing, relevant parties and their experts will be provided with an opportunity to provide feedback on TIL's proposals. TIL would be required to consider and respond to any feedback that is received.
- 10. The outcome of this process would essentially be the same as what is being sought through conferencing: a clear record of the areas where TIL and the other parties agree, and changes to conditions to reflect this, and the areas of disagreement that remain. The key difference is that this record would also capture the necessary input from TIL into the practicality of any conditions, or amendments to conditions, that may be proposed.
- 11. If the Panel is minded to accept TIL's alternative approach to these RFIs, TIL is conscious of the need to provide the other parties and their experts with sufficient time to consider and respond to the material that TIL provides for review.
- 12. It is equally important that TIL has enough time to meaningfully engage with the feedback that is received.
- 13. TIL therefore respectfully requests that the Panel grant an extension to the current suspension of processing of the Application. TIL considers a period 10 working days is an appropriate and sufficient amount of time for other parties to provide their feedback, with a further 7 working days to be provided for TIL to respond to the feedback that is received. This is addressed below.

FURTHER DETAIL ON STAGING AND TIMING OF REHABILITATION

14. We refer to RFI 11 of the Further RFI, where the Panel has requested new and/or alternative conditions from TIL relating to progressive dust stabilisation and rehabilitation for all future mine stages.
15. TIL has heard the concerns raised by the Panel and other parties at the Conference regarding rehabilitation, and in particular the desire for greater certainty in relation to timeframes and staging.
16. TIL maintains its position that its proposed approach to rehabilitation (as set out in TIL's application including its proposed conditions of consent) is appropriate and necessarily takes into account various complexities associated with its mining operations and the difficult environment in which it operates (some of which the Panel has acknowledged in RFI 11).
17. However, in the interest of addressing the concerns that have been raised, TIL is now revisiting its Mine Plan (including timing and staging) so that more certainty can be provided, including by way of proposed conditions.
18. TIL's focus is on providing as much certainty as possible in respect of timeframes for staged excavation and final rehabilitation in the northern area of the Central Block, and whether confirmation can be provided (and reflected in conditions) that this area would not later be reworked once rehabilitation is complete. A degree of flexibility will necessarily be required in any conditions to ensure that ongoing mining operations are not unduly constrained.
19. Reviewing TIL's Mine Plan is not an insignificant exercise. TIL's Mine Plan projects out a number of years. As the Panel will appreciate, the preparatory work that is undertaken before ironsand excavation can begin in any given area requires forward planning, that is both time consuming and expensive.
20. [REDACTED]
[REDACTED]
[REDACTED]
21. Given the complexities involved in addressing these matters TIL needs further time to undertake this additional work and engage with relevant parties.

22. TIL therefore respectfully requests an extension to the current suspension period to enable sufficient time for this work to be completed. TIL envisages that it will need until 1 October 2026 to complete this work, update the Panel, and respond to RFI 11. This date would align with the additional time requested to enable TIL's alternative approach to responding to the RFIs outlined above.

EXTENSION OF SUSPENSION PERIOD

23. For the reasons set out above, TIL:
- (a) requests that the Panel exercises its discretion to extend the suspension of the processing of the Application by an additional 22 working days in accordance with section 62 of the FTAA; and
 - (b) considers that its request is consistent with section 10(1) of the FTAA, which requires that every person performing functions and duties and exercising powers under the FTAA to take all practicable steps to use "timely, efficient, consistent, and cost-effective processes" proportionate to the functions being performed or exercised.
24. TIL has no objection to the Panel, and its advisers, WRC, DOC, or the EPA, continuing to work on the Application during the extended suspension period.¹
25. In respect of the procedural steps currently set down by the Panel, TIL requests that the Panel defer the relevant dates by a period equivalent to the further suspension sought, after processing of the Application resumes. Following this approach, if the Panel were to grant the extension to the suspension sought by TIL, the following timeframes would then apply:
- (a) TIL's draft responses to RFIs 1, 2, 4 and 9-10 would be due to be circulated to the other parties for feedback on 8 September 2026;
 - (b) Feedback from other parties on TIL's responses to RFIs 1, 2, 4 and 9-10 would be due to be provided to TIL on 22 September 2026;

¹ However, TIL notes that it has raised a query with DOC and with the EPA regarding the extent to which DOC can pass on its costs associated with its work on TIL's resource consent application.

- (c) TIL's response to the Panel's RFI, would be due on Thursday 1 October 2026;
 - (d) TIL's response to the hui at Aaruka Marae:
 - (i) written response to the Panel would be due on Monday 5 October 2026; and
 - (ii) in-person presentation (at a time convenient for the Panel) in respect of the hui and other matters raised at the Conference will take place on Tuesday 6 October 2026.
 - (e) the Panel's draft decision and conditions would be due on Wednesday 21 October 2026;
 - (f) the Panel's decision on the Application would be due on Monday 9 November 2026.
26. It should be noted TIL intends to provide its written response to additional matters raised at the Conference as part of its response to the Further RFI.

DIRECTIONS SOUGHT

27. TIL requests that the Panel:
- (a) amends the Further RFI to enable TIL's alternative approach to RFIs 1, 2, 4 and 9-10;
 - (b) grants a further suspension of processing of the application of 22 working days, with processing to resume on 1 October 2026; and
 - (c) adopts the timeframes and dates set out above, for the process steps for which dates have currently been set.

DATED this 14th day of August 2026

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