

TARANAKI-WHANGANUI CONSERVATION BOARD

TE TAI HAU-A-URU

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CONSERVATION BOARD PREPARES FOR COURT OF APPEAL HEARING IN SEPTEMBER 2019

The Taranaki-Whanganui Conservation Board at their meeting yesterday (Thursday 30 May 2019) discussed the pending Court of Appeal Hearing, opposing seabed mining, which is scheduled to be heard from 24 – 26 September 2019.

In August 2018, the High Court quashed the marine consent granted to Trans-Tasman Resources Limited (TTRL) by the Environmental Protection Authority (EPA) for TTRL to undertake seabed mining in the South Taranaki Bight. In doing so, the High Court upheld appeals by the Taranaki-Whanganui Conservation Board and others against the marine consent.

Following the High Court's decision, TTRL filed an application for leave to appeal the High Court's decision to the Court of Appeal, seeking to overturn the High Court's decision and reinstate its mining consent.

The Conservation Board resolved to defend the High Court's decision, as well as to seek leave to cross-appeal in order to have the High Court's decision confirmed on other grounds.

Earlier this year, the Court of Appeal granted leave to appeal and to cross-appeal to the relevant parties, including TTRL, the Taranaki-Whanganui Conservation Board and other cross-appellants. A confirmed hearing date now been set for 24 – 26 September 2019.

Newly elected Board Chair, Vicky Dombroski, said 'the Board look forward to following this process through to ensure the decision of the High Court that the EPA adopted a prohibited adaptive management approach to the marine discharges is upheld by the Court of Appeal'.

'The Board's cross-appeal focusses on questions of law relating to whether the EPA understood and applied the purpose of the EEZ Act, which includes protecting the environment from pollution, as well as whether the EPA met its statutory requirements to base its decision on the best available information, and apply the precautionary principle.'

'The Board has also sought to clarify how the EPA should have taken into account the Resource Management Act and in particular the strong directives of the New Zealand Coastal Policy Statement.'

The Board is an independent statutory body constituted under the Conservation Act. Its functions include conservation management and the Board was concerned to ensure that the EPA's decision was made in accordance with the statutory tests established under the Exclusive Economic Zone (EEZ) legislation. The Board had submitted against the application, raising concerns about the risk to the environment (including on marine mammals) as well as uncertainty in the information put forward to support the application.

By way of background, TTRL lodged this (second) application for marine consents with the EPA in August 2016. The EPA's decision to grant TTRL's second application was made in August 2017 and required a casting vote from the chairperson of the EPA's four-member Decision Making Committee.

Following that decision, the Taranaki-Whanganui Conservation Board, along with other appellants including Ngati Ruanui, Te Kahui O Rauru, Kiwis Against Seabed Mining (KASM), Greenpeace, Forest & Bird and Fisheries Interest Groups, lodged appeals opposing the granting of consent. These appeals were heard in the High Court, over four days earlier in the year (16 – 19 April 2018). In August 2018, the High Court found in favour of the Conservation Board and other appellants by quashing the consent that had been granted.

Following the High Court's decision, TTRL filed an application for leave to appeal the High Court's decision to the Court of Appeal, seeking to overturn the High Court's decision and reinstate its mining consent.

The Conservation Board resolved to defend the High Court's decision, as well as to seek leave to cross-appeal in order to have the High Court's decision confirmed on other grounds.

These recent proceedings also followed an earlier application by Trans-Tasman Resources for the same activity, lodged in November 2013 and declined by the EPA in June 2014. The Board had also opposed that earlier application.

Ends.

Further information about the Taranaki-Whanganui Conservation Board can be found on the following web link: <http://www.doc.govt.nz/about-us/statutory-and-advisory-bodies/conservation-boards/taranaki-whanganui/>

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