

Hearing Procedures

for Trans-Tasman Resources Ltd application for marine consents and marine discharge consents

Issued by the Decision-making Committee:

Alick Shaw (Chairperson)

Sharon McGarry

Gerry Te Kapa Coates

Kevin Thompson

15 December 2016: Issue 2

Purpose of the Hearing Procedures

The purpose of these Hearing Procedures is to set the rules and timeframe by which the hearing process will run. The Hearing Procedures have been divided into two sections:

- Section 1 - provides the timelines; and
- Section 2 - sets the principles and rules by which the hearing process will run.

Guidance on how to participate in the hearing can be found at: www.epa.govt.nz/EEZ/having_your_say

The Hearing Procedures include aspects of the application process in the lead up to the hearing (the pre-hearing stage) where these are relevant to the hearing.

The Decision-making Committee (DMC) has wide powers to ensure that the hearing is appropriate and fair in the circumstances. These powers include giving directions as to evidence and the conduct of the hearing. This must be done in the context of the statutory timeframes set by the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 and the obligation to deal with the application, as promptly as is reasonable in the circumstances. These hearing procedures set out those directions.

The purpose of the hearing is to ensure the DMC has the best available information on which to base its decision. To ensure this can be done in the most appropriate and fair way, the DMC also has powers to consider limiting circumstances for a party to speak or call evidence where there is likely to be excessive repetition. It should also be noted that no person may question a party or witness unless the DMC gives permission, and the process for this is set out in these hearing procedures.

Amendments or Updates to the Hearing Procedures

Amendments or updates may be made to these procedures throughout the pre-hearing and hearing stages of the process (for example: changes to dates in the Section 1), as directed by the DMC. Parties will be notified of any changes via the Environmental Protection Authority website.

Requests to deviate from these procedures

Should any party wish to deviate from any requirement identified in these procedures, including timeframes, a written request shall be made to the DMC. Any such request must contain a full explanation of why the deviation is requested.

Requests to deviate from these procedures should be made in writing to the EPA by:

Email: TTRLApplication@epa.govt.nz (emails need to be smaller than 10MB)

Mail: Trans-Tasman Resources Limited iron sand extraction and processing application, Environmental Protection Authority, Private Bag 63002, Waterloo Quay, Wellington 6140

Delivery in person: to Environmental Protection Authority, Grant Thornton House, Level 10, 215 Lambton Quay, Wellington.

Revision Notes

Issue 1: First issue dated 1 December 2016

Issue 2: Second issue dated 15 December 2016 making changes as outlined in DMC Minute 11.

Section 1

The timetable for the Trans-Tasman Resources Ltd (TTRL) application for marine consents and marine discharge consents has been divided into two parts as follows:

Basic timetable – provides only the **essential key dates** for submitters who wish to speak at the hearing, but do not wish to actively engage beyond this point e.g. through providing evidence, witnesses etc.

Detailed timetable – outlines **all the key dates** for parties e.g. evidence, additional reports, pre hearing meetings and/or expert conferencing etc.

Basic timetable

DATE	ACTION	Hearing Procedure PARA REFERENCE
17 September 2016	Public Notification of application	N/A
5pm 12 December 2016	Extended Submission period closes	N/A
22 December 2016	EPA confirm proposed hearing locations	35
12pm 11 January 2017	Parties must have confirmed with the EPA:	
	- If they wish to speak at the hearing and any witnesses (both expert and non-expert) they wish to appear on their behalf (names and topics/area of expertise)	36
	- Which hearing location they prefer or if they wish to present via video conference	36, 74-78
	- If they are unavailable to appear at the hearing on any date/time	36
	- If they need an interpreter (e.g. for Te Reo Māori or sign language)	81-85
	- If they intend to present information using any electronic media	79-80
17 January 2017	Hearing notice issued	37
16 February 2017	*Hearing begins	35-44
12 April 2017	*Proposed date for the hearing to close (if maximum 40 working days for hearing is needed)	N/A
TBC	*Decision due (20 working days after the close of the hearing)	N/A

*Under the EEZ Act the EPA has the power to waive compliance with the timeframes above and these dates may change.

Detailed timetable

DATE	ACTION	Hearing Procedure PARA REFERENCE
17 September 2016	Public Notification of application	N/A
5pm 12 December 2016	Extended submission period closes	N/A
12pm 19 December 2016	Applicant evidence due with the EPA	14 - 20
22 December 2016	EPA confirm hearing locations	35
12pm 11 January 2017	<p>Parties must have confirmed with the EPA:</p> <ul style="list-style-type: none"> - If they wish to speak at the hearing and any witnesses (both expert and non-expert) they wish to appear on their behalf (names and topics/area of expertise) - If they wish to make an opening representation - Which hearing location they prefer or if they wish to present via video conference - If they are unavailable to appear at the hearing on any date/time - If they need an interpreter (e.g. for Te Reo Māori or sign language) - If they intend to present information using any electronic media 	<p>36</p> <p>46-51</p> <p>36, 74-78</p> <p>36</p> <p>81-85</p> <p>79-80</p>
17 January 2017	Hearing Notice issued	37
12pm 24 January 2017 [12pm 13 January 2017]	Submitter evidence (expert and non-expert evidence) due with the EPA	14-20
30 January 2017 [20 January 2017]	List of questions for any parties or witnesses due with EPA	66-73
7 February 2017 [30 January 2017]	Conferencing and/or Pre-hearing Meeting Timetable issued	30
7 February 2017 [30 January 2017]	List of approved questions made available on EPA website	69
13 February – 17 February 2017 [7 February – 13 February 2017]	Expert Conferencing and Pre-hearing Meetings (if required) (attendees to be available these days)	23-34
16 February 2017	*Hearing begins	35-44
12 April 2017	*Proposed date for the hearing to close (if maximum 40 working days for hearing is needed)	N/A
TBC	*Decision due (20 working days after the close of the hearing)	N/A

*Under the EEZ Act the EPA has the power to waive compliance with the timeframes above and these dates may change.

Section 2

Introduction

1. The Environmental Protection Authority (“EPA”) has delegated the decision making for the Trans-Tasman Resources Ltd (TTRL) application for marine consents and marine discharge consents to a Decision-making Committee (“the DMC”). The DMC will manage the hearing process and this document outlines its directions and procedures.
2. The marine consents and marine discharge consents application, made to the EPA under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“the EEZ Act”) by TTRL, is for a proposal to extract and process iron sand within the South Taranaki Bight. The application and other information can be accessed through the EPA website at: <http://www.epa.govt.nz/EEZ/whats-going-on/current-applications/ttr-2016/Pages/default.aspx>
3. The DMC members are: Alick Shaw (Chairperson), Sharon McGarry, Gerry Te Kapa Coates and Kevin Thompson.
4. These Hearing Procedures set out how the hearing and pre-hearing processes will be run. The DMC may modify these procedures if required by the circumstances, either on its own motion or at the request of any party. All relevant parties will be notified of any change to these Hearing Procedures via email and through the EPA website.

Principles/Objectives of the hearing process

5. In determining the approach to the hearing the DMC are guided by the need to:
 - a. run a fair and transparent hearing procedure providing for natural justice;
 - b. avoid unnecessary formality;
 - c. conduct an efficient process which minimises hearing time and costs;
 - d. ensure information is provided to the DMC in a timely manner and to ensure that the DMC has the best available information, avoiding repetition of information and the presentation of material not relevant to determining the application;
 - e. provide the applicant and submitters with an adequate opportunity to be heard, but it may be necessary to limit the length of oral presentations;
 - f. recognise tikanga Māori where appropriate, and to give effect to the Māori Language Act 1987 and receive evidence written or spoken in Te Reo Māori; and
 - g. recognise New Zealand sign language where appropriate, and receive evidence in NZ sign language if required.



6. All participants in the proceedings are expected to treat each other respectfully and professionally.

Definitions

7. Terms used in these Hearing Procedures (and related correspondence) are defined in the EEZ Act or below:

The applicant – Trans-Tasman Resources Ltd (TTRL).

The application – Trans-Tasman Resources Ltd marine consents and marine discharge consents application to extract and process iron sand within the South Taranaki Bight as lodged with the EPA on 23 August 2016.

Counsel – a lawyer who represents one or more of the parties.

DMC – The Decision-making Committee appointed by the EPA to make a decision on the Trans-Tasman Resources Ltd marine consents and marine discharge consents application.

DMC Minutes and Directions – The DMC will issue Minutes (providing information) and Directions (decisions requiring actions) throughout the process to communicate with parties.

EEZ Act – The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

EPA – the Environmental Protection Authority.

Evidence – statements that set out or evaluate facts. Evidence is provided in advance of the hearing. Evidence can include photographs and other visual presentations.

Expert evidence – Statements of opinion, by a qualified expert about issues within their field of expertise. Expert evidence must comply with the Environment Court Practice Note 2014.

Non Expert evidence – Statements of fact which a person having knowledge of those facts can give and who does not meet the criteria for an expert witness.

Expert Conferencing – a meeting of experts to narrow differences or clarify issues both prior to and during the hearing. A report/memo (commonly referred to as a Joint Witness Statement) is produced documenting the outcomes.

Facilitation – a method of dispute resolution where a neutral facilitator helps the parties involved attempt to resolve issues, identify commonality or identify and refine issues. The facilitator does not impose a decision on the parties.

Hearing schedule – a timetable that identifies where a hearing will be held and lists the order of people for that venue and approximate allocated speaking times. Due to the uncertainty of the length of presentations and questioning, specific dates and times cannot be precisely allocated to those appearing at the hearing.

Party (Parties) – the applicant and submitters.

Pre-hearing Meetings – when parties/witnesses talk together with the aim of identifying differences between them, resolving any differences and/or narrowing or clarifying issues and avoiding repetition in the hearing.

Representations – a party's statement of position made to the DMC at the hearing in relation to their submission. It can state a party's opinion on the proposal, how it will affect them and may request for a particular decision or outcome. This is not evidence.

Opening Representation – An overview of a party's case usually provided on the first day of the hearing. The opening representation assists the DMC in understanding the content of the party's case, important issues, the nature of the expert evidence that is to be called by a party, and any legal issues that may be relevant. Opening representations are only available to those who meet the criteria paragraph 49.

Closing Representation – A concise summary of the party's case and, where appropriate, a critique and comment on other parties' cases, usually, but not always given by Counsel for the party. Closing representations are only available to those who meet the criteria in paragraph 49.

Submission – a written or electronic submission relating to the application.

Submitter – a person or group of people who make a submission on the application.

Witness – a person who provides evidence on behalf of a party.

Expert witness – a witness who has the knowledge and/or experience that entitles him or her to be recognised by the DMC as an expert in their particular field. Experts are required to abide by the Environment Court of New Zealand Practice Note 2014:

https://www.nzbar.org.nz/Folder?Action=View%20File&Folder_id=69&File=Practice%20Note%202014%20%28Final%29.pdf

Interest Register



8. A Register of DMC members' relevant interests is maintained on the EPA website (it will be updated as required during the proceedings): <http://www.epa.govt.nz/EEZ/whats-going-on/current-applications/ttr-2016/dmc/Pages/default.aspx>

Communications by/from/to the DMC

9. The DMC will communicate with the parties via:
 - a. notices on the EPA website; and
 - b. email from the EPA advising of updates to the website, unless the EPA has been advised that electronic communication is not to be used.

Note: Information in hard copy will only be provided if specifically requested. There may be instances, such as with the schedule of appearances for the hearing, where information in hard copy may be superseded by the time it is received by the requestor. The most up to date information will be available on the EPA website.

10. All communication with the DMC must be made via EPA staff by providing the information in the following ways:

Email: TTRLApplication@epa.govt.nz (emails need to be smaller than 10MB)

Mail: Trans-Tasman Resources Limited iron sand extraction and processing application, Environmental Protection Authority, Private Bag 63002, Waterloo Quay, Wellington 6140

Phone: on freephone 0800 777 728

Delivery in person: to Environmental Protection Authority, Grant Thornton House, Level 10, 215 Lambton Quay, Wellington.

Note: Generally, all correspondence to the DMC will be made available on the website, unless it is of a purely administrative nature. If a correspondent does not want certain information to be made public (e.g. personal information), the correspondent may request the EPA to not disclose such information, in which case the correspondent must clearly identify which information the request applies to and the reasons why it should not be made available.

Provision of copies of documents

11. Copies of the application, evidence and all other information and documents provided by the parties or the EPA will be uploaded to the EPA website: <http://www.epa.govt.nz/EEZ/whats-going-on/current-applications/ttr-2016/Pages/default.aspx>
12. TTRL has lodged a new application for marine consents, which is to be considered afresh. The DMC will not consider documents relating to TTRL's previous application, unless a party advises that it seeks to rely on such a document and provides a copy of the relevant document



(or part(s) of it) to the DMC and the other parties¹. This is to be done through the evidence exchange process if a party is exchanging evidence, or if a party is not exchanging evidence, at the hearing in support of a submitter's representation.

Pre-hearing procedures

13. The DMC expects the parties, and particularly their representatives, to be proactive in resolving issues and identifying areas of commonality and any areas of difference.

Evidence requirements

14. The applicant is required to provide its written statements of evidence to the EPA on the date specified in the timetable in Section 1 of this document.
15. Submitters are required to provide any written statements of evidence (expert evidence and non-expert evidence) to the EPA on the date specified in the timetable in Section 1.
16. All witnesses should state if they consider themselves to be an expert witness and provide a statement about their qualifications and area of expertise in their brief of evidence to support this. All expert witnesses must comply with the Environment Court of New Zealand Practice Note 2014. An expert witness has an overriding duty to impartially assist the DMC on matters within the expert's area of expertise.
17. Evidence must meet the documentation requirements detailed in Appendix 1.
18. If evidence needs to be updated after it is lodged (for example, as a result of meetings) the witness must provide a tracked change version of the evidence clearly identifying the changes made, with a version number and date.
19. Evidence will be provided to parties by being made available on the EPA website. If any party is unable to download copies of the evidence, they can request the EPA to provide the evidence on CD or in hard copy. The EPA may charge for hard copy material.
20. Hard copies of evidence will be available for viewing at the hearing.

Pre-reading of the material provided

21. The DMC will pre-read the application, further information, Key Issues Report (and any supplementary reports), EPA Technical Reports, submissions, the evidence, and any other material provided in accordance with the timetable provided in Section 1.
22. The hearing will proceed on the basis that all parties have read the material of relevance to them to avoid unnecessary repetition of information during the hearing.

Expert Conferencing and Pre-hearing Meetings

¹ As outlined in DMC Minute 10.

Expert Conferencing

23. The DMC anticipates expert conferencing will be required and will make the final determination on which expert witnesses should participate in expert conferencing.
24. Attendance at expert conferencing will be limited to experts complying with the Environment Court of New Zealand Practice Note 2014 and the conferencing will take place in accordance with the Practice Note:
https://www.nzbar.org.nz/Folder?Action=View%20File&Folder_id=69&File=Practice%20Note%202014%20%28Final%29.pdf
25. The DMC expects that expert witnesses will be available, either in person or via teleconference or video conference, to conference with other experts in the same technical field.
26. Experts attending expert conferencing will be expected to address any questions approved by the DMC in accordance with paragraph 69 that are relevant to their expertise.
27. The DMC will issue a timetable for expert conferencing in accordance with the date set out in Section 1.

Pre-hearing Meetings

28. The DMC may request the applicant and one or more submitters to meet to discuss any matters in dispute. Parties are also encouraged to hold such meetings amongst themselves.
29. If required, the DMC will issue a timetable for any Pre-hearing Meetings in accordance with the date set out in Section 1.

Expert Conferencing and Pre-hearing Meetings

30. The final topics, attendees, dates and times of all Expert Conferencing and/or Pre-hearing Meetings will be advised as per the timetable provided in Section 1. Attendees will be expected to make themselves available for these dates. Further dates and times may be directed by the DMC or in agreement by the attendees.
31. Should any party seek changes to the scheduled Expert Conferencing and/or Pre-hearing Meetings a request should be made to the DMC within 2 working days of the dates and times being advised. Attendance requirements and/or other changes will be confirmed by the DMC.
32. Expert Conferencing and/or Pre-hearing Meetings will take place in Wellington, except where the DMC agrees otherwise. Experts may attend in person or by video conference or teleconference. However, experts are expected to participate in a process that will establish common ground in terms of areas of agreement and disagreement.
33. The DMC may appoint a facilitator to organise and conduct expert conferencing and/or Pre-hearing Meetings if required.
34. For all Expert Conferencing and/or Pre-hearing Meetings, a Joint Witness Statement (a report/memo) or Pre-Hearing Meeting report is to be provided on the outcome of the meeting, including:



- a. the matters that were agreed at the meeting; and
- b. the matters that were not resolved and why.

The report will not include anything communicated or made available during the conferencing or at the meeting on a 'without prejudice' basis.

Hearing

Notice of hearing, venue(s) and scheduling

35. The DMC in Minute 1 dated 8 September 2016 gave notice of its intention that if a hearing is to be held on TTRL's iron sand extraction and processing application, the hearing locations will be held in Wellington and New Plymouth. These locations will be confirmed as per the timeline provided in Section 1. The DMC has reserved its right to add or delete locations if necessary.
36. Parties are to confirm with the EPA if they wish to speak at the hearing, and provide notice of any witnesses (names and topics/areas of expertise) they also wish to appear on their behalf, state their preferred location from those venues proposed, identify any availability issues and make any requests for an interpreter by the date set out in Section 1.
37. EPA will then issue the Hearing Notice confirming hearing dates and locations by the date set out in Section 1.
38. Unless otherwise advised, the hearing will begin each day at **9:00 am**. It will generally finish around **5:00 pm**. There will be 15 minute breaks at approximately 10:30 am and 3:30 pm. The lunch break will typically be from 12:00 pm to 1:00 pm.
39. A detailed Hearing Schedule will be produced and updated regularly throughout the process. This will be made available on the EPA website and will contain the dates, venues and order of speakers on each day with approximate timings.
40. The Hearing Schedule is subject to change. Parties scheduled to appear will be advised of updates to the Hearing Schedule by email. Where changes occur at short notice the EPA will endeavour to verbally communicate with affected parties.
41. To enable a fair and efficient hearing and to avoid repetition, time allowances for the presentation of representations and evidence are set out in Appendix 2.
42. The order of parties appearing at the hearing will be in general accordance with that set out in Appendix 2.
43. The DMC may ask any question of a party, representative, legal counsel, or witness.
44. Legal issues may be raised only by counsel and may be raised with the Chairperson at any time during the hearing.

Opening the hearing

45. The hearing may open with a mihi whakatau.

Opening representations

46. Opening representations will be made after the hearing has been opened and any process, administrative and/or jurisdictional matters have been addressed. A limit may be placed on the time allowed for an opening representation. Any such time limits are set out in Appendix 2.

Opening representations from the applicant

47. Opening representations by the applicant are expected to summarise the applicant's case and provide an outline of the evidence to be presented.
48. Hard copies of representations and any documents supporting these can be provided at the hearing, but must meet the requirements set out in Appendix 1.

Opening representations from submitters

49. Any submitter calling three or more expert witnesses, may make an opening representation provided that they make a request to do so by the date set out in Section 1.
50. Any other submitter wishing to make an opening representation should apply to the DMC by the date set out in Section 1, giving reasons.
51. An opening representation is not compulsory. Where such a representation is made, it is expected to summarise the party's case and provide an outline of the evidence to be presented.

Witnesses appearing at the hearing (providing evidence)

52. Parties wanting to call witnesses at the hearing must indicate who those witnesses are, the topics they will cover and where appropriate their areas of expertise, by the date specified in Section 1 of these procedures.
53. The evidence of witnesses must meet the requirements set out in Appendix 1.
54. All witnesses must attend the hearing in person (or, by prior agreement of the DMC, through video conferencing). However, the DMC may direct that a witness need not appear at the hearing. This may occur where there are no questions for that witness or the witness's evidence is not contested by any other party. In this case, their evidence will be taken as read.
55. Witnesses will not be sworn in or affirmed, but must ensure that the statement of evidence they have produced is true and correct. Expert witnesses are required to abide by the Environment Court of New Zealand Practice Note 2014.
56. Expert witnesses for a subject area will be heard consecutively where practicable. Expert witnesses for a particular subject area should make every effort to attend the hearing when other experts are giving relevant evidence.
57. Witnesses will not read their evidence at the Hearing unless requested to do so by the DMC. Witnesses may:



- a. present a concise summary of their evidence; this summary should cross reference back to the evidence;
 - b. explain relevant figures, plans and tables;
 - c. outline and highlight any corrections in the evidence; and
 - d. summarise any changes to their evidence as a result of meetings or expert conferencing.
58. A limit may be placed on the time witnesses have to present their evidence. Any such time limits are set out in Appendix 2.

Submitters appearing at the hearing (making their representation)

59. All submissions will be read and considered by the DMC. Submitters do not have to attend the hearing if they do not wish to.
60. Submitters wanting to speak to their submission at the hearing must reconfirm their wish to do so by the date specified in Section 1, so the EPA can prepare a hearing schedule accordingly.
61. Submitters may speak to their submission themselves, or they can choose to be represented by a lawyer, an advocate or other person (e.g. a friend or family member). If not representing themselves, the submitter must advise the EPA who will present their submission.
62. A joint representation (where one person makes a representation on behalf of several submitters) is encouraged where the submissions are of a similar nature.
63. If submitters do not identify opportunities for joint representation and/or the DMC considers there is likely to be excessive repetition at the hearing (a number of submitters saying the same thing) the DMC may limit the circumstance in which submitters who have the same interests can speak.
64. When speaking at the hearing, a submitter may only address the matters within the scope of their lodged written submission.
65. A limit may be placed on the time submitters have to make their representation. Any such time limits are set out in Appendix 2.

Questioning of parties and their witnesses for consideration at expert conferencing or at the hearing

66. Cross-examination will not be permitted by the DMC.
67. Any party who wishes to put questions to a party or a witness, for consideration at expert conferencing or at the hearing, must request this from the DMC. The request must include:
- a. the person to be questioned;
 - b. the topics to be covered and the question(s); and
 - c. an estimate of the time required.



All requests for questions must be in writing and received by email on TTRLApplication@epa.govt.nz by the time and date outlined in Section 1, unless special circumstances apply.

68. The DMC encourages parties with similar interests to group together for any questions. The DMC will not allow repetitive or irrelevant questions.
69. The DMC will consider whether the questions requested will assist them in their understanding of the evidence and in making their decision on the application. The DMC will advise, via the EPA website, the list of questions that have been approved prior to expert conferencing to allow them to be discussed at the conferencing and to allow a party/person to be questioned to adequately prepare a response.
70. Questions approved by the DMC will either be asked by the DMC or, at the DMC's direction, by the party who requested the question.
71. If, following expert conferencing, receipt of evidence, a witness presentation or a representation, the DMC consider that an approved question has been adequately addressed it will not be asked.
72. Any further questions of clarification for a witness during the hearing will only be allowed through requests in writing to the Chairperson via the Hearings Manager.
73. The DMC may ask any question of the applicant, any submitter, representative, legal counsel, or witness. Questions will generally be after, but may be at any point in the presentation by that person.

Speaking via video-conference

74. Any party may request the DMC to allow their representation or witness's evidence be given via video conference i.e. Skype.
75. The request must state the name and location of the person/witness and the reason(s) why they cannot attend in person.
76. The date by which any request must be made is specified in Section 1 of this document.
77. Each application will be considered on its merits and will be allowed if it is reasonable and practicable. If permission is granted by the DMC, the party will discuss the necessary arrangements with EPA staff.
78. Representations by telephone conference are not permitted.

Presentation/electronic media requirements at the hearing

79. Where any submitter or their representative intends to use electronic media (e.g. Power Point) as part of their presentation they must advise the EPA by the date specified in Section 1.
80. EPA systems at the hearing will enable the viewing of PDF documents, PowerPoint presentations, picture files and video files (using a standard .mp4 or .wav video format).



Intentions to use electronic media should include the type of electronic media to be used, and whether any specific system or software requirements are needed. Electronic media presented at the hearing must meet the electronic copy requirements in Appendix 1.

Presenting in Te Reo / Sign Language

81. Any party, representative or witness may speak in Te Reo Māori at the hearing. The EPA must be informed of the intention to use Te Reo Māori so that an interpreter can be arranged.
82. Any karakia, powhiri, or mihi will not be translated into English or recorded on the transcript unless this is specifically requested before the hearing. To aid the DMC, an English interpretation of the karakia, powhiri, or mihi may be provided by the presenter.
83. Any party, representative or witness may provide their written evidence or a representation in Te Reo Māori, in which case an English version is to be provided by them.
84. Any party, representative or witness may present in New Zealand Sign Language at the hearing. The EPA must be informed of the intention to use New Zealand Sign Language so that an interpreter can be arranged.
85. The date by which requests for use of Te Reo Māori and New Zealand Sign Language must be received is specified in Section 1 of this document.

Closing representations

86. Parties who made an opening representation may make a closing representation. The DMC or EPA will seek confirmation of parties wishing to make closing representations at a later date. No additional evidence or new information that has not been raised during the hearing can be introduced at this time.
87. A limit may be placed on the time to make a closing representation. Any such time limit is set out in Appendix 2.
88. Following the closing representations, the DMC will adjourn the hearing. The DMC will advise all parties of the next stages and the date the hearing is closed.

Written record of proceedings

89. The EPA will have the hearing proceedings recorded and transcribed. The transcripts will be made available on the EPA website, usually within three working days of close of each day's proceedings.
90. The record of the hearing proceedings will include:
 - a. a summary of proceedings, including a list of the applicant's witnesses and submitters who have spoken at the hearing;
 - b. witnesses who have appeared, and a list of all documents submitted at the hearing;
 - c. a reference set of all documents presented at the hearing; and
 - d. transcripts of the hearing.



Role of EPA Support Staff

91. The EPA Hearing Manager will make the arrangements for the hearing on behalf of the DMC and will attend the hearing to assist the DMC with the administration of the hearing.
92. The DMC will also be supported by an EPA Senior Advisor to assist with document management and to manage the hearing schedule. The EPA Senior Advisor can be contacted by email on TTRLApplication@epa.govt.nz or by Freephone 0800 777 728.
93. All communications to the DMC shall be via the EPA support staff.

Media

94. The hearing will be open to the public. Representatives of the media are free to attend and report public proceedings.
95. Cameras, video-recorders and audio recorders can only be used by media, or any other person in the hearing, with prior permission from the DMC. Applications for permission to record can be made to the Chairperson of the DMC in advance by writing to the EPA.
96. Media interviews are not allowed in the hearing room. The DMC are not available for media interviews. The EPA will be available to provide process information to the media. All media enquiries should be directed to Helen Corrigan, EPA Principal Communications Advisor helen.corrigan@epa.govt.nz phone 04 474 5415.
97. The DMC will operate under the Media Guide for reporting the Courts and Tribunals (Edition 3.1) Appendix F – Environment Court in-court media coverage guidelines, which can be found on the Ministry of Justice website at: <http://www.justice.govt.nz/about/news-and-media/media-centre/media-information/media-guide/appendices/appendix-f/>

Appendix 1 – Requirements for documents (including evidence and representations)

Evidence

1. All witnesses (expert and non-expert) must provide 10 hard copies AND an electronic copy of their evidence to the EPA by the dates set out in Section 1. The hard copy and electronic copy must be identical and comply with the hard copy and electronic copy requirements outlined below.
2. Statements of evidence can be sent:
 - a. **By email** to TTRLApplication@epa.govt.nz (if smaller than 10MB); or
 - b. **On a disk or portable storage device** (e.g. USB stick or CD) (if larger than 10MB); or
 - c. **Posted** to Environmental Protection Authority, Private Bag 63002, Wellington 6140, Attention: TTRL marine consents application; or
 - d. **Delivered in person** to Environmental Protection Authority, Level 10, 215 Lambton Quay, Wellington.
3. Evidence should be clearly identified as either expert or non-expert evidence on the cover page of the document.
4. The statements of evidence can refer to reports provided as part of the application, any other report published by the EPA on its website or any submission. These reports/submissions do not need to be supplied again.
5. TTRL has lodged a new application for marine consents which is to be considered afresh. The DMC will not consider documents relating to TTRL's previous application, unless a party states that it seeks to rely on a document and provides a copy of the relevant document (or part(s) of it) to the DMC and the other parties². This can be done through the evidence exchange process, if a party is exchanging evidence, or if a party is not exchanging evidence, at the hearing in support of a submitter's representation.
6. If evidence is over 15 pages, the witness shall provide an executive summary (no more than two pages) at the beginning of their evidence.
7. If evidence needs to be updated after it is lodged (e.g. as a result of meetings), this updated evidence must be tracked to show any changes and include a version number and issue date. Updated evidence should be provided electronically to the EPA and any parties with approved requests to question the witness, no less than three days before the witness is scheduled to appear. 10 hard copies shall be given to the Hearing Manager at the hearing on the day the witness appears.

² As outlined in DMC Minute 10.

Information presented at the hearing

8. A hard copy of any information presented at the hearing in support of representations, including opening and closing representations, and any documents associated with submitter presentations, may be provided on the day. 10 hard copies and one electronic copy should be given to the Hearing Manager when you arrive and these documents must comply with the hard copy and electronic copy requirements outlined below.
9. For parties who have been permitted to present using electronic media, the presentation files should either be emailed to the EPA, at least the day before the party is scheduled to appear, or given to the Hearings Manager on a disk or portable storage device upon arrival at the hearing venue.

Hard copy requirements

10. All text shall be single-sided A4 with a minimum 11 font size. Line spacing must be a minimum of 13pt or 1.5 lines.
11. Non text exhibits shall be single sided and provided on A3 or A4 paper.
12. All coloured exhibits shall be provided as colour copies of good quality.
13. All evidence, including appendices, must have page numbers, a table of contents and be hole punched for an A4 lever arch folder. If the combined evidence for any party is more than 100 pages in total, it must also be tabbed and provided to the EPA in lever arch folders.
14. Each statement of evidence shall be signed and dated by the witness who is to give that evidence.
15. Permission to deviate from the hard copy requirements may be sought from the DMC.

Electronic copy requirements

16. If the electronic copy of any document is less than 10MB, it can be emailed to the EPA at TTRL.Application@epa.govt.nz.
17. If the electronic copy of any document is greater than 10MB, it must be provided to the EPA on a CD, DVD or portable storage device (e.g. USB Stick). Any electronic files over 10MB in size may be too large to email and so should be split into multiple parts. If splitting electronic files, please make it clear when naming the separate parts of the document the order they should be reassembled in.
18. The electronic documents should, where practicable, be provided a Microsoft Word document or a searchable PDF. If this is not possible, other arrangements should be made with the EPA before providing the document.
19. If a party is providing evidence that include video clips, photographs or images then one copy on a DVD is to be provided both to the EPA and the applicant.
20. Any party unable to create electronic copies of a document must contact the EPA to make other arrangements before the date the document is due to be lodged.

Appendix 2 – Hearing order and time limits for appearances

Order of Appearances at the Hearing

The hearing will generally be scheduled in the following order -

1. Administrative and procedural matters
2. Opening Representations (starting with the Applicant)
3. Applicant and its witnesses
4. Parties with expert witnesses (grouped by topic where possible)
5. Parties without expert witnesses (representations or non-expert evidence)
6. Any witnesses called by the Decision-Making Committee (DMC)
7. Closing Representations (finishing with the Applicant)

Indicative time allowances for presentations

Opening representations	Applicant's opening representation	3 hours
	Any other parties' opening representations	30 minutes
Evidence	Witnesses will present a summary and/or any corrections to their evidence	15 minutes
	Questions of the witness by the DMC	No limit
Representations	Representation from the submitter or representative	10 minutes
	Questions of the submitter by the DMC	No limit
Closing representations	Any other parties' closing representation	30 minutes
	Applicant's closing representation	3 hours