

**BEFORE THE ENVIRONMENTAL PROTECTION AUTHORITY  
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 marine consent under section 38 of the EEZ Act by Trans-Tasman Resources Limited to undertake iron ore and processing operations offshore in the South Taranaki Bight

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

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

**AND** **Fisheries Inshore New Zealand Limited, New Zealand Federation of Commercial Fishermen Inc, Talley's Group Limited, Southern Inshore Fisheries Management Company Limited and Cloudy Bay Clams Limited**  
Fisheries Submitters

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**MEMORANDUM ON BEHALF OF FISHERIES SUBMITTERS**

**Dated: 14<sup>th</sup> March 2017**

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Counsel Acting  
**ROBERT MAKGILL**  
BARRISTER

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

1. Counsel acts for Fisheries Inshore New Zealand Limited, The New Zealand Federation of Commercial Fishermen Inc, Talley's Group Limited, Southern Inshore Fisheries Management Company Limited and Cloudy Bay Clams Limited (**Fisheries Submitters**).
2. This memorandum addresses:
  - (a) The provision of updated charts by Captain Smith; and
  - (b) The evidence of Alison Undorf-Lay; and
  - (c) The DMC's position on a further caucus on the Effects on Fishing.

**Captain Smith, Explanation of Chance**

3. Captain Smith provided evidence at the hearing on 2 March 2017 which was summarised in a PowerPoint Presentation. Captain Smith had several interactions with the DMC in regards to slides of charts included in his PowerPoint presentation.
4. The DMC invited him to amend and to simplify the charts and provide them to the DMC. These were provided to the DMC on Monday 13 March 2017. A hard copy of the NZ45 chart has been couriered to the EPA today.

**The Evidence of Ms Alison Undorf-Lay**

5. Counsel for the Fisheries Submitters record their objection to the late provision of the Statement of Evidence of Alison Undorf-Lay on behalf of Sanford Limited, dated 23 February 2017, on the grounds that this breaches the requirements of natural justice. This Statement of Evidence was handed to the DMC on 24 February 2017.
6. The Hearing Procedures, dated 10 January 2017, issued by the DMC required parties to have confirmed by 16 January 2017 whether they wished to speak at the hearing and any witnesses (both expert and non-expert) they wished to appear on their behalf. No witnesses were nominated by Sanford Limited.
7. The detailed timetable provided by the DMC required that all written statements of evidence were to be filed by 24 January 2017. No statement of

evidence was filed by Sanford Limited.

8. The Hearing Procedures required that submitters appearing at the hearing were required, when speaking at the hearing, to address only matters within the scope of their lodged written submissions. Ms Undorf-Lay made reference to additional material well beyond the initial Sanford submission.
9. The Fisheries Submitters request leave to file evidence-in-reply to the evidence of Ms Undorf-Lay.

#### **Further Caucus on the Effects of Fishing**

10. During the EPA hearing on Thursday 2 March 2017, the DMC indicated to Counsel for the Fisheries Submitters that expert caucusing on the Effects on Fishing and the Effects on Fish would be reconvened. Given the clear divergence of views on the effects of fishing between Dr Don Robertson (appointed by the EPA), Dr MacDiarmid and the Fisheries Submitters' experts, Counsel request that the caucus on the Effects on Fishing and the Effects on Fish be reconvened prior to the Fisheries Submitters addressing closing submissions to the DMC on 20 March 2017.
11. Further, given Captain Andrew Smith's expertise in this area, Counsel seeks leave to allow Captain Smith to attend the caucus on the Effects on Fishing.

**Dated this 14<sup>th</sup> day of March 2017**



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**Robert Makgill / Peter Dawson**  
**Fisheries Inshore New Zealand**  
**Limited, New Zealand Federation**  
**of Commercial Fishermen Inc,**  
**Talley's Group Limited, Southern**  
**Inshore Fisheries Management**  
**Company Limited and Cloudy Bay**  
**Clams Limited**