

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 –
APPLICATION FOR PROVISION OF FURTHER INFORMATION - 2025 SPRING ANNUAL
SURVEY REPORT**

24 June 2026

Environmental Defence Society Inc
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Introduction

1. This application is made by the Environmental Defence Society Inc. (**EDS**) for the Panel to issue a request under 67 of the Fast Track Approvals Act 2024 (FTAA) for the Applicant to provide further information, namely the report on a 2025 survey of spring annuals referenced in the Joint Statement of Expert Witnesses: Ecology – Effects Management (10 & 11 June 2026) (**JWS**). This written request supplements the oral request made during the concurrent hearings process, as directed by the Panel.
2. EDS understands from the JWS and the evidence of Statement of Evidence of Zachary Thomas Milner on behalf of Matakanui Gold Limited in response to Section 53 Feedback (17 April 2026) that:
 - a. a survey of spring annuals was undertaken on behalf of the Applicant by Manaaki Whenua Landcare Research in spring 2025;¹
 - b. the raw data from the survey was circulated to some section 53 parties, but not EDS, after the substantive application was filed;²
 - c. a report has been prepared in relation to the survey, which outlines the method and data analysis;³ and
 - d. a number of parties have made repeated requests that the Applicant provide those parties with a copy of the report.⁴
3. At the concurrent hearing on Ecology (12 June 2026), Mr Milner (under cross examination) advised the Panel that:
 - a. he has seen the report;
 - b. the report contains information that would assist the Panel; and
 - c. his understanding is that the report has not been released because it contains information relating to private property.
4. The Applicant's ecologists have relied on the 2025 survey, including as follows:
 - a. Mr Milner addresses the 2025 survey in his evidence in relation to the issue of lack of data, and the conclusions he draws that even with the 2025 survey results, the data is insufficient to determine the magnitude of effect on the spring annual species;⁵ and
 - b. Mr Milner, Mr Ussher and Dr Baber reconsider their assessment of effects on four spring annual species "in light of recent analysis of the 2025 spring annual survey data", which is recorded in the JWS.⁶

¹ Milner evidence, at [21].

² Milner evidence, at [21].

³ JWS, at [117].

⁴ JWS, at [117].

⁵ Milner evidence, at 24(b).

⁶ JWS, at [115].

5. EDS requests that the Panel require the Applicant to disclose the 2025 survey report for the following reasons:
 - a. the applicant's experts have relied on the survey in their evidence;
 - b. the report accompanying the survey has been available to the Applicant's experts in preparing their evidence and advising the Panel on the issues;
 - c. the Environment Court Expert Witness Code of Conduct requires experts to specify any literature or other material used or relied on by them in support of any opinion expressed;⁷
 - d. the ecological experts for section 51 and section 53 parties have not had the opportunity to consider the same information as the Applicant's experts;
 - e. the Panel has not had the benefit of this information in relation to a material issue of uncertainty relating to existential or population threat to nationally threatened species;
 - f. the Applicant's experts consider that the report will assist the Panel in considering effects on terrestrial ecology.
6. EDS accepts that relevant information relating to identity of third parties could be redacted for privacy reasons.
7. EDS respectfully requests that leave be granted to section 53 parties to enable their experts to provide limited further evidence only relating to matters arising out of the 2025 survey report.
8. EDS is grateful for the Panel's attention to this matter.

Dated this 24 June 2026

Rob Enright/ Jen Vella

⁷ Environment Court Practice Note 2023, at 9.3(a)(vii).