

**BEFORE THE ENVIRONMENTAL PROTECTION AUTHORITY AT
WELLINGTON**

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

AND

IN THE MATTER of the applications by Trans-Tasman Resources Limited (TTR) for
marine and discharge consents to mine iron sand under sections 20
and 87B of the Act and

BETWEEN **Trans- Tasman Resources Limited**
Applicant

AND **The Environmental Protection Authority**
EPA

AND **Kiwis Against Seabed Mining Incorporated (KASM)**
Submitter

SUBMISSIONS FOR KASM AND GREENPEACE ON TIMETAL

Dated 20 March 2017

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Submissions for KASM and Greenpeace on Timetable

1. This memo responds to DMC Memo 35. KASM and Greenpeace wrote in a Memorandum on 1 March suggesting that relevant experts be recalled consecutively, so we concur that natural justice requires this be done. We observe that in section 61(5) of the Act, “best available information means the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time.” That includes unreasonable cost, effort and time of submitters; not just the Applicant or the DMC. In short, it is abundantly clear that the EPA should have returned the application as incomplete under section 41(1): the application should have “describe[d] “the current state of the area where it is proposed that the activity will be undertaken and the environment surrounding the area;” (s 39(1)(b) and “identif[ied] the effects of the activity on the environment and existing interests (including cumulative effects...) (s 39(1)(c). We detailed in our opening submissions the inadequacies pointed out by the first DMC. It is now abundantly clear that these matters should have been addressed. Even the plume model – the ‘flagship’ product, if you will – has been found wanting. This has resulted in costs and time borne by the submitters. So we certainly understand and share the frustration and concerns of the fisheries submitters and Ngati Ruanui in the blow-out of time and costs that this has entailed. In particular, we would observe that sometimes experts will continue to disagree. In such case, the DMC will have to apply the section 61 Information Principles: (1)(b) take into account any uncertainty or inadequacy in the information available and (2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, the EPA must favour caution and environmental protection.

Submissions for KASM and Greenpeace on Timetable

2. In the circumstances, it seems inevitable to extend the hearing to May as proposed. However there is one crucial point. Closing submissions should – must - be made after 8 May, after the second conditions report, expert conferencing, and final requests for information made and responded to. Already once, Greenpeace and KASM have spend very considerable time and costs preparing the closing submissions which have now been postponed, as we expect have other counsel. The next closing submissions should be final, and should follow all other evidence and conditions. This is crucial.

Respectfully submitted

DEJ Currie/Ruby Haazen

20/3/2017