

**Under the**

Fast-track Approvals Act 2024

**In the matter**

of a substantive application by Trans-Tasman Resources for the Taranaki VTM Project.

---

**MEMORANDUM OF COUNSEL ON BEHALF OF TARANAKI REGIONAL COUNCIL**

**Point of discharge for purpose of RMA**

**27 November 2025**

---

---

**SIMPSON  
GRIERSON**

**Matt Conway / Kierra Parker**

T: +64-4-499 4599

PO Box 2402 Wellington

## MAY IT PLEASE THE PANEL

1. At the legal issues hearing on 26 November 2025, the Panel asked counsel to confirm how the point of discharge is determined for the purpose of sections 15-15B of the Resource Management Act 1991 (**RMA**). The issue relates to the discharge aspect of Question 2, specifically whether section 15B of the RMA can apply to the Project given that the mining activity will occur within the EEZ rather than within the coastal marine area (**CMA**). The question of whether a resource consent is required for deposition within the CMA under section 12(1)(d) of the RMA is a separate issue and is not addressed in this memorandum.
2. TRC submitted that the usual position under the RMA is that the point of discharge is where the discharger loses effective control of the relevant contaminant.
3. In the recent High Court decision mentioned by Mr Slyfield, *Environmental Law Initiative v Canterbury Regional Council*, the High Court stated “The point at which a discharge occurs is that where the discharger loses effective control of the discharge”.<sup>1</sup> The High Court cited several cases as authority for that proposition.<sup>2</sup>
4. We also draw the Panel’s attention to *Minister of Conservation v South Taranaki District Council*, where the Minister applied to the Planning Tribunal for a declaration as to the type of consent required by the respondent to discharge treated effluent from the Hawera sewerage scheme.<sup>3</sup> The Planning Tribunal considered whether the discharge constituted:
  - (a) a discharge into the coastal marine area, which would require a coastal permit; or
  - (b) a discharge onto land or into a stream tributary, which would require a discharge permit from the Regional Council.

---

1 *Environmental Law Initiative v Canterbury Regional Council* [2025] NZHC 2515, at [167].

2 *Re Manawatu-Wanganui Regional Council* [2013] NZEnvC 213, [2013] ELHNZ 289 at [33]; *Manawatu-Wanganui Regional Council v Downer EDI Works Ltd (No 2)*, [2010] DCR 657 (DC) at [35]; and *Southland Regional Council v Southland Delight Ice Cream Company* (1996) 2 ELRNZ 34 (DC) at 5; and referring to *Environmental Law Initiative v Canterbury Regional Council* [2024] NZHC 612.

3 *Minister of Conservation v South Taranaki District Council* PT Auckland Decision W61/93, 30 August 1993.

5. The Planning Tribunal accepted the principle from *Kerikeri Properties Ltd v Northland Catchment Commission and RWB* that:<sup>4</sup>

It appears to us that the point of discharge must always be at the point at which the liquid being got rid of leaves the effective control of the discharger; but that the effect of the discharge must be considered by reference to the consequences which will follow once it joins [natural] water.

6. In *South Taranaki District Council*, the Planning Tribunal found that the water, once it reached the foot of the cliff from which it was discharged, was beyond the control of the discharger and had been allowed to escape. As indicated in the passage quoted above, the consideration of the resource consent application would include consideration of the effects that would occur once the discharge entered the receiving environment beyond the point of discharge.
7. We have attached the *Environmental Law Initiative* and *South Taranaki District Council* decisions for the Panel's reference.

**DATED** this 27<sup>th</sup> day of November 2025



---

**Matt Conway / Kierra Parker**  
Counsel for Taranaki Regional Council

---

4 *Minister of Conservation v South Taranaki District Council* PT Auckland Decision W61/93, 30 August 1993, at 7; citing *Kerikeri Properties Ltd v Northland Catchment Commission and RWB* (1977) 6 NZTPA 344 (TCPAB), at 348.