

**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

MEMORANDUM ON BEHALF OF FISHERIES SUBMITTERS

Dated: 5 May 2017

Regarding further evidence from the Applicant notified on 2 May 2017

Counsel Acting
ROBERT MAKGILL
BARRISTER

Instructing Solicitor
PETER DAWSON
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MAY IT PLEASE THE DECISION-MAKING COMMITTEE:

1. Counsel acts for the Fisheries Submitters.
2. I refer to the Hearing Administrator's email correspondence dated 2 May 2017. Copies of that correspondence are attached under **annexure "A"**.
3. The Administrator has inquired as to the availability of the Fisheries Submitters' experts to address nine additional evidential documents filed by Trans-Tasman Resources Limited (**TTR**). This evidence was notified late on the afternoon of Tuesday 2 May.
4. The Hearing Administrator's email correctly states that the Fisheries Submitters advised, in their memorandum dated 16 March 2017, *"that they are unable to meet any additional cost, effort of time in these proceedings over and above those they have already committed to meeting"*.¹
5. The Fisheries Submitter's memorandum, dated 29 March 2017, further advised that the additional cost of preparing further plume evidence, at that time, would *"be addressed through a reallocation of hearing resources"*.²
6. TTR's Counsel is presently seeking instruction from the Fisheries Submitters in respect of the steps they might wish to take in response to TTR's further evidence.
7. The Fisheries Submitters maintain that the costs to submitters in these proceedings have become unreasonable and an impediment to meaningful participation.
8. It may be helpful to note, at this juncture, that the Fisheries Submitters are unlikely to engage independent experts in additional caucusing. Caucusing is time consuming and likely to result in considerable further costs.

¹ Memorandum on behalf of Fisheries Submitters and Ngati Ruanui, dated 16 March 2017, at paragraphs [29], [30] and [31].

² Memorandum on behalf of Fisheries Submitters, dated 29 March 2017, at paragraph [6].

9. The costs of caucusing have been amplified in these proceedings due to a lack of adequate baseline information supporting the application, and the serious concerns that have been raised by experts concerning the veracity of TTR's plume modelling.
10. TTR's new evidence has only been publicly available for 3 days.
11. The Fisheries Submitters propose, in the circumstances, to advise on how they will address TTR's new evidence (if at all) by Tuesday 9 May 2017.

Dated this 5th day of May 2017

A handwritten signature in blue ink, appearing to read 'RAMAKGILL', is written over a horizontal line.

**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**

ANNEXURE "A"

HEARING ADMINISTRATOR'S EMAIL CORRESPONDENCE DATED 2 MAY 2017

From: [TTRLApplication](#)
To: [Peter Dawson](#); [Renee Hunt](#); [Robert Makgill](#)
Subject: FW: Information from TTRL in response to DMC Minute 41 and updated set of conditions
Date: Tuesday, 2 May 2017 4:47:27 p.m.

Hi Peter, Renee and Robert

You should have received the email below advising parties that TTRL has provided the information requested by the DMC in Minute 41 and seeking confirmation of witness availability to enable the DMC to confirm the next steps.

In your memorandum to the DMC for the fisheries submitters and Ngati Ruanui dated 16 March you noted that the Submitters are unable to meet any additional cost, effort or time in the proceedings over and above the involvement to date.

Please can you advise what arrangements, if any, as outlined below apply to your witnesses.

Regards

Gen

On behalf of the TTRL Application Team

Environmental Protection Authority • Level 10 • 215 Lambton Quay • Private Bag 63002 • Wellington 6140
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From: TTRLApplication
Sent: Tuesday, 2 May 2017 4:28 p.m.
To: Peter Dawson <peter@maritimelaw.co.nz>; 'Peter Anderson' <P.Anderson@forestandbird.org.nz>; 'Renee Hunt' <renee@maritimelaw.co.nz>; 'Robert Makgill' <robert@robertmakgill.com>; Michael Holm <mike.holm@ahmlaw.nz>; 'Vicki Morrison-Shaw' <vicki.morrison-shaw@ahmlaw.nz>; Duncan Currie <duncanc@globalaw.com>; Ruby Haazen <rghaazen@gmail.com>; 'Bronwyn Carruthers' <bronwyn.carruthers@russellmcveagh.com>
Cc: Celia Haden <Celia.Haden@epa.govt.nz>; Michael Allan <Michael.Allan@epa.govt.nz>; David Randal <david.randal@buddlefindlay.com>
Subject: Information from TTRL in response to DMC Minute 41 and updated set of conditions

Hi All

On 10 April the DMC issued Minute 41 requesting information and setting out questions primarily for TTRL but some matters may benefit from consideration by experts from other parties. The information requested from the applicant was set out in Appendix 1 of DMC Minute 41. Appendix 2 and 3 of Minute 41 sets out questions for other experts following the information being provided.

TTRL has provided the information requested by the DMC in Appendix 1 of Minute 41. The

information is available on the EPA website at the following link:
<http://www.epa.govt.nz/EEZ/whats-going-on/current-applications/ttr-2016/reports/Pages/Information-and-Advice-sought-by-the-DMC.aspx>

An updated set of conditions is expected from TTRL tomorrow and will be available on the EPA website. The spatial mapping will be received by Friday 5 May. Parties will be notified by email when this information is available on the EPA website.

Please can you advise which, if any, of your witnesses are available to participate in expert conferencing and their availability up to Friday 19 May. Alternatively there may be the option of responding in writing to the information provided by TTRL so please advise of availability to do this too.

If your witness is available to participate in conferencing please confirm if they are available to participate by phone, Skype or in person.

Please also specify if any of your witnesses will not be participating in further conferencing or commenting on the information.

Your response would be appreciated by **Thursday 4 May** to enable the DMC to confirm next steps and direct further expert conferencing.

Regards

Gen

On behalf of the TTRL Application Team

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