

**BEFORE THE ENVIRONMENTAL PROTECTION AGENCY
AT WELLINGTON**

IN THE MATTER of the Exclusive Economic Zone and
Continental Shelf (Environmental Effects)
Act 2012 (“**the Act**”)

AND

IN THE MATTER of applications by Trans Tasman
Resources Limited for marine and
discharge consents to recover iron sand
under sections 20 and 87B of the Act

BETWEEN **Trans-Tasman Resources Limited**

Applicant

AND **Environmental Protection Authority**

EPA

MEMORANDUM ON BEHALF OF TRANS-TASMAN RESOURCES LIMITED

 **ATKINS | HOLM | MAJUREY**

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MAY IT PLEASE THE ENVIRONMENTAL PROTECTION AUTHORITY:**INTRODUCTION**

1. The purpose of this memorandum is to seek a direction from the Environmental Protection Authority (“EPA”) under section 158 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“the Act”) for the protection of certain sensitive information.
2. Trans Tasman Resources Limited (“TTR”) is applying for marine and marine discharge consents to enable the recovery of iron sand deposits from the Exclusive Economic Zone. The recovery of iron sands is to occur within an area of approximately 65.76 km² within the South Taranaki Bight.

SENSITIVE INFORMATION

3. TTR is seeking an order that the following information be permanently protected from public disclosure:

Documents prohibited from public release in their entirety:

- (a) HR Wallingford (2014b). Laboratory Testing of Sediments. DDM7316-RT002-R01-00; and
- (b) HR Wallingford (2015). Analysis of Source Terms for Plume Dispersion Modelling. DDM7316-RT003-R01-00.

(“HR Wallingford documents”)

Redaction of specified information from the following documents:

- (c) Hadfield, M.; Macdonald, H. (2015). Sediment plume modelling: revised calculations. NIWA Client Report No. WLG2015---22:

- i. Table 2-3 (pg 27) Suspended Sediment Parameters: Derived from data in HR Wallingford (2015);
 - ii. Table 2-4 (pg 27) Summary of changes in discharge rates for the finer mining-derived sediments: Derived from data in HR Wallingford (2015); and
 - iii. Table 2-5 (pg 29) Patch sediment parameters: Derived from data in HR Wallingford (2015).
- (d) Pinkerton, M.; Gall, M. (2015). Optical effects of proposed iron-sand sediment recovery in the South Taranaki Bight region. NIWA Client Report No. WLG2015-26 rev 2:
- i. Table 5-1 (pg 39) Classes of sediment in the hydrodynamic model: Source of data: HR Wallingford (2015).
- (e) Confidential Response to EPA Information Request, dated 28 January 2016;
- i. Table 1, “1. Industry (employment) multipliers generated/applied by Butcher & Partners”; and
 - ii. Point 5 – Direct Expenditure forecasts.

GROUNDS FOR REQUEST

4. The general grounds for this request are that:
- (a) Such an order is necessary to:
 - i. avoid TTR disclosing a trade secret to competitors;

- ii. ensure TTR is able to comply with its legal licensing arrangements;
 - iii. avoid causing unreasonable prejudice to the commercial position of TTR.
 - (b) A prohibition on public disclosure will not restrict the EPA's ability to receive and consider the information as part of the hearing process;
 - (c) There is no countervailing public interest which would outweigh the above factors; and
 - (d) No party will be unduly prejudiced by the making of such an order.
- 5. In particular and without limiting the generality of the above grounds:
 - (a) The documents authored by HR Wallingford:
 - i. Contain valuable information regarding the definition and characterisation of the TTR process for derived sediment. This information, when analysed, would disclose trade secrets exclusive to TTR and would also cause unreasonable prejudice to the commercial position of TTR as it would supply competitors with process information without having to undergo the significant cost and effort that TTR has expended.
 - ii. Could impact future research and development and subsequent patents with regard to process equipment and system efficiencies as the data in these documents will be used as inputs into the design process. Disclosure of this information would enable

TTR's competitors to avoid the expense and time required in developing their own process and system efficiencies and could also potentially enable them to compete with TTR in seeking patents for systems and processes arising from that information.

- (b) Tables 2-3, 2.4, and 2.5 in the Hadfield and Macdonald report, and Table 5-1 in the Pinkerton and Gall report, rely on data from the HR Wallingford reports and need to be redacted to protect the source information.
- (c) Table 1 and Point 5 in the Response to the EPA Information Request is licensed information which belongs to a third party.

DURATION OF PROTECTION

- 6. TTR seeks permanent protection from disclosure as the commercial sensitivity and the potential for release to disclose a trade secret/cause unreasonable prejudice to the commercial position of TTR is not limited to the hearing or the term of any consent granted, but remains for the foreseeable future.
- 7. Please note that the information referred to in this memorandum is only provided to you on the basis that it is strictly confidential and commercially sensitive and will not be released to any third party, irrespective of whether or not an order is in place. Please advise us if any such request is received, so that the information can be returned to us and then excluded from any further consideration.

ORDERS SOUGHT

- 8. TTR respectfully requests that the Environmental Protection Authority makes the following order:
 - (a) That the documents specified in paragraph 3(a) and 3(b) and the parts of the documents specified in paragraphs 3(c), 3(d) and 3(e) above be subject to

6
a permanent protection order prohibiting public
release of those documents/parts of those documents
respectively.

DATE: 22 August 2016



Mike Holm

Legal Counsel for Trans-Tasman Resources Limited