

NEW ZEALAND / ENVIRONMENT

Fight over blacked-out mining documents heads to court

5:59 pm on 7 November 2016

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Activists are fighting to see hundreds of blacked-out pages of information about an application to mine ironsand from the Taranaki seabed.



Trans Tasman Resources is seeking consent to mine up to 66 square kilometres of Taranaki seabed. Photo: 123RF

Kiwis Against Seabed Mining is seeking a ruling in the Environment Court to make all of Trans Tasman Resources' marine consents application publicly available.

The consent, if granted, would allow Trans Tasman Resources to mine almost 66 square

kilometres of seabed off the Taranaki coast.

The company lost an earlier attempt to get approval for this from the Environmental Protection Authority (EPA), but it did not give up and has submitted a new application.

In that new application, it withheld some key information on commercial grounds, with the EPA endorsing the process.

Kiwis Against Seabed Mining then went to the Environment Court, saying that data should be released in the interests of the public.

The group was supported by Nelson-based fishing company Talley's.

Talley's lawyer, Robert Makgill, told the court today it was impossible to peer review claims made by Trans Tasman Resources because vital information was not being made available.

Mr Makgill gave an example, saying the company had pledged that a plume of silt stirred up by the mining operation would be smaller under the new proposal than it was originally expected to be.

But he asked the court how could that be checked via peer review if technical data was being kept secret.

Talley's has long feared that a plume of silt swirling through the water in the wake of a mining operation would harm fish habitats.

Earlier, Trans Tasman Resources counsel Mike Holm told the court his clients were withholding information for very good reasons.

He said the company was not trying to work in secret but was simply trying to protect economically valuable data.

Mr Holm told the court that material being redacted from company documents was technical data that would be of little interest to the layperson.

But he said it would be highly valuable to commercial competitors, and it was important not to prejudice Trans Tasman Resources' commercial interests.

A similar point was made by EPA counsel David Randal.

He said the authority had discretion under law to withhold information if it might prove prejudicial towards a company's commercial position.

That view was contested, however, by Duncan Currie, a lawyer for Kiwis Against Seabed

Mining.

He said there had to be undue prejudice to a company for the rule quoted by Mr Randal to apply.

There was moreover a well established legal principle that strong public interest in a case could trump the interests of an applicant company, he said.

Mr Currie went on to say Trans Tasman Resources had protected the confidentiality of its documents by making anyone wanting to see them sign letters of confidentiality.

These were intimidating and one-sided documents, he said, which were enforced with a penalty and deterred many people who needed to see the information from being willing to sign them in the first place.

A South Taranaki iwi, Ngāti Ruanui, also opposes the mining project.

The merits of the scheme were not discussed at the latest hearing.

But Trans Tasman Resources has earlier said the project that would create 1600 jobs, 700 of them locally, and would generate exports worth over \$300 million a year.

NEW ZEALAND / ENVIRONMENT

Trans Tasman Resources must reveal blacked-out documents

4:51 pm on 8 November 2016

Activists have won the right to see hundreds of blacked-out pages of information about a proposed seabed mining operation off the Taranaki coast.



TTR wants to mine ironsand from up to 66 square kilometres of seabed. Photo: 123RF

Trans Tasman Resources (TTR) is seeking consent to mine 50 million tonnes of ironsand from up to 66 square kilometres of seabed.

In its application to the Environmental Protection Agency, it censored some information about the operation.

It said it wanted to protect sensitive data that would be incredibly valuable to its rivals.

Kiwis Against Seabed Mining (KASM) then applied to the Environment Court, saying the application should be publicly released to show its potential environmental impact.

In a decision released this afternoon, Judge Brian Dwyer said he did not consider the information a trade secret.

He said the public interest vastly outweighed the interests of Trans Tasman Resources.

After the decision was read out, the company agreed to release all the redacted information as soon as possible.

KASM chair Phil McCabe said the victory was less about what the information contained than maintaining openness.

"They're proposing a commercial activity in a public space and openness and transparency are important - people need to have access to full information and secrecy is just not acceptable," he said.

TTR has previously said the mining operation would create 1600 jobs, 700 of them locally, and would generate exports worth over \$300 million a year.

The project is opposed by a South Taranaki iwi, Ngāti Ruanui.

Trans Tasman Resources 'retreads rejected argument' in second bid to mine iron sands, opponents say

REBECCA HOWARD · FRIDAY FEBRUARY 17, 2017

Fisheries groups have teamed up to oppose Trans Tasman Resources' second bid to mine iron sands from the ocean floor in New Zealand's exclusive economic zone, and were joined by Origin Energy Resources Kupe NZ – on behalf of the Kupe oil and gas joint venture partners – and the Royal Forest and Bird Society.

Like environmental lobbies Greenpeace and Kiwis Against Seabed Mining (KASM), the submitters argue the latest application doesn't add anything new.

The hearing marks the second time TTR has sought permission to mine titano-magnetite iron sands on the seafloor off the coast of Whanganui. The company, which is 55 percent New Zealand owned, proposes extracting 50 million tonnes of seabed material a year in order to export up to five million tonnes of iron sand per year for up to 35 years. Once the iron sand is extracted, the remaining material is returned to the seabed.

"They have serious reservations in light of their expert evidence that TTR's most recent application is simply the same old car with a new lick of paint," said Robert Makgill, a lawyer for the fisheries submitters, said.

The original bid was rejected in 2013 because of a lack of information about environmental impacts. At the time, much of the decision-making committee's concern related to the way surplus sand that didn't contain iron ore would be returned to the ocean floor. In particular, there were issues about how plumes of sand returning to seafloor would behave in the often turbulent waters.

The fisheries submitters were "concerned about the adequacy of TTR's assessment of potential effects on both the environment and existing interests," and that the company failed to address the potential impact of its activities on fishing activities as opposed to the potential impacts of its proposal on the biophysical environment, Mr Makgill said.

"TTR has not established sufficient baseline information for their existing interests to be able to determine with any degree of certainty that fisheries interests will not be significantly affected by the proposal," he said.

The submitters included Fisheries Inshore NZ, the New Zealand



Robert Makgill, lawyer for the fisheries submitters

Federation of Commercial Fishermen, Talley's Group, Southern Inshore Fisheries Management, the Cloudy Bay Clams group of companies including Cloudy Bay Holdings, and Ant Piper.

Not all in the fishing sector are opposed, with NZX-listed fisheries company Sanford due to speak in favour of the project.

Origin Energy representative Bronwyn Carruthers said Origin is calling for consent to be denied as it was previously and hasn't seen "sufficient difference" in the new evidence presented by TTR to warrant a different outcome.

Carruthers underscored that Origin does not have "certainty or comfort" the project won't impact its infrastructure which overlaps the same area where TTR is seeking to operate. She said a potential collision or impact on the Kupe pipeline, umbilical or platform could cause losses of \$1 million a day of stopped production or losses in the billions of dollars if the damage is beyond repair. She also noted the possibility of an uncontrolled hydrocarbons spill.

If consent is granted Origin is calling for a raft of conditions, including a 1.5km exclusion zone around its platform infrastructure.

While she said Origin's formal position is that consent should be declined she did note TTR has made contact regarding the potential for amended conditions to address the company's concerns. A first draft was received yesterday and is being reviewed. An update will be provided when Origin's evidence is presented on March 16, she said.

Forest and Bird lawyer Peter Anderson said the environmental lobby "considers that the application should be declined." Its main concern relates to potential harm to cetaceans (whales and porpoises), said Anderson.

The area contains threatened species such as the blue whale and the Maui dolphin and, among other issues, they will be adversely impacted by noise from the project, he said.

There are also significant technical issues related to adaptive management, which Mr Anderson said is broadly defined to include any approach that allows an activity to be undertaken so its effects can be assessed and the activity discontinued or continued with or without amendment, on the basis of those effects. "You need to have good information about the effect before you grant consent."

(BusinessDesk)