

**BEFORE THE ENVIRONMENTAL PROTECTION AGENCY
AT WELLINGTON**

IN THE MATTER	of applications under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 for marine and discharge consents to recover iron sand
BETWEEN	Trans-Tasman Resources Limited Applicant
AND	The Environmental Protection Authority EPA
AND	Te Rūnanga o Ngāti Ruanui Trust Submitter

**MEMORANDUM OF COUNSEL FOR
TE RŪNANGA O NGĀTI RUANUI TRUST
15 DECEMBER 2016**

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MAY IT PLEASE THE ENVIRONMENTAL PROTECTION AUTHORITY:

1. This Memorandum is filed on behalf of Te Rūnanga o Ngāti Ruanui Trust (“the Trust”) and responds to:
 - a. Minute 9 issued by the Decision-Making Committee (“DMC”) on 1 December 2016;
 - b. Hearing Procedures issued by the DMC on 2 December 2016 (“the Procedures”);
 - c. The Joint Memorandum filed by the Applicant, Kiwis Against Seabed Mining and a number of Fisheries Submitters on 13 December 2016 (“the JMOC”).

Timetable

2. As the EPA is aware, the Trust filed a Memorandum with the Environment Court (“the Court”) seeking further directions clarifying the scope of the orders made by the Court in *Kiwis Against Seabed Mining Incorporated v Environmental Protection Authority* [2016] NZEnvC 217 (8 November 2016). The Applicant and the EPA filed Memoranda in response to the Trust’s Memorandum.
3. The Trust was involved in discussions with other parties that led to the filing of the JMOC but wished to reserve its position pending a decision on the matters it raised with the Court, on the basis that those matters could have impacted on the timetable. For that reason, the Trust declined to be a party to the JMOC.
4. The Court issued a Minute in respect of the Memoranda filed above on 14 December and the Trust can now confirm that it supports the timetable attached to the JMOC

Venue

5. In addition to the timetable issues, the Trust wishes to express its concern in respect of the venue of hearings. In its Minute 1, dated 8 September 2016 the DMC indicated that hearings would be held in New Plymouth and Wellington, with the Procedures stating the hearing location will be confirmed by 22 December 2016.

6. The Trust wishes to register its strong objection to the proposal that no hearing days in relation to this matter would be held within the takiwā (tribal domain) of Ngāti Ruanui, given that the Applicant's proposed activities would have a significant impact on the marine environment of that takiwā. Clearly, the towns of Hawera and Pātea are significantly closer to the area that would be impacted by the Applicant's proposed activity than New Plymouth or Wellington.
7. Counsel submits that not holding any part of the hearings within the takiwā of Ngāti Ruanui would constitute a failure by the EPA to:
 - a. Give effect to the principles of the Treaty of Waitangi/Te Tiriti by taking into account the existing interests of Ngāti Ruanui in accordance with s.12 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 ("the Act"); and
 - b. Recognise tikanga Māori in accordance with s.53 of the Act.
8. Counsel notes that the EPA's consideration of the first applications by the Applicant included two days' hearing held on Pariroa Marae in Pātea, leading the EPA to state in its decision on those applications that:

We sat for 2 days of the hearing at Pariroa Marae in Patea. Notwithstanding that this application was challenging to tangata whenua and notwithstanding whatever sense of grievance is still felt towards the Crown as Treaty partner, we were made to feel welcome. We wish to record our appreciation for the welcome we received and for the generosity of the tangata whenua in hosting the hearing.¹
9. Ngāti Ruanui seeks to extend the same manaaki (hospitality) to the EPA, Applicant, submitters and witnesses involved in this matter as it did in 2014 and, indeed, will not be able to fulfil its cultural obligations if it cannot do so. The Trust therefore requests that the EPA reconsider the hearing programme for this matter and confirm that a significant proportion of the

¹ EPA decision, 17 June 2014, paragraph 41.

total number of hearing days will be held on a Ngāti Ruanui marae or, at the very least, within the takiwā of Ngāti Ruanui.

DATED this 15th day of December 2016

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above a horizontal line.

Justine Inns
Counsel for Te Rūnanga o Ngāti Ruanui Trust