

**BEFORE THE ENVIRONMENTAL PROTECTION AUTHORITY
AT WELLINGTON**

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

AND

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

BETWEEN **Trans-Tasman Resources Limited**
Applicant

AND **Environmental Protection Authority**
EPA

**MEMORANDUM OF COUNSEL ON BEHALF OF TRANS TASMAN
RESOURCES LIMITED REGARDING TIMETABLING**

15 March 2017



ATKINS | HOLM | MAJUREY

Mike Holm/Vicki Morrison-
Shaw
PO Box 1585
Shortland Street
AUCKLAND 1140

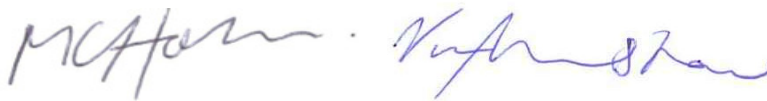
Solicitor on the record	Mike Holm	Mike.Holm@ahmlaw.nz	(09) 304 0428
Contact solicitor	Vicki Morrison-Shaw	vicki.morrison-shaw@ahmlaw.nz	09 304 0422

MAY IT PLEASE THE ENVIRONMENTAL PROTECTION AUTHORITY:

1. On 15 March 2017 the DMC issued Minute 35 which set out a proposed timetable for the next steps and requested that the parties:

"...advise the EPA staff of any additional matters needing to be scheduled, any dates when required people are unavailable, and any other material considerations as soon as possible."
2. Trans-Tasman Resources Limited (TTR) has reviewed the draft timetable and proposes some amendments for the DMC's consideration as set out in Appendix 1 to this memorandum.
3. The purpose of these changes is:
 - (a) to reflect the steps already taken (provision of updated conditions);
 - (b) to remove any duplication of steps;
 - (c) to address TTR team availability issues (with key team members being unavailable on 30 and 31 March 2017); and
 - (d) to provide TTR with a written right to reply to any matters raised by parties in response to the second condition report, expert conferencing, and other facilitated discussions during April and May 2017.
4. Some further explanatory comments are included in Appendix 1 beside specific requested changes. Counsel is also happy to address the DMC on the proposed changes further if that would be helpful.

DATE: 15 March 2017



Mike Holm / Vicki Morrison-Shaw

Legal Counsel for **Trans-Tasman Resources Limited**

Appendix 1 – Proposed Timetable

Date	Event
15 March 2017	TTRL provided updated version of proposed conditions
16 March 2017	Receive further modelling information.
16 March 2017	TTRL provide updated proposed conditions (possibility this could be provided at this time to assist discussion on adaptive management approach)
17 March 2017	DMC consider whether sediment plume modelling witnesses reconvene expert conferencing to discuss modelling information, or recall any of these witnesses. these witnesses.
17 March 2017	DMC ask relevant expert witnesses to provide comment on any impact arising from further modelling information on evidence by 24 March 2017.
17 March 2017	Planning evidence presented as scheduled, including discussion on planning aspects of adaptive management as provided for in Minute 34. (Or postpone any evidence on conditions until after further consideration by other experts of further modelling information received and updated proposed conditions – see revised timing option below)
17 and 20 March 2017	Parties who responded to Minute 28 invited to discussion on legal aspects of adaptive management approach as provided for in Minute 34
20 March 2017	TTRL provide updated proposed conditions (possibility this could be provided earlier to assist discussion on adaptive management approach – see above)
20-21 March 2017	Closing statements by parties (propose moving this to later – see revised timing option below)
20 March 2017	DMC review whether expert conferencing to be reconvened and which topics (if any), or if any expert witnesses need to be recalled
24 March 2017	Receive any requested comments on any impact from further modelling information from expert witnesses.

Comment [VMS1]: TTR considers planners should give evidence on Friday with further conferencing on conditions to follow if required

Date	Event
21 - 24/27-29 March 2017	Reconvene any required expert conferencing (eg effects on fishing) <u>with conferencing statements on any impact from further modelling due by 24 March 2017-</u>
27 March 2017	<u>Planning conferencing on conditions (if required)</u>
28/29 March	<u>DMC attend site visit (tbc)</u>
29 March 2017	<u>TTRL provide "final" updated proposed conditions (if needed after further consideration by other experts of further modelling information received)</u>
30-31/28 March 2017	Attendance at hearing by experts recalled on specific matters, eg Dr Mark James, Dr Torres. Recall planning witnesses if required.
30-31/28 - 29 March 2017	<u>Closing submissions (if postponed from earlier) – followed by DMC adjourn hearing</u> <u>TTR to table final draft of conditions with its closing submissions on 29 March 2017</u>
30 – 31 March 2017	<u>DMC site visit</u>
10 April 2017	EPA provide 2 nd conditions report with full analysis of TTRL "final" updated proposed conditions
10 April 2017 – 8	Parties have the chance to comment on updated proposed conditions and 2 nd conditions report, including expert conferencing and other facilitated discussion if appropriate.
7 May 2017	Any final requests for information by DMC made and responded to in this period.
8 May 2017	<u>TTR written reply to be submitted on any matters raised by parties in their responses in April and May 2017 relation to updated proposed conditions, 2nd conditions report, expert conferencing and other facilitated discussions</u>
8 May 2017	DMC close hearing (no additional information to be received) – 20 working days until decision due

Comment [VMS2]: TTR considers it is not necessary to provide an updated version of conditions here but that it is more appropriate for this to occur with its reply – particularly as all parties will have a further opportunity to comment on conditions after closing submissions.

Comment [VMS3]: TTR key team members unavailable on 30 and 31 March and have therefore suggested slight revision of these dates

Comment [VMS4]: It is important that TTR has the opportunity to respond to any comments raised by other parties on conditions – particularly but not limited to operational and Augier conditions