

EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF (ENVIRONMENTAL EFFECTS) ACT 2012 (the Act)

Coastal Resources Limited (CRL) application for marine dumping consent

M4 – Minute of the Decision-making Committee – 7 November 2018

Expert conferencing and facilitated meeting on marine mammals

Expert conferencing

1. The Decision-making Committee (DMC) has identified topics and witnesses to attend expert conferencing. These are set out in Appendix 1 to this Minute.
2. Expert conferencing will take place between **8 – 22 November 2018**.
3. Conferencing will take place in accordance with the Environment Court Practice Note 2014: <https://www.environmentcourt.govt.nz/assets/Documents/Publications/2014-ENVC-practice-notes.pdf>
4. As set out in paragraph 14 of the Hearing Procedures, expert witnesses are expected to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. Fundamental to witnesses engaging in conferencing and giving evidence is that witnesses may not advocate on behalf of the parties that engage them.
5. At the request of the DMC, some of the experts responsible for independent section 56 reports commissioned by the DMC will also participate in conferencing and the preparation of joint witness statements. We note that some of their technical reports are yet to be delivered. The date set for the conferencing of those topics has been chosen to ensure those experts reports are circulated and able to be considered by all parties in time for the conferencing to occur.
6. The DMC has also requested that experts nominated by the Ministry for Primary Industry (MPI) Fisheries and MPI Biosecurity teams, responsible for the marine management regimes section 56 responses also participate in the marine ecology expert conferencing and in the preparation of the joint witness statement.
7. The EPA will appoint an independent facilitator to facilitate each session. The facilitator will contact the participants directly to arrange the logistics of the meeting. To enable the facilitator to do this, parties who have witnesses assigned to a facilitated conferencing session are to provide the contact details (email, phone, and Skype) and location for each witness to the EPA by **12pm Friday 9 November 2018**.

8. The Board encourages the assigned facilitator, and the participants of each session, to liaise amongst themselves in the first instance, to identify suitable venues, minute takers and any tele/video conferencing that may be required.
9. Each participant should also liaise with the facilitator and the other participant(s) in advance to agree on an agenda. The DMC encourages participants to prepare and pre-circulate a summary of any issues they wish to raise for discussion. The DMC may direct that experts consider specific questions.
10. The DMC expects all participants to attend the relevant conference session(s). Applications for a participant not to attend a session(s) will be considered by the DMC.
11. The sessions must result in a signed Joint Witness Statement showing the matters on which the experts agree and disagree, the reasons for any disagreement, and matters for the DMC's consideration.
12. A template for the Joint Witness Statement and guidance on participation will be provided by the EPA or the facilitator.
13. The Joint Witness Statements must be completed and provided to the DMC within two working days of the conference taking place. These will be circulated to the parties and placed on the EPA website as soon as possible after that.
14. Following these conferencing sessions, the DMC may request further conferencing on specific topics, particularly where the participants concerned consider that there is merit in doing so.
15. Should any party have any queries on attendance and / or the topics please advise the EPA by **12pm Friday 9 November 2018**.

Facilitated meeting on marine mammals

16. The DMC notes that the applicant has provided evidence on marine mammals from Dr Simon Childerhouse and the Auckland Conservation Boards evidence has been produced by Andrew Jeffs, who is a professor of Marine Science at the University of Auckland.
17. We note in Auckland Conservation Boards evidence, that Professor Jeffs has outlined that although he has read the Environment Court Code of Conduct for expert witnesses (and has complied with it in his preparation of his evidence). As he is a member of the Auckland Conservation Board that was appointed by the Minister of Conservation, he is not providing independent expert evidence. However, he is drawing on his expertise and experience (and those of other Conservation Board Members) in preparing the Conservation Board's evidence.
18. The DMC however believes there would be benefit in Dr Childerhouse and Professor Jeffs on behalf of the Auckland Conservation Board to have a facilitated meeting with each other ahead of the hearing. The purpose of the meeting will be to assist the DMC to see if the participants can

resolve or narrow any issues in contention in relation to the effects on marine mammals ahead of the hearing.

19. The facilitator will contact the participant's directly to arrange the logistics of the meeting. The outcomes of the meeting will need to be recorded and submitted to the DMC no later than **12pm 23 November 2018**. The participants may find the Joint Witness Statement template those undertaking expert conferencing are using, with suitable amendments could be a beneficial framework to follow. However, the participants may use another format as well if they wish.

For the DMC:

A handwritten signature in black ink, appearing to read 'M Farnsworth', written in a cursive style.

Mark Farnsworth

DMC Chair

7 November 2018

Appendix 1: Witnesses proposed to participate in expert conferencing and dates

16 November 2018

Session 1: Marine ecology

Start time: 9.00am – 5.00pm

Location: to be determined with facilitator

Experts to attend	Nominated By	Topics Covered
Simon West	Coastal Resources Limited	Marine Ecology
Dr Daniel Leduc	Decision-Making Committee	Marine Ecology
Clinton Duffy	Department of Conservation	Marine Ecology
Relevant expert to be identified	Ministry for Primary Industries (Biosecurity NZ)	Biosecurity
Relevant expert to be identified	Ministry for Primary Industries (Fisheries NZ)	Fisheries

20 November 2018

Session 2: Oceanography and sediment dispersal

Start time: 9.00am – 5.00pm

Location: to be determined with facilitator

Experts to attend	Nominated By	Topics Covered
Connon Andrews	Coastal Resources Limited	Sediment dispersal and oceanography
Dr Claus Pederson	Decision-Making Committee	Sediment dispersal and oceanography
Peter Longdill	Department of Conservation	Sediment dispersal and oceanography

22 November 2018

Session 3: Planning and conditions

Start time: 9.00am – 5.00pm

Location: to be determined with facilitator

Experts to attend	Nominated By	Topics Covered
David Hay	Coastal Resources Limited	Planning and conditions
Catherine Clarke	Decision-Making Committee	Planning and conditions
Andrew Riddell	Department of Conservation	Planning and conditions
Craig Shearer	Empire Capital Limited	Planning and conditions