

EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF (ENVIRONMENTAL EFFECTS) ACT 2012 (the Act)

Trans-Tasman Resources Limited iron sand extraction and processing application

M20 – Minute of the Decision-Making Committee – 3 February 2017

Expert Conferencing

1. The Decision-making Committee (DMC) has identified topics and witnesses to attend expert conferencing. These are set out in Appendix 1 to this Minute. Appendix 2 lists those witnesses the DMC has not scheduled to attend expert conferencing.
2. Expert conferencing will take place in the week beginning **Monday 13 February 2017**.
3. As set out in paragraph 24 of the Hearing Procedures, expert witnesses are expected to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. Fundamental to witnesses engaging in conferencing and giving evidence is that expert witnesses may not advocate on behalf of the parties that engage them.
4. The DMC has taken the view that witnesses who are employees of a party may face difficulties in establishing their independence and thus complying with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. Consequently these witnesses have not been scheduled to attend expert conferencing. If a party considers that a witness can and has clearly demonstrated their independence the EPA may be requested in writing to reconsider individual cases.
5. This does not reflect on the expertise or integrity of witnesses. The question is the ability to demonstrate independence. This difficulty is an almost inevitable consequence of a relationship in which the primary duty of the people concerned is properly owed to their employers. It is important that it is understood that this decision relates to participation in expert conferencing not to giving evidence. The DMC accepts that these witnesses may have access to information that is not necessarily be available to others and the DMC will consider the evidence given by them on its merits.
6. At the request of the DMC the experts responsible for the independent section 44 reports commissioned by the EPA will also participate in the meetings and the preparation of joint witness statements. The DMC has also appointed an independent expert in eco-toxicology and is looking to engage an expert in fisheries science and management who will also attend expert

conferencing. The DMC has also requested that experts nominated by the Department of Conservation and the Ministry of Primary Industry (MPI) also participate in conferencing.

7. The EPA will appoint an independent facilitator to facilitate each session. The facilitator will contact each group of witnesses directly to arrange the logistics of the meeting with the participants. To enable the facilitator to do this, parties who have experts assigned to a conferencing session are to provide the contact details for each expert witness participant to the EPA by **5pm Wednesday 8 February 2017**.
8. The DMC encourages the assigned facilitator, and the participants of each session, to liaise amongst themselves in the first instance, to identify suitable venues, minute takers and any required tele/video conferencing.
9. Each participant should also liaise with the facilitator and other participants in advance of the meeting to agree on an agenda. Participants are encouraged to prepare and pre-circulate a summary of any issues they wish to raise for discussion.
10. The DMC expectation is that, the list of approved questions (in DMC Minute 21) will be addressed by the relevant experts at the relevant conferencing sessions. The DMC requests that on completion of the expert conferencing, the joint witness statement clearly identifies which questions have been answered and those that remain unanswered.
11. Where relevant to that topic, environmental triggers and monitoring locations are to be considered in each expert conferencing session. It is anticipated the main sessions to cover this are:
 - a) Effects of the sediment plume on primary production;
 - b) Effects on benthic ecology;
 - c) Fish (including bioaccumulation) and zooplankton; and
 - d) Marine Mammals.
12. The DMC expect all expert witnesses to attend the relevant conference session. Applications for an expert witness not to attend session(s) will be considered by the DMC only in exceptional circumstances.
13. The meetings should result in a signed joint witness statement showing the matters on which the experts agree and disagree, the reasons for any disagreement, and matters for the DMC's consideration. The joint witness statement should also identify which questions have been answered (agreed/disagreed) and those that remain unanswered.
14. A template for the joint witness statement and guidance on participation will be provided.

15. The joint witness statements must be provided to the DMC within two working days of the conference taking place. They will be circulated to the parties and placed on the EPA website as soon as possible after that.
16. The DMC may direct that experts consider specific questions.
17. Following these conferencing sessions the DMC may request further conferencing on specific topics, particularly where the experts concerned consider that there is merit in doing so.
18. Should any party have any queries on attendance and / or the topics please advise the EPA by **5pm Wednesday 8 February 2017.**

For the DMC:



Alick Shaw
DMC Chair
3 February 2017

Appendix 1: Table of attendees and dates (tentative)

Sediment plume modelling

Day 1 - Monday 13 February 2017 Facilitator: 1

Experts to attend	Nominated By	Topics Covered
Mr Michael Dearnaley	TTRL	Sediment plume modelling
Mr Dougal Greer	KASM and Greenpeace	Sediment and Plume Modelling
Dr Greg Barbara	The Fisheries Submitters	Sediment Plume Modelling
Mr Joris Jorissen	The Fisheries Submitters ¹	Laboratory Testing and Plume Modelling
Dr Peter Longdill	DoC (requested by DMC)	
Dr Alexis Berthot/ Dr David Petch (Tele/video Conference)	EPA	Sediment Mobilisation and Transport

Eco-toxicity effects

Day 1 – Monday 13 February 2017. Facilitator: 2

Experts to attend	Nominated By	Topics Covered
Dr Mark James	TTRL	Bio-accumulation
Dr Ngarie Phillips	KASM and Greenpeace	Eco-toxicity
Dr Tom Cresswell	EPA	Eco-toxicity

¹ The fisheries submitters include: The New Zealand Federation of Commercial Fishermen Inc, Talleys Group Limited, Southern Inshore Fisheries Management Company Limited, Cloudy Bay Clams Limited.

Effects of sediment plume on primary production

Day 2 Tuesday 14 February 2017 Facilitator: 1

Experts to attend	Nominated By	Topics Covered
Mr Lawrence Cahoon	TTRL	Primary Productivity and optical effects
Dr Mark James	TTRL	Primary Production
Dr Greg Barbara	The Fisheries Submitters	Primary Production
Dr Peter Longdill	DoC (requested by DMC)	
Dr Tony Chiffings (Tele/video Conference)	EPA	Plankton

Effects on fishing

Day 2 – Tuesday 14 February 2017, 2pm – 4pm. Facilitator: 2

Experts to attend	Nominated By	Topics Covered
Dr Alison MacDiarmid	TTRL	Commercial fisheries
Relevant expert to be identified	MPI (at request of the DMC)	
Relevant expert to be identified	EPA (at request of the DMC)	

Effects on benthic ecology in particular sensitive receptor areas

Day 3 – Wednesday 15 February 2017. Facilitator: 1

Experts to attend	Nominated By	Topics Covered
Dr Mark James	TTRL	Overall ecological effects
Mr Iain MacDonald	TTRL	Existing Environment
Dr Alison MacDiarmid	TTRL	Marine effects and benthic ecology
Dr Shaw Mead	KASM and Greenpeace	Ecological Effects and Benthic
Dr Ngarie Phillips	KASM and Greenpeace	Eco-toxicity
Dr Greg Barbara	The Fisheries Submitters	Marine Ecology

Experts to attend	Nominated By	Topics Covered
Mr Ian Baxter (Tele/video Conference)	EPA	Benthic Ecology

Effects on fish

Day 4 – Thursday 16 February 2017. Facilitator: 1

Experts to attend	Nominated By	Topics Covered
Dr Alison MacDiarmid	TTRL	Effects on Fish
Dr Mark James	TTRL	Effects on Fish
Dr Ngarie Phillips	KASM and Greenpeace	Eco-toxicity
Dr Greg Barbara	The Fisheries Submitters	Effects on Fish
Dr Tony Chiffings (Tele/video Conference)	EPA	Effects on Fish

Effects on seabirds

Day 4 – Thursday 16 February 2017. Facilitator: 2

Experts to attend	Nominated By	Topics Covered
Dr David Thompson	TTRL	Seabirds
Dr John Cockrem	KASM and Greenpeace	Seabirds
Relevant expert to be identified	DOC (at request of the DMC)	

Effects on marine mammals

Day 5 – Friday 17 February 2017. Facilitator: 1

Experts to attend	Nominated By	Topics Covered
Dr Simon Childerhouse	TTRL	Marine Mammals
Dr Alison MacDiarmid	TTRL	Marine mammals

Experts to attend	Nominated By	Topics Covered
Dr Elisabeth Slooten	KASM and Greenpeace	Marine Mammals
Dr Leigh Torres	KASM and Greenpeace	Marine Mammals
Dr Greg Barbara	The Fisheries Submitters	Marine Mammals
Relevant expert to be identified	DOC (at request of the DMC)	
Dr Tony Chiffings (Tele/video Conference)	EPA	Marine Mammals

Economics

Day 5 – Friday 17 February 2017 Facilitator: 2

Experts to attend	Nominated By	Topics Covered
Mr Jim Binney	KASM and Greenpeace	Economics
Mr Wennie van Lint (Tele/video Conference)	EPA	Economics
Mr Jason Leung-Wai	TTRL	Economics

Conditions and planning

At a date during the hearing to be identified.

Experts to attend	Nominated By	Topics Covered
Dr Philip Mitchell	TTRL	Planning and Conditions
Mr Daniel Govier	TTRL	Monitoring of effects and management plans
Ms Helen Anderson	The Fisheries Submitters	Environmental Planning
Dr Rob Lieffering	EPA	Conditions

Appendix 2: Witnesses not proposed to participate in expert conferencing

Expert witnesses with no topic or peer

Witness	Nominated By	Topic
Mr Mike Patrick	TTRL	Overview of other legislation
Mr Terry Hume	TTRL	Coastal stability
Mr Barrie Forrest	TTRL	Biosecurity
Mr Buddy Mikaere	TTRL	Cultural impacts assessment
Mr Derek Todd	The Fisheries Submitters	Coastal Hazards
Mr Bruce Clarke	The Fisheries Submitters	Environmental Monitoring
Dr Robert Overy (By Skype)	Origin Energy Resources Kupe NZ Ltd (OERKL)	Geotechnical impacts of the application on OERKL's current and future operations
Mr Chris Carra (By Skype)	Origin Energy Resources Kupe NZ Ltd (OERKL)	Impacts of the application on OERKL's current and future operations

Other witnesses

Witness	Nominated By	Topic
Mr Alan Eggers	TTRL	Chairman TTRL
Mr Matthew Brown	TTRL	Geotechnical
Mr Shawn Thompson	TTRL	Operational Description Project Description
Mr Tokatumoana Walden	TTRL	Stakeholder Engagement
Mr Ant Piper	The Fisheries Submitters	Fisheries
Mr Doug Saunders- Loder	The Fisheries Submitters	Fisheries
Mr Andrew Smith	The Fisheries Submitters	Fisheries

Dr Jeremy Helson	The Fisheries Submitters	Fisheries management
Ms Karen Pratt	-	General
Ms Maria Cashmore	Ngati Ruanui	General evidence
Mr Graham Young	Ngati Ruanui	Planning
Mr Te Huia Bill Hamilton (via Skype)	Nga Ruaru	Human Rights, the Treaty of Waitangi
Dr Andrew Erueti	Nga Ruaru	Indigenous rights
Dr Jacinta Ruru/Sarah Down	Nga Ruaru	Indigenous rights
Mr Owen Hobbs	Origin Energy Resources Kupe NZ Ltd (OERKL)	Overview Evidence
Mr Iain Curril	Origin Energy Resources Kupe NZ Ltd (OERKL)	Current Operations and Future Expansion
Mr Martyn Alyward	Origin Energy Resources Kupe NZ Ltd (OERKL)	Operations
Mr Anton van Helden	Royal Forest and Bird Protection Society New Zealand	Marine Mammals
Ms Natasha Sitarz	Royal Forest and Bird Protection Society New Zealand	Planning and Conditions
Ms Kirsty Woods	Te Ohu Kaimoana Trustee Ltd	Customary fisheries