

**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** **Fisheries Inshore NZ, New Zealand Federation of Commercial Fishermen, Talley's Group Limited, The Southern Inshore Fisheries Management Co Limited, Macdonald & Brown Limited and Cloudy Bay Clams Limited**  
Fisheries Submitters

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

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

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

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Counsel Acting

**ROBERT MAKGILL**  
BARRISTER

Instructing Solicitor

**PETER DAWSON**  
DAWSON & ASSOCIATES

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

1. This memorandum is filed on behalf of the Fisheries Submitters, Kiwis Against Seabed Mining Incorporated and Trans-Tasman Resources Limited (**the Parties**).
2. 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.
3. Counsel for the Fisheries Submitters gave notice to the Environmental Protection Authority and the DMC on 5 December 2016 by way of email that:

... counsel for the Fisheries Submitters (including Talley’s Group Limited), Te Runanga o Ngati Ruanui Trust and Kiwis Against Seabed Mining Incorporated are preparing a memorandum in response to the DMC’s timetable directions, which they consider to be (amongst other things) unreasonable and unlawful.
4. The Parties have engaged in constructive discussion, since the email dated 5 December 2016, with a view to avoiding further legal argument concerning procedure and enabling the Parties to concentrate on the preparation of their respective cases.
5. A central concern of the submitters is to avoid any timetable that requires preparation evidence during:
  - (a) working days exempt under of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and
  - (b) the period in January during which submitters and their experts can reasonably be expected to be on vacation.
6. Trans-Tasman Resources Limited’s primary concern is to retain the hearing date allocated under the DMC’s hearing timetable of 16 February 2017, so as to avoid further costs and administrative disruption that would accrue if a later hearing date were to be set. The other parties agree to and support the retention of the 16 February 2016 hearing date.

7. The Parties have now agreed to a hearing timetable that they consider provides a reasonable resolution of the respective Parties' concerns. A table reflecting new proposed dates for filing evidence and addressing witness questions is attached as **annexure "A"**.
8. The differences between the DMC's timetable directions and those sought by the Parties are highlighted in blue under the third column of the table.
9. In the interests of avoiding further legal argument (and potential proceedings) concerning the present timetable the Parties respectfully seek directions from the DMC that the present timetable is amended to reflect the Parties agreed timetable.

**Dated this 13<sup>th</sup> day of December 2016**



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**Robert Makgill**  
**Counsel for Fisheries Inshore NZ,**  
**New Zealand Federation of**  
**Commercial Fishermen, Talley's**  
**Group Limited, The Southern**  
**Inshore Fisheries Management Co**  
**Limited, Macdonald & Brown**  
**Limited and Cloudy Bay Clams**  
**Limited**



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**Duncan Currie/ Ruby Haazen**  
**Counsel for Kiwis Against Seabed**  
**Mining**

*Mike Holm · Vicki Morrison-Shaw*

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**Mike Holm / Vicki Morrison-Shaw**  
**Counsel for Trans-Tasman**  
**Resources Limited**

## ANNEXURE “A”

## HEARING TIMETABLE AGREED BETWEEN THE PARTIES

Action	EPA Date	Dates proposed to be changed (all other dates remain the same)
Applicant evidence due with the EPA	12pm 19 December 2016	12pm 13 January 2017
EPA confirm hearing locations	22 December 2016	
Parties must have <b>confirmed</b> 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	12pm 11 January 2017	
Submitter evidence (expert and non-expert evidence) due with the EPA	12pm 13 January 2017	12pm 27 January 2017
Hearing Notice issued	17 January 2017	
List of questions for any parties or witnesses due with EPA	20 January 2017	7 February 2017
Conferencing and/or Pre-hearing Meeting Timetable issued	30 January 2017	
List of approved questions made available on EPA website	30 January 2017	14 February 2016
Expert Conferencing and Pre-hearing Meetings (if required) (attendees to be available these days)	7 February – 13 February 2017	
*Hearing begins	16 February 2017	