

**BEFORE THE PANEL CONVENER PURSUANT TO THE FAST-TRACK
APPROVALS ACT 2024**

IN THE MATTER

of an application made under the Fast-
Track Approvals Act 2024 by Trans-
Tasman Resources Limited

**MEMORANDUM OF COUNSEL ON BEHALF OF TRANS-TASMAN
RESOURCES LIMITED**



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INTRODUCTION

1. This case management memorandum is filed on behalf of counsel for Trans-Tasman Resources Limited (**TTR**) in response to the Panel Convener's directions dated 26 June 2025.
2. Those directions required the parties to address the following matters:
 - (a) Appointment of panel members; and
 - (b) The timing of the panel decision.
3. Counsel for TTR (Mike Holm and Nicole Buxeda) will attend the conference together with TTR's Executive Chairman (Alan Eggers) and resource management consultants (Phil Mitchell and Luke Faithfull).

COMPLEXITY

4. An understanding of the complexity of the application is required in order to inform the above two matters of panel membership and timing.
5. Counsel does not consider that significant complexity arises in relation to assessments required under the Fast Track Act.
6. The assessment required is as follows:
 - (a) Greatest weight must be given to the Purpose of the Fast Track Act, being to facilitate the delivery of infrastructure and development projects with significant regional or national benefits;
 - (b) While Schedule 10, cl 6, provides that various sections of the EEZ Act must be taken into account, greatest weight must be given to the purpose of the Fast Track Act; and

- (c) Declining the application can only be done on a very narrow basis: where there are adverse impact/s and those adverse impact/s are sufficiently significant to be out of proportion to the regional or national benefits.
- 7. Counsel does not consider that either of these steps requires significant legal or technical assessment as it is a matter of giving the regional and national benefits of the Application the greatest weight, and then taking into account other matters as listed.
- 8. The evidence provided by TTR in the Application is sufficient for the Panel to answer these questions, along with any supplementary evidence if submitted by submitters, and the legal guidance as set out in the Application and above.
- 9. In more specificity:
 - (a) There are no novel or difficult legal issues arising from the wording of the Fast Track Act. The weighting assessment set out above is clear. This is set out in the Substantive Application, specifically at section 1.5.4.
 - (b) TTR acknowledges that time will be required to assess the evidence prepared for the Panel, however again, the assessment required is that of the balancing set out above, with the clear direction that greatest weight be given to the purpose of the Fast Track Act.
- 10. TTR again acknowledges that the evidence is of a technical nature, but this will be true of the majority of applications made under the Fast Track Act process. The expertise as sought in the Panel by TTR (set out below) will assist in the understanding of any particularly technical material.

APPOINTMENT OF PANEL MEMBERS

11. In order to fulfil the requirements in Schedule 3, clause 7 of the Fast-Track Approvals Act 2004 (**Fast-Track Act**), TTR respectfully submits that the panel convener convene a panel comprised of persons capable of providing the following expertise, knowledge, and experience:
 - (a) Legal/resource consent practitioner (preferably with experience in the coastal marine environment); and
 - (b) Mining/project engineering with relevant environmental assessment and approval experience.
12. With respect to te ao Māori and Māori development, it is suggested that rather than seek to appoint a panel member with that expertise, that panel members appointed have an understanding of te ao Māori along with the expertise, knowledge, and experience set out above.
13. We submit that the circumstances are such that a panel need not comprise more than four members.¹

TIMING OF THE PANEL DECISION

14. TTR does not consider that a hearing is required for the Application, and a decision on the papers is both preferable and efficient.
15. Parties are provided with an opportunity to present views to the Panel as per section 53. TTR submits that no prejudice arises, and there is no matter arising of a nature which requires or necessitates a hearing under the Fast-Track Approvals Act.
16. TTR submit that a timeframe of 46 working days (given the volume of material rather than due to complexity) from the

¹ Fast-Track Approvals Act 2024, schedule 3, clause 3(7).

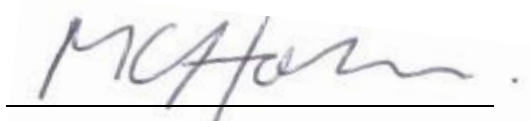
receipt of comments under section 53 to the required production of a decision is appropriate and in line with the purpose of the Fast-Track Approvals Act, and seek such direction from the Panel Convener.

17. Greater detail on timeframes sought is set out in **Appendix 2**.

Further information sought in Schedules 1 and 2

18. In addition to the above matters, the Panel Convenor requested that all participants provide the information sought in Schedules 1 and 2 to the minute. This information is set out in Appendices 1 and 2 to this memorandum.

DATE: 2 July 2025



Mike Holm / Nicole Buxeda

Legal Counsel for **Trans-Tasman Resources Limited**

APPENDIX 1

1. APPROVALS SOUGHT

1. TTR's recovery operation consists of:
 - (a) Dredging the top five metres (on average) from a layer of volcanic sand deposits which are 20-30 metres deep;
 - (b) Passing this material through the sorting system on the boat; and
 - (c) Returning 90% of the material to the seabed where it is placed in the extraction trenches.
2. The material is returned to the seabed in a controlled manner to minimise the generation of suspended sediment, and is absorbed into the already high levels of sediment present in the ocean environment. Within 2 to 3km from the discharge location, the sediment introduced will be indistinguishable from natural conditions.
3. Studies show the overall environmental effect of TTR's proposed operation will be negligible to minor. The existing benthic community is already well adapted to disturbance, and has an expected recovery time of weeks to months after extraction has moved beyond the immediate area. Conservative assessments by experts indicate the areas will be fully rehabilitated within two years after deposition.
4. TTR will manage environmental effects of the Project by working to a comprehensive set of consent conditions and detailed management plans that are subject to the ongoing approval and scrutiny of the compliance regulator, the EPA. The plans, agreed with a wide range of stakeholders and the EPA, outline how TTR would operate and sustainably manage the resource, and protect the marine environment from any

permanent adverse effects. The consent conditions require activities to cease if the effects exceed those permitted, with remedial action to be taken. As stated in the Application document, it is recommended that these conditions form part of consent.

5. The Approvals required to enable this operation, and which are sought through the Fast Track Act process, are set out in the Application, and replicated below in **Appendix 3**.

2. ISSUES

6. TTR's position is that the effects of the proposal on the physical environment are well understood and readily able to be managed, noting that for the most part the project area and wider STB environment is characterised as being a highly mobile sandy environment that has adapted to the near continuous disturbance of the seabed by wind and waves, and which has no particular environmental values of significance within the project site.
7. TTR acknowledges that there is implacable and unilateral opposition to the proposal by tangata whenua on cultural grounds. To the extent they relate to effects on the physical environment, TTR submits those concerns are readily addressed by the factual evidence and the conditions. TTR accepts that these cultural issues are made more complicated due to the location of the project within the EEZ, an area in which statutory acknowledgments and treaty settlement areas do not typically extend to.
8. TTR considers the outstanding cultural effects include, but are not limited to, consultation, consistency with Treaty settlements, tikanga-based customary rights and interests and the ability for tangata whenua to exercise kaitiakitanga.

3. TIKANGA

9. TTR leaves comment on this matter to tangata whenua.

4. PROCEDURAL REQUIREMENTS

10. TTR confirms ongoing willingness to engage directly with the panel as necessary to advance the application efficiently.
11. TTR does not consider a hearing being required. TTR notes that the Project has already been tested and approved previously by the EPA and highlights there are no differences between the Project in the FTAA process and the version was approved under the EPA process and subject to the subsequent appeals.
12. Given the above and that the scope of the outstanding issues are relatively confined, Counsel consider that there need not be a substantial amount of time added to the standard statutory timeframe for decisions to be made under the FTAA.

5. ADDITIONAL INFORMATION

13. TTR does not consider there are any other matters arising at this time.

APPENDIX 2 – APPLICANT’S ESTIMATED TIMEFRAME

Task	Working days	Date
Panel commencement	N/A	28 July 2025 (nominal)
Invite comment from relevant parties	10 W/D later	11 August 2025
Comments close (ss 53 & 54)	20 W/D later	8 September 2025
Comments close for applicants (s 55)	5 W/D later	15 September 2025
Any other procedural step and evaluation (s 55)	XXX W/D	XXX 2025
Draft decision is to approve		
Draft conditions to participants (s 70)	5 W/D	22 September 2025
Participant comments on draft conditions (s70(2))	5 W/D later	29 September 2025
Applicant response to participants on conditions (s 70 (4))	5 W/D later	6 October 2025
Draft decision to Ministers (s 72)	5 W/D	13 October 2025
Response from Ministers (s 72)	10 W/D later	28 October 2025
Applicant response to Ministers (allow)	5 W/D later	4 November 2025 (approx.)
Evaluate	3 W/D later	7 November 2025 (approx.)
Any other procedural step and evaluation.	XXX W/D later	XXX 2025 (approx.)
Decision release (calculated on the panel commencing on 28 July 2025)	3 W/D later	12 November 2025

APPENDIX 3 – APPROVALS REQUIRED

Marine Consent Requirements

Section of the EEZ Act	Activity for which Marine Consent Required	Project Element
s20(2)(a)	The construction, placement, alteration, extension, removal, or demolition of a structure on or under the seabed.	<ul style="list-style-type: none"> > The placement, movement and removal of the IMV anchor, including the anchor spread, on the seabed. > The placement, movement and removal of the SBC on the seabed. > The placement, movement and removal of the grade control drilling equipment on the seabed. > The placement, movement and retrieval of moored environmental monitoring equipment on the seabed.
s20(2)(d)	The removal of non-living natural material from seabed or subsoil.	<ul style="list-style-type: none"> > The removal of sediment from the seabed and subsoil using the SBC and by grade control drilling. > The taking of sediment and benthic grab samples from the seabed and subsoil associated with environmental monitoring.
s20(2)(e)	The disturbance of the seabed or subsoil in a manner that is likely to have an adverse effect on the seabed or subsoil.	<ul style="list-style-type: none"> > The disturbance of the seabed and subsoil associated with the placement, movement and removal of the IMV anchor, including the anchor spread. > The disturbance of the seabed and subsoil associated with seabed material extraction via the SBC, through re-deposition of de-ored sediments, and from grade control drilling. > The disturbance of the seabed and subsoil associated with the placement, deployment, retrieval and mooring of environmental monitoring equipment. > The disturbance of the seabed and subsoil associated with the taking of sediment and benthic samples associated with environmental monitoring.
s20(2)(f)	The deposit of any thing or organism in, on, or under the seabed.	<ul style="list-style-type: none"> > The re-deposition of de-ored sediments in, on or under the seabed.

Section of the EEZ Act	Activity for which Marine Consent Required	Project Element
		<ul style="list-style-type: none"> > The deposition of small amounts of marine organisms and solids in, on or under the seabed as a result of vessel maintenance, hull cleaning (biofouling).
s20(2)(g)	<p>The destruction, damage, or disturbance of the seabed or subsoil in a manner that is likely to have an adverse effect on marine species or their habitat.</p>	<ul style="list-style-type: none"> > The disturbance and damage of the seabed as a result of the placement, movement and removal of the IMV anchor on the seabed. > The disturbance and damage of the seabed as a result of seabed material extraction via the SBC, the re-deposition of de-ored sediments, and the grade control drilling. > The disturbance and damage of the seabed as a result of the placement, deployment, retrieval and mooring of environmental monitoring equipment. > The disturbance and damage of the seabed as a result of the taking of sediment and benthic samples associated with environmental monitoring.
s20(4)(a)	<p>The construction, mooring or anchoring long-term, placement, alteration, extension, removal, or demolition of a structure, part of a structure, or a ship used in connection with a structure.</p>	<ul style="list-style-type: none"> > The anchoring of the IMV to the seabed, and the associated placement, movement and removal of the IMV anchor on the seabed. > The placement, movement and removal of the SBC in the water column above the seabed. > The placement, movement and removal of the grade control drilling equipment in the water column above the seabed. > The placement, deployment, retrieval and mooring of environmental monitoring equipment in the water column above the seabed.
s20(4)(b)	<p>The causing of vibrations (other than vibrations caused by the normal operation of a ship) in a manner that is likely to have an adverse effect on marine life.</p>	<ul style="list-style-type: none"> > Vibration caused by the IMV and SBC during iron sand extraction activities.

Marine Consent Requirements for Discharges

Section of the EEZ Act	Activity for which Marine Discharge Consent Required	Project Element
s20B(1)	The discharge of a harmful substance from a structure into the sea or into or onto the seabed of the EEZ	<ul style="list-style-type: none"> > The release of seabed material (sediments) as a result of the seabed disturbance during grade control drilling activities; > The release of disturbed seabed material (sediments) as a result of the seabed disturbance during the SBC extraction operations; and > De-ored sediments and any associated contaminants discharged back to the water column from the IMV. > The release of disturbed seabed material (sediments) as a result of taking of sediment and benthic samples associated with environmental monitoring.
s20C(1)	The discharge of a harmful substance (if the discharge is a mining discharge) from a ship into the sea of the EEZ or into or onto the continental shelf	<ul style="list-style-type: none"> > All discharges from the IMV including de-ored sediments and any associated contaminants discharged back to the water column from the IMV.