

IN THE MATTER OF

an application for by Trans-Tasman Resources
Limited for the Taranaki VTM Project under the Fast
Track Approvals Act 2024 [FTAA-2505-1048]

MEMORANDUM OF COUNSEL FOR ŌKAHU INUĀWAI ME ĒTEHI ATU HAPŪ, KANIHI UMUTAHĪ ME
ĒTEHI ATU HAPŪ AND NGĀTI MANUHIKAI, ALL OF NGĀRUAHINE

Dated this day 2nd day of July 2025



Oranganui Legal

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Introduction and Participation

1. This Memorandum of Counsel is filed on behalf of the following hapū of Ngāruahine:
 - (a) John Hooker and Mere Brooks on behalf of Ōkahu Inuāwai me etēhi atu hapū;
 - (b) Allen Webb on behalf of Kanihi Umutahi me etēhi atu hapū; and
 - (c) Ferinica Hawe-Foreman on behalf of Ngāti Manuhiakai.
2. Counsel has been instructed to represent Ōkahu Inuāwai me etēhi atu hapū, Kanihi Umutahi me etēhi atu hapū, and Ngāti Manuhiakai hapū of Ngāruahine. Representatives of these hapū, supported by counsel, will attend the conference scheduled for 7 July 2025.
3. The hapū seek recovery of their legal costs for the preparation of this memorandum and for attendance at the conference.
4. We note that these groups seek recognition of their customary marine title (CMT) and protected customary rights (PCR) within the nearby marine and coastal area under the Marine and Coastal Area (Takutai Moana) Act 2011 (**MACA**):
 - (a) John Hooker and Mere Brooks on behalf of Ōkahu Inuāwai me etēhi atu hapū (CIV-2011-485-797);
 - (b) Allen Webb on behalf of Kanihi Umutahi me etēhi atu hapū (CIV-2011-485-814); and
 - (c) Ferinica Hawe-Foreman on behalf of Ngāti Manuhiakai (CIV-2011-485-797).

Complexity

Legal complexity

5. This application raises significant legal issues. The Fast-track Approvals Act 2024 (**FTAA**) is untested. Its relationship with the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (**EEZ Act**), MACA,

Resource Management Act 1991 (**RMA**), and other relevant statutes introduces constitutional, Treaty, and interpretive complexities. The implications of the Supreme Court judgment on the prior TTR application (which ran to 114 pages) must be understood in light of the FTAA framework.

6. The application also engages with international law instruments United Nations Convention of the Law of the Sea (**UNCLOS**), United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**) and constitutional presumptions about Treaty-consistent interpretation.
7. The hapū have undetermined applications under MACA. Delays in their resolution, amid Government inaction, undermine the ability of the hapū to exercise and protect customary rights.
8. Additionally, Ōkahu Inuāwai me etēhi atu hapū, Kanihi Umutahi me etēhi atu hapū, and Ngāti Manuhiakai hapū of Ngāruahine have filed statements of claim with the Waitangi Tribunal seeking an urgent inquiry into the application by Trans-Tasman Resources for the Taranaki VTM Project [FTAA-2505-1048] under the FTAA. The hapū are extremely concerned with the lack of checks and balances under the FTAA and the ability of Trans-Tasman Resources to side step crucial steps to ensure an economically sustainable and tikanga compliant project.

Evidentiary complexity

9. The environmental, cultural, and health-related effects of seabed mining are deeply technical. The application involves highly specialised scientific evidence and data that will require expert rebuttal, clarification, and cross-examination. Given the disproportionate resource availability, it is essential that hapū be afforded full opportunity to test this evidence in person.

Factual complexity

10. Disputes are anticipated on a wide range of matters including sediment plume modelling, marine life impacts, health effects, economic benefit assessments, and cultural impacts.

Tikanga and Cultural Impact

11. Tikanga Māori is central to the hapū's identity and obligations as kaitiaki. The proposed activities will significantly affect cultural relationships with the moana, including customary fisheries, wai tapu, and taonga species.
12. Tikanga-based evidence must be presented kano ki te kano, in the hapū rohe. This will take time to properly prepare, explain and digest. Preparation requires time for hui, wānanga, and considered kōrero among kaumātua, whānau, and tohunga. A 3–6 month timeframe is the minimum required for the proper preparation of this evidence, provided appropriate resourcing is made available.
13. The Panel must recognise that rushed timelines would breach tikanga, diminish the mana of the hapū, and prejudice the quality of evidence presented.

Hearing

14. A full hearing is essential. It must allow for oral evidence, legal submissions, and robust testing of evidence via cross-examination.
15. A kano ki te kano hearing is required both to uphold tikanga and to ensure procedural fairness given the gravity of the potential impacts.
16. The hapū suggest a minimum of three weeks should be allocated:
 - (a) Week 1: Environmental and technical evidence.
 - (b) Week 2: Tikanga and cultural evidence.
 - (c) Week 3: Closing submissions.
17. The hearing should occur in South Taranaki, and a site visit should be conducted to ensure informed decision-making.

Panel Composition

18. The hapū submit that the Panel must include:
 - (a) At least one member with recognised expertise in tikanga Māori and Māori legal frameworks;
 - (b) At least one member with constitutional and international law expertise;
 - (c) Marine biology and ecological experts;
 - (d) An economist experienced in assessing social and cultural costs and benefits; and
 - (e) A member with specific knowledge of Ngāruahine and South Taranaki tikanga.
19. The hapū are engaging with iwi and local authorities to develop recommendations. Suggested panel members, supported by the Hapū, are Loretta Lovell and Miria Pomare.

Procedural Requirements and Funding

20. The hapū wish to participate fully, but their capacity is constrained by resources.
21. They seek a clear proposal from the EPA and applicant regarding:
 - (a) How participation will be resourced;
 - (b) How technical and tikanga evidence can be prepared and heard;
 - (c) The provision of legal and expert support; and
 - (d) How resource disproportionateness will be addressed.

Timetable and Process

22. A completed draft timetable should be circulated for comment.

23. The currently anticipated timeframes are inadequate. A minimum of six months should be allocated to allow proper preparation, consultation, and testing of the application and its effects.

Conclusion

24. The Ōkahu Inuāwai me etēhi atu hapū, Kanihi Umutahi me etēhi atu hapū, and Ngāti Manuhiakai hapū of Ngāruahine express deep concern at the potential long-term harm this project poses to their environment, culture, and rights.
25. They urge the Panel to ensure a process that is: Treaty-consistent; grounded in tikanga; procedurally fair; and properly resourced.

DATED at Paraparaumu this 2nd day of July 2025



Eve Rongo

Counsel for Ōkahu Inuāwai me etēhi atu hapū, Kanihi Umutahi me etēhi atu hapū, and Ngāti Manuhiakai hapū of Ngāruahine