

**BEFORE THE ENVIRONMENTAL PROTECTION AGENCY  
AT WELLINGTON**

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

**AND**

**IN THE MATTER** of an application for a further extension of time for  
public submissions on the applications by Trans-  
Tasman Resources Limited for marine and discharge  
consents to recover iron sand under sections 20 and  
87B of the EEZ Act

**BETWEEN** **Trans-Tasman Resources Limited**

Applicant

**AND** **Environmental Protection Authority**

EPA

**AND** **Royal Forest and Bird Protection Society New Zealand  
Incorporated**

Submitter (Forest and Bird)

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**MEMORANDUM IN SUPPORT OF THE MEMORANDUM FILED ON BEHALF OF  
FISHERIES SUBMITTERS, KASM AND THE APPLICANT**

**14<sup>TH</sup> DECEMBER 2016**

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**AND**                      **Greenpeace New Zealand Incorporated**  
Submitter (Greenpeace)

**AND**                      **Eco New Zealand Incorporated**  
Submitter (ECO)

**AND**                      **New Zealand Sports Fishing Council**  
Submitter

**MAY IT PLEASE THE DECISION-MAKING COMMITTEE:**

1. This memorandum is filed on behalf of the Royal Forest and Bird Protection Society New Zealand Incorporated, Greenpeace New Zealand Incorporated, Environmental and Conservation Organisations of New Zealand Incorporated, and New Zealand Sports Fishing Council, **(the supporting parties)**.
2. This memorandum is filed in support of the memorandum filed on behalf of the Fisheries Submitters, Kiwis Against Seabed Mining Incorporated and Trans-Tasman Resources Limited on 13 December 2016.
3. The Decision-Making Committee circulated Minute 9 – minute of the Decision-Making Committee **(DMC)**, dated 1 December 2016, and a detailed hearing timetable, to the Parties on 2 December 2016.
4. The hearing timetable found in Minute 9 requires that submitter evidence be filed on 13 January 2017. This gives submitters, witnesses and experts 2 ½ working days to prepare their evidence from the date of filing of the Applicants evidence and therefore implies that preparation of submitter expert evidence will be carried out over the summer break between 20 December and 10 January and. This is unreasonable. Many counsel and experts are unavailable during January. It can be expected that many or most submitters will also be on vacation until mid January at the earliest.
5. The EEZ/CS Act, with its very rapid timetable, allows for 40 working days from the close of submissions to the hearing in section 51(2). The summer break intervenes with section 4 of the EEZ/CS Act which defines working days to exclude 20 December to 10 January. Filing of submitter expert evidence must take place “at least” ten days before the start of the hearing, s 57 (4) EEZ/CS Act. Requiring that expert evidence be filed on 13 January rather than at a time later in January or closer to the hearing time of 16 February is not justified.
6. For these reasons, and subject to the request in paragraph [7] and [8] the Supporting Parties support the request of TTR, KASM and the Fisheries Submitters that the timetabling be shifted so as to avoid requiring experts and

submitters to prepare evidence over the holiday period and the hearing timetable set out in Annexure A of the memorandum of TTR, KASM and the Fisheries Submitters dated 13 December 2016 be used instead.

7. Annexure A sets out the continuation of 11 January 2017 as the date that “Parties must have confirmed with the EPA: If they wish to speak at the hearing, witnesses, whether make opening representation, hearing location, present via video conference, unavailability for any hearing dates, whether interpreter required, whether use electronic media at hearing”.
8. Most lay submitters will pay little attention to this date during the holiday period and given that it falls one day after the holiday period closes, some submitters who may wish to appear at the hearing and produce further evidence may miss out. Shifting this date back will not have any flow on effects to the other dates in the timetable, nor will it negatively disadvantage any other parties. The supporting parties also seek that the date for when parties must confirm appearance at the hearing with the EPA is moved back to 27 January, in line with the date for filing of evidence.
9. The Supporting Parties respectfully seek directions from the DMC that the present timetable is amended to reflect the timetable in Annexure A of TTR, KASM and the Fisheries Submitters memorandum of 13 December subject to the change contained in paragraph [8] of this memorandum.

**Dated this 14<sup>th</sup> day of December 2016**



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**Peter Anderson**  
**Counsel for Royal Forest and Bird**  
**Protection Society New Zealand**  
**Incorporated**



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**Duncan Currie/Ruby Haazen**  
**Counsel for Greenpeace New Zealand Incorporated**



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**Barry Weeber**  
**Environmental and Conservation Organisations of New Zealand Incorporated**



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**Dave Lockwood, Executive Officer**  
**New Zealand Sport Fishing Council**