

**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: 15th February 2017

In response to DMC Minute 19 setting out further questions for the Applicant's witnesses and a request for attendance at the planning and conditions expert conferencing

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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. The Applicant's witnesses provided responses to submitter evidence on 10 February 2017.
3. The Decision Making Committee (**DMC**) Minute 19, dated 3 February 2017, provides that any questions that arise from the Applicant's responses to submitter evidence can be submitted to the EPA by 5pm on 15 February 2017.
4. This memorandum addresses:
 - (a) The Fisheries Submitters' list of further questions that it wishes to put to the Applicant's witnesses in response to their rebuttal evidence; and
 - (b) A request that Mr Bruce Clarke be included in the expert witness conferencing session on conditions and planning.

FISHERIES SUBMITTERS' QUESTIONS

5. The Fisheries Submitters request permission to ask additional questions of the Applicant's witnesses' at the hearing. The details of this request, including the questions to be asked, are attached under **annexure "A"**.
6. These questions are in addition to those approved by the DMC and set out in Appendix 1 of DMC Minute 21, dated 7 February 2017.

INCLUSION OF BRUCE CLARKE IN EXPERT CONFERENCING ON CONDITIONS AND PLANNING

7. We refer to DMC minute 24, dated 24 February 2017, and the updated Appendix 1: Table of attendees and dates for expert caucusing. We note that Fisheries Submitters' expert Mr Bruce Clarke has not been included in

the expert conferencing session on conditions and planning.

8. Mr Daniel Govier, for the Applicant, addresses baseline environmental monitoring in his expert rebuttal evidence dated 10 February 2017 at paragraphs [7] to [11]. In addition, Mr Philip Mitchell responds to submitter evidence regarding the extent to which the provision of baseline information is necessary in his expert rebuttal evidence dated 10 February 2017 at paragraphs [7] to [13]. These are matters that Mr Clarke addresses in his expert evidence dated 23 January 2017, at paragraphs [19] to [25].
9. Given that both Mr Govier and Mr Mitchell are included in the expert conferencing session on planning and conditions, and that their evidence responds to matters raised by Mr Clarke, Counsel respectively requests that Mr Clarke also be included in this session.

DIRECTIONS SOUGHT

10. The Fisheries Submitters:
 - (a) request permission to put additional questions to the Applicant's witnesses at the hearing as listed in Annexure A; and
 - (b) seek leave for Mr Clarke to be included in the expert conferencing session on Planning and Conditions.

Dated this 15th day of February 2017



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”

FISHERIES SUBMITTERS’ ADDITIONAL QUESTIONS FOR THE APPLICANT’S WITNESSES

1. The Fisheries Submitters wish to ask the following questions:

Person to be questioned	Topic to be covered	Question
Shawn Thompson	Project and operational – Air dispersion	With reference to the Tonkin and Taylor report dated 2 February 2017 (attached as Appendix 1 to your rebuttal evidence dated 10 February 2017), what is the frequency of exceedances of the ambient air standard predicted by the model for one year?
Shawn Thompson	Project and operational - Air Dispersion	What are the changes in discharges to air of combustion gases between the FPSO option as modelled and the IMV and FSO option as presented in the IA and why has this not been assessed in a revised air dispersion modelling report?
Alison MacDiarmid	Marine effects and benthic ecology	<p>The use of dredge samples to characterise macrobenthos is not able to adequately sample reef areas and the size of the dredge mesh (4cmx4cm) meant that meiofauna (infauna smaller than 2cm) would most likely be missed. Infauna identification was only undertaken from core samples in the top 15 cm. Therefore, any infauna capable of retracting into burrows or living deeper than 15cm may also have been missed due to the design of the sample program.</p> <p>Do you think this represents a gap in the sampling design?</p> <p>Do you consider that this may have led to an underestimation of the prevalence and,</p>

		therefore, importance of infauna in the STB, if a significant portion of the benthic productivity in the form of infauna was not effectively sampled?
Michael Dearnaley	Sediment plume model	In paragraph [13] of your rebuttal evidence, you state that the 99th percentile SCC predictions would not necessarily increase due to potential temporal variability in the source term. Do you acknowledge, however, that there is a potential that it could in which case the impacts may be understated?
Daniel Govier	Monitoring of effects and management plans	Is the baseline data collected to date sufficient duration to determine seasonal and natural variability?
Daniel Govier/Philip Mitchell	Monitoring of effects and management plans/ Planning and conditions	What is the difference between baseline information obtained prior to consent and baseline information obtained after consent, in terms of establishing triggers for environmental monitoring?
Philip Mitchell	Planning and conditions	Given that a marine discharge consent cannot rely on an adaptive management approach to deal with adverse effects of the activity (as per section 87F(4) EEZ Act), please explain how the application has addressed the adverse effects of the discharge on the environment?
Terry Hume	Coastal Stability	For non-lane areas, is discharge 4m about pre-existing seabed, or 4m above mound elevation as it grows? If it the former, what is the process for sediment to “flow up the

		adjacent mound” as suggested by Shawn Thompson.
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