

**BEFORE THE TARANAKI VTM PROJECT EXPERT PANEL [FTAA-2504-1048]**

**UNDER THE** Fast-track Approvals Act 2024

**IN THE MATTER OF** an application by Trans-Tasman Resources Limited  
for marine consents

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**JOINT MEMORANDUM OF COUNSEL**

**Dated 24 November 2025**

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Counsel for Ngāti Ruanui:

**J Inns / D Jackson**

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## Introduction

1. This memorandum is filed on behalf of the following parties invited to make comments on the Taranaki VTM application (**the parties**):
  - (a) Te Runanga o Ngāti Ruanui;
  - (b) Te Korowai o Ngāruahine Trust;
  - (c) Te Kaahui o Rauru Trust;
  - (d) Kanihi Umutahi me ētehi atu hapū and Ōkahu Inuawai me ētehi atu hapū o Ngāruahine;
  - (e) Ngāti Manuhiakai, Araukuuku, Ngāti Tū and Te Patutokotoko;
  - (f) Te Tōpuni Ngārahu;
  - (g) Te Ohu Kai Moana Trustee Limited;
  - (h) The Royal Forest and Bird Protection Society Incorporated;
  - (i) Kiwis Against Seabed Mining Incorporated and Greenpeace Aotearoa Incorporated; and
  - (j) The Environmental Defence Society Incorporated.
2. Counsel are mindful of the Expert Panel's directions regarding the upcoming hearing of legal issues.<sup>1</sup>
3. With a view to assisting the Panel to make efficient and orderly use of the time at the hearing on 26 November 2025, Counsel have conferred and prepared the **attached** table setting out which of the parties have addressed the various questions the Panel has asked and a suggested order of parties to respond to questions the Panel may have.
4. Counsel are grateful for the Panel's indication that it will endeavour to hear from EDS before 11.30am due to Mr R Enright's pre-existing travel commitments. EDS is therefore listed first for each legal question it would like to address as a priority.
5. Finally, Counsel note the observation made in the recent Taranaki VTM Treaty Settlement and Cultural Effects Joint Witness Statement (dated 20 November 2025) that many of the questions posed by the Panel and addressed in that Statement were "legal,

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<sup>1</sup> Minute 11 of the Expert Panel (4 November 2025) and the Notice of Hearing.

not cultural, in nature". Counsel concur with that view and consider that there is a necessary inter-relationship between those questions and the legal questions for the 26 November hearing. In those circumstances, counsel for the iwi/Māori parties advise that they would also be pleased to address, at the hearing, any legal questions from the Panel that may arise as a consequence of the outcome of the Treaty Settlement and Cultural Effects conferencing and Joint Witness Statement.

**DATED 24 November 2025**



**J Inns and D Jackson**

**Counsel for Te Rūnanga o Ngāti Ruanui Trust**



**T A Dillon**

**Te Korowai o Ngāruahine Trust**



**P T Walker / R E Morar**

**Counsel for Te Kaahui o Rauru Trust**



**E K Rongo**

**Counsel for Ngāti Manuhiaki, Kanihi Umutahi me ētehi atu hapū and  
Ōkahu Inuawai me ētehi atu hapū o Ngāruahine**



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**L Black**  
**Counsel for Araukuuku, Ngāti Tū and Te Patutokotoko**



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**J P Ferguson**  
**Counsel for Te Tōpuni Ngārahu**



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**H K Irwin-Easthope / B C K Murfitt**  
**Counsel for Te Ohu Kaimoana Trustee Limited**



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**P Anderson / M Downing**  
**Counsel for the Royal Forest and Bird Protection Society Incorporated**



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**Duncan Currie / Ruby Haazen**  
**Counsel for Kiwis Against Seabed Mining Incorporated and Greenpeace  
Aotearoa Incorporated**

A handwritten signature in black ink, appearing to read "John Enright", is positioned above a horizontal line.

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**R Enright / J Commissaris**  
**Counsel for the Environmental Defence Society Incorporated**

Questions for Hearing 26 November 2025

Question	Parties addressing
<b>Jurisdiction and statutory framework</b>	
1. What is the relevance, if any, of factual findings by Decision-Making Committees on previous applications by the Applicant (TTR)?	<ul style="list-style-type: none"> <li>● <b>KASM/Greenpeace</b></li> <li>● Ngāti Ruanui</li> <li>● EDS</li> <li>● F&amp;B</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> <li>● TRC</li> </ul>
2. (a) Is the Panel required to determine whether TTR’s proposal requires approval under the Resource Management Act 1991 (“RMA”)?	<ul style="list-style-type: none"> <li>● <b>EDS</b></li> <li>● F&amp;B</li> <li>● Ngāti Ruanui</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> <li>● Te Tōpuni Ngārahu</li> <li>● TRC</li> <li>● Ngāti Manuhiakai, Araukuuku. Ngāti Tū me Te Patutoktoko</li> </ul>
2. (b) If so, does TTR’s proposal require approval under the RMA, and is s 5(1)(l) of the Fast-track Approvals Act 2024 (“FTAA”) relevant?	<ul style="list-style-type: none"> <li>● <b>F&amp;B</b></li> <li>● KASM/Greenpeace</li> <li>● EDS</li> <li>● Ngāti Ruanui</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> </ul>

	<ul style="list-style-type: none"> <li>● Te Tōpuni Ngārahu</li> </ul>
3. (a) Do other participants agree with the Applicant's position on the consents it requires under the EEZ Act?	<ul style="list-style-type: none"> <li>● <b>KASM/Greenpeace</b></li> </ul>
3. (b) If not, identify the points of disagreement and reasons?	<ul style="list-style-type: none"> <li>● <b>KASM/Greenpeace</b></li> </ul>
<b>Benefits and economic assessment</b>	
4. Is the project's feasibility a relevant consideration?	<ul style="list-style-type: none"> <li>● <b>EDS</b></li> <li>● KASM/Greenpeace</li> <li>● Ngāti Ruanui</li> <li>● TRC/STDC</li> <li>● Ngāti Manuhiakai, Araukuuku, Ngāti Tū me Te Patutokotoko</li> </ul>
<p>5. How should "benefits" be interpreted under the FTAA when considering the extent of the project's regional or national benefits and the purpose of the FTAA, including:</p> <p>(a) Whether a gross benefit approach is required?</p> <p>(b) whether disbenefits or other costs are relevant; and</p> <p>(c) whether a net benefit or cost-benefit approach is required?</p>	<ul style="list-style-type: none"> <li>● <b>EDS</b></li> <li>● Ngāti Ruanui</li> <li>● F&amp;B</li> <li>● KASM/Greenpeace</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> <li>● TRC/STDC</li> </ul>
6. (a) Does the same approach apply when the Panel takes into account "the economic benefit to New Zealand of allowing the application" under s 59(2)(f) EEZ Act?	<ul style="list-style-type: none"> <li>● <b>EDS</b></li> <li>● F&amp;B</li> <li>● KASM/Greenpeace</li> <li>● Ngāti Ruanui</li> <li>● Ngāruahine</li> <li>● TRC/STDC</li> </ul>

(b) If not are two separate economic assessments needed?	<ul style="list-style-type: none"> <li>• <b>EDS</b></li> <li>• F&amp;B</li> <li>• KASM/Greenpeace</li> <li>• Ngāti Ruanui</li> <li>• TRC/STDC</li> </ul>
<b>Climate change</b>	
7. (a) Are international climate conventions relevant under s 11 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“EEZ Act”)? (b) If so, how?	<ul style="list-style-type: none"> <li>• <b>KASM/Greenpeace</b></li> </ul>
8. (a) Is the effect on the climate of releasing seabed-stored carbon or reducing carbon flux to the seabed a relevant consideration? (b) If so, to which aspects of the assessment?	<ul style="list-style-type: none"> <li>• <b>KASM/Greenpeace</b></li> </ul>
9. Given the asserted climate-related benefits, should a net approach to climate effects be adopted?	<ul style="list-style-type: none"> <li>• <b>KASM/Greenpeace</b></li> <li>• EDS</li> </ul>
<b>Treaty, cultural and planning instruments</b>	
10. What is the relevance of Treaty principles, cultural values and kaitiakitanga to the Panel’s consideration, and where do they fit within the assessment framework?	<ul style="list-style-type: none"> <li>• <b>Ngāti Ruanui</b></li> <li>• Ngaa Rauru</li> <li>• Ngāruahine</li> <li>• Kanihi Umutahi me Ōkahu Inuawai</li> <li>• Te Tōpuni Ngārahu</li> <li>• TRC</li> </ul>



<p>11. What, if any, is the significance of the High Court’s judgment in <i>Te Ohu Kaimoana Trustee Ltd v Attorney-General</i> [2025] NZHC 657?</p>	<ul style="list-style-type: none"> <li>● <b>Te Ohu Kaimoana</b></li> <li>● Ngāti Ruanui</li> <li>● Kanihi Umutahi me Ōkahu Inuawai</li> <li>● TRC</li> </ul>
<p>12. (a) Are Iwi Environmental Management Plans relevant considerations? (b) If so, how they should be taken into account?</p>	<ul style="list-style-type: none"> <li>● <b>Ngaa Rauru</b></li> <li>● Ngāti Ruanui</li> <li>● Ngāruahine</li> <li>● Kanihi Umutahi me Ōkahu Inuawai</li> <li>● TRC</li> </ul>
<p>13. When considering national or regional planning instruments prepared under the RMA under s 59(2)(h) EEZ Act, to what extent, if any, should the Panel be guided by the Supreme Court’s decision in <i>Royal Forest &amp; Bird Protection Society v New Zealand Transport Agency</i> [2024] NZSC 26?</p>	<ul style="list-style-type: none"> <li>● <b>F&amp;B</b></li> <li>● Ngāti Ruanui</li> <li>● EDS</li> <li>● Kanihi Umutahi me Ōkahu Inuawai</li> <li>● TRC</li> <li>● Ngāti Manuhiakai, Araukuuku, Ngāti Tū me Te Patutokotoko</li> </ul>
<p>14. (a) Must “habitats of particular significance to fisheries management” be formally identified to be relevant under s 59(2)(h) EEZ Act? (b) If so, what form must such identification take?</p>	<ul style="list-style-type: none"> <li>● <b>F&amp;B</b></li> <li>● Ngāti Ruanui</li> <li>● Kanihi Umutahi me Ōkahu Inuawai</li> </ul>

Existing interests and infrastructure	
15. (a) To what extent, if any, is the potential for offshore wind energy generation in or near the project area relevant, whether as an “existing interest” under s 59(2)(a) or (b) or under s 59(2)(g) EEZ Act, or otherwise?	<ul style="list-style-type: none"> <li>• EDS</li> <li>• TRC/STDC</li> </ul>
15. (b) If the potential for offshore wind energy generation is relevant, how should it be taken into account?	<ul style="list-style-type: none"> <li>• TRC/STDC</li> </ul>
16. How are the potential effects on oil and gas permit infrastructure and associated safety regimes weighed within the FTAA and EEZ Act decision frameworks?	<ul style="list-style-type: none"> <li>• KASM/Greenpeace</li> </ul>
Conditions, adaptive management and monitoring	
17. Which, if any, of the conditions proposed by the applicant constitute adaptive management within ss 61(3) and s 64(2) EEZ Act?	<ul style="list-style-type: none"> <li>• KASM/Greenpeace</li> <li>• F&amp;B</li> <li>• Ngāti Ruanui</li> <li>• TRC</li> </ul>
18. Are proposed conditions requiring pre-commencement monitoring lawful?	<ul style="list-style-type: none"> <li>• KASM/Greenpeace</li> <li>• F&amp;B</li> <li>• Ngāti Ruanui</li> <li>• TRC</li> </ul>
Decision tests, inconsistency and discretion	
19. To what extent, if any, is the decision of the Supreme Court in <i>Trans-Tasman Resources v Taranaki-Whanganui Conservation Board</i> [2021] NZSC 127 binding on the Panel or of highly persuasive significance?	<ul style="list-style-type: none"> <li>• F&amp;B</li> <li>• Ngāti Ruanui</li> <li>• KASM/Greenpeace</li> <li>• EDS</li> <li>• TRC</li> </ul>
20. Is s 62 EEZ Act a standalone ground for declining a marine consent in this process, or are the Panel’s power to decline confined to s 85 FTAA?	<ul style="list-style-type: none"> <li>• KASM/Greenpeace</li> <li>• EDS</li> <li>• Ngāti Ruanui</li> </ul>

	<ul style="list-style-type: none"> <li>● TRC</li> </ul>
<p>21. In relation to s 85(1)(b) FTAA and the obligation under s 7(2) FTAA to act in a manner consistent with the obligations arising under existing Treaty settlements and customary rights:</p> <p>(a) Are the members of the Panel “exercising a judicial power or performing a judicial function or duty” in terms of 7(2) FTAA?</p>	<ul style="list-style-type: none"> <li>● <b>Ngāti Ruanui</b></li> </ul>
<p>21. (b) If adverse effects on fish stocks or aquaculture stocks are found to exist, would granting the application be inconsistent with obligations under the Māori Fisheries Settlement or the Māori Commercial Aquaculture Claims Settlement Act 2004?</p>	<ul style="list-style-type: none"> <li>● <b>Te Ohu Kaimoana</b></li> <li>● Ngāti Ruanui</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> <li>● Kanihi Umutahi me Ōkahu Inuawai</li> </ul>
<p>22. In cl 6(1)(a) of Schedule 10 FTAA, is “the purpose” of the Act limited to the purpose specified in s 3 of the Act?</p>	<ul style="list-style-type: none"> <li>● <b>F&amp;B</b></li> <li>● KASM/Greenpeace</li> <li>● Ngāti Ruanui</li> <li>● TRC</li> </ul>
<p>23. What is the meaning of “facilitate” in s 3 FTAA?</p>	<ul style="list-style-type: none"> <li>● <b>EDS</b></li> <li>● KASM/Greenpeace</li> <li>● F&amp;B</li> <li>● Ngāti Ruanui</li> <li>● TRC</li> </ul>
<p>24. In relation to ss 85(3)-(5) FTAA, how should inconsistency with a provision of the EEZ Act, or with a document that the Panel must take into account or consider in complying with s 81(2), be factored into the Panel’s s 85(3) assessment?</p>	<ul style="list-style-type: none"> <li>● <b>F&amp;B</b></li> <li>● <b>EDS</b></li> <li>● Ngāti Ruanui</li> <li>● KASM/Greenpeace</li> <li>● Ngāruahine</li> <li>● Ngaa Rauru</li> </ul>

	<ul style="list-style-type: none"> <li>• TRC</li> </ul>
25. What does “out of proportion” in s 85(3) mean and how should it be applied?	<ul style="list-style-type: none"> <li>• <b>EDS</b></li> <li>• Ngāti Ruanui</li> <li>• KASM/Greenpeace</li> <li>• TRC/STDC</li> </ul>
<p>26. (a) Is there, in a substantive sense, any difference between an “impact” and an “environmental effect” under the FTAA?</p> <p>(b) If so, what if any consequence(s) does that difference have for the Panel’s decision on the application?</p>	<ul style="list-style-type: none"> <li>• <b>EDS</b></li> <li>• F&amp;B</li> <li>• KASM/Greenpeace</li> <li>• Ngāti Ruanui</li> <li>• Ngāruahine</li> <li>• TRC</li> </ul>