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In Support of the Submission Made by the New Zealand Sport Fishing Council & LegaSea (120339)

In the Matter of:

the Applications by Trans-Tasman Resources Limited (TTR) for Marine and Discharge Consents to Recover Iron Sand Under Sections 20 and 87B of the Act

Presentation to EPA TTRL Hearing

24 February 2017

1. The New Zealand Sport Fishing Council (NZSFC) is a national sports organisations with over 32,000 affiliated members from 56 clubs nationwide. The Council initiated LegaSea to increase awareness and support for the need to restore abundance in our inshore marine environment.
2. We are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of national legislation such as the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
3. The submitters wish to acknowledge the enormity of the proposal before us and highlight that any project of this size must be scrutinised to the full extent possible to ensure a cautious approach is adopted to protect our precious marine environment from undue and long-term damage for the benefit of any private organisation.
4. The submitters wish to thank the Environmental Protection Authority (EPA) for giving this project the full consideration needed and trusts that you will ensure the right process is followed.
5. Currently, we are unable to agree that the Trans-Tasman Resources Limited (TTRL) proposed project is in the best interest of New Zealand and that it meets the policies outlined in the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. Such as:
 - a. The purpose of the ACT
 - i. *To promote the sustainable management of the natural resources of the exclusive economic zone and the continental shelf; and*
 - ii. *In relation to the exclusive economic zone, the continental shelf and the waters above the continental shelf beyond the outer limits of the exclusive economic zone, to protect the environment from pollutions by*

*regulating or prohibiting the discharge of harmful substances and the dumping or incineration of waste or other matter.*¹

- b. In this Act, **sustainable management** means managing the use, development, and protection of natural resources in a way, or at a rate, that enables people to provide for their economic well-being while:
 - i. Sustaining the potential of the natural resources (excluding minerals) to meet the reasonably foreseeable needs of future generations
 - ii. Safeguarding the life-supporting capacity of the environment; and
 - iii. Avoiding, remedying, or mitigating any adverse effects of activities on the environment.
- c. The expert evidence provided by the opposition throughout this process and this hearing has highlighted in many ways how allowing the proposed project to take place would not be safeguarding the life-supporting capacity of the environment, or avoiding, remedying or mitigating any adverse effects on the environment.
- d. It is clear, during the proposed project there will be adverse effects to the environment, it is now being debated the extent of these effects. The evidence given by both sides seems to highlight the uncertainties around many points of the project. There is no way the applicants can reasonably say that they can be sure of the extent of this project as this kind of activity has never been carried out in our waters, and much of the evidence presented cannot be directly related, but rather inferred from studies elsewhere.
- e. This leads us to believe that the DMC ought to favour caution and environmental protection in light of compelling evidence presented.
- f. Earlier last year, in response to TTRL's initial proposal, the EPA recommended that TTRL provide a hydrodynamically driven model of primary production that includes phytoplankton and microbenthos production. TRRL responded that it was not reasonable to expect the amount of field research needed to gather the information to be carried out as part of the application process
 - i. It is our belief that it is not TTRL's decision whether it was reasonable, that if recommended by the EPA it is an important piece of information and the application being made without this only increases the uncertainty of the project as a whole.
 - ii. The submitters believe it is the responsibility of TTRL to provide evidence of the safety and sustainability of the project, it is not the public's responsibility to prove otherwise.
 - iii. Also, we believe TTRL do not have the power to state what is the best available information or what is and is not relevant/important to decide

the outcome of this application. That power, in this case, rests solely with the EPA and the DMC.

6. The submitters believe the lack of consideration given to recreational fishing interests is a cause for concern. There have been no estimates made or research into the effects that this may have.
 - a. The applicants have simply stated that the area is a “*low use recreational setting*” and that the area is “*rarely used for marine fishing*”. Representatives from our clubs in the area have provided us with contradictory information.
 - b. We request that the methodology of the aerial survey and any information supporting this statement be released to the public for further review.
 - c. We understand that there has been proposed recreational surveys by some of TTRL’s experts. However, these are very poorly described. What would be accepted as a negative effect to recreational fishing and what procedures would be undertaken to correct this issue has not been identified. These pieces of information, along with having a baseline figure of recreational performance, would be critical in monitoring this project.
 - d. The natural resource, the local fishery, is of extremely high social, cultural and economic value to the public and to not be fully considered is wrong. Based on the expert evidence presented and our own analysis, the threats to this resource could be higher than TTRL have originally stated. This level of risk and the uncertainty of negative effects is, in our view, unacceptable.
7. The submitters note 22 fish species have been highlighted whose distributions coincide with that of the mining project or believe to spawn or breed in the area (see below). TTRL have stated that they intend to monitor damage, yet currently of these 22 species, snapper is the only species to have a stock assessment¹.
 - a. The submitters believe it is reckless to carrying out activities that could cause harm to these species without a credible method to monitor the change that may occur. This further highlights the uncertainty of the effects of the proposed project.²
 - b. Snapper
 - c. Tarakihi
 - d. Red Gurnard
 - e. Trevally
 - f. Leatherjacket
 - g. Spiny Dogfish
 - h. Barracouta
 - i. Rig

- a. Now with the increase in SRW population as they are recovering, it is possible that they will again be present in the area.
 - b. Torres et al. (2013) published a paper discussing the threats faced by SRW. Two expert witnesses in this case, Leigh Torres and Alison MacDiarmid, were co-authors in this paper, which stated "*populations of SRW are currently increasing (Bannister, 2011; Carroll et al., 2011b) and may recolonize former calving and foraging grounds. Therefore, best management policies will not only protect SRW from current threats but also look ahead to protect these vulnerable populations from future threats by minimizing degradation and exploitation of critical habitats.*"⁴
 - c. Although this may never come to fruition, we feel this matter highlights the uncertainties that already surround the state of our marine environment.
 - d. To make decisions now, assuming we know the state of the environment and the effects these decisions may impart in 35 years' time would be a risky assumption. Our marine environment was in a very different condition 35 years ago, in 1982.
 - e. This must be taken into account, a project of this magnitude extending so far into the future is highly unpredictable, especially given the lack of available information on the matter.
10. The submitters urge the DMC to act with the utmost caution, in a matter that may affect so many individuals and a resource that many feel so strongly about. The number of submissions involved in this process wasn't a case of repetition but in fact an indication of the social, economic and cultural importance of this environment and the resources it provides.

References

1. Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
2. Ministry for Primary Industries (2016). Fisheries Assessment Plenary, May 2016: stock assessments and stock status. Compiled by the Fisheries Science Group, Ministry for Primary Industries, Wellington, New Zealand. 1556 p.
3. Newcombe, C.P. and Macdonald, D.D. (1991), Effects of Suspended Sediment on Aquatic Ecosystems. North American Journal of Fisheries Management, Volume 1, Pg. 72-82
4. Torres, L. G., Smith, T. D., Sutton, P., MacDiarmid, A., Bannister, J. and Miyashita, T. (2013), From exploitation to conservation: habitat models using whaling data predict distribution patterns and threat exposure of an endangered whale. Diversity Distrib., 19: 1138–1152. doi:10.1111/ddi.12069