

## FTA#008: Application for listed project under the Fast-track Approvals Bill – Taranaki VTM Project for Schedule 2A

Date submitted to secretariat:	5 July 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	<p>Attachments:</p> <ol style="list-style-type: none"> <li>Application documents for Taranaki VTM Project</li> <li>Te Runanga o Ngāti Ruanui Trust letter to the Minister Responsible for RM Reform 5 April 2024</li> </ol>
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Applicant	Sector	Region	Identified in a priority/strategy?
Trans-Tasman Resources Limited (TTR)	Mining	Taranaki (EEZ)	No

### Ministry for the Environment contacts

Position	Name	Mobile	1 <sup>st</sup> contact
Principal Authors	Ray Salter, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

## Project location

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## Key messages

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1. The Taranaki VTM project is to extract up to 50 million tonnes (Mt) of seabed material per year from the Project Area, located between 22 and 36 kilometres off the coastline of South Taranaki. The project proposes to process on board a mining vessel to recover 5Mt per year of naturally-occurring vanadium rich titanomagnetite (VTM) concentrates. The process

returns the remainder of the de-ored material (approximately 45Mt pa) to the seabed.

2. The project will comprise:
  - a. 9-12 months to complete the bankable feasibility study and arrange financing
  - b. 2-3 years for pre-commencement tasks, construction, commissioning and procurement
  - c. 20 years of extraction activity within MMP 55581
  - d. up to 5 years of post-extraction marine monitoring of environmental recovery
3. The project will require approval for marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). No other consents under the RMA are required.
4. The project area is located within the EEZ and no further legal interest is required for TTR to be able to undertake the project once the requisite marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 are granted.
5. We have undertaken an initial (Stage 1) analysis of the application(s) and this is provided in Table A.
6. We consider the applicant **has** provided sufficient information to consider the project for inclusion on Schedule 2A (although we note it could still be included on Schedule 2B based on the information provided).
7. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
8. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

## Signature

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A handwritten signature in blue ink, appearing to read 'S Frame', with a long horizontal flourish extending to the right.

Stephanie Frame  
**Manager – Listed Projects**

**Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice<sup>1</sup>**

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Eligibility [clause 17]	
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZ Act or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
<b>High level summary</b>			Y	N	N	N	N			
<p><b>Schedule requested</b> 2A</p> <p><b>Project Name</b> Taranaki VTM Project</p> <p><b>Applicants</b> Trans-Tasman Resources Ltd</p> <p><b>Company directors</b> Alan Eggers Dennis Karp John Seton</p> <p><b>Location</b> The Project Area is in New Zealand's Exclusive Economic Zone (EEZ). It encompasses approximately 65.76 square kilometres within Mineral Mining Permit (MMP) 55581, located between 22 and 36 kilometres off the coastline of South Taranaki. This is depicted in the attached Project Location figure, and defined by the attached Project Grid References</p>	<p>TTR proposes to extract up to 50 million tonnes (Mt) of seabed material per year from the Project Area, to process on board a mining vessel to recover 5Mt per year of naturally-occurring vanadium rich titanomagnetite (VTM) concentrates. The process returns the remainder of the de-ored material (approximately 45Mt pa) to the seabed.</p> <p>The depth of seabed excavation will vary according to the natural variability of the deposits, with an average depth of 5m and a maximum depth of 11m. After processing onboard the IMV, approximately 90% of the seabed material will be discharged, in a</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> <li>Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act)</li> </ul> <p>Under the EEZ Act, TTR sought and obtained marine consent for the Project from the Environmental Protection Authority (EPA) in 2016-2017. This was subsequently appealed to the High Court, Court of Appeal and Supreme Court, with the result that the EPA's grant of consent was quashed and the EPA was directed to reconsider TTR's application. TTR withdrew its application in March 2024.</p>	<p>Relevant local authorities: Taranaki Regional Council, Manawatu-Whanganui Regional Council</p> <p>Relevant iwi authorities: Te Rūnanga o Ngāti Ruanui Trust, Te Kaahui o Rauru Trust, Te Korowai o Ngāruahine Trust</p> <p>Relevant Treaty settlement entities: Te Rūnanga o Ngāti Ruanui Trust, Te Kāhui o Rauru Trust, Te Korowai o Ngāruahine Trust</p> <p>Other: Kupe Joint Venture Parties New Zealand/Origin Energy, Sanford Limited, Te Ohu Kai Moana Trustee Limited, Department of Conservation, Royal Forest &amp; Bird Protection Society of New Zealand Inc, Greenpeace New Zealand Inc, Taranaki-Whanganui Conservation Board, Kiwis Against Seabed Mining Inc, Cloudy Bay Clams Ltd, Seafood New Zealand Ltd, New Zealand Federation of Commercial Fishermen Inc, Southern Inshore Fisheries Management Co Ltd, Talley's Ltd</p> <p>Prior to lodging its application in 2016 to the EPA, TTR undertook an extensive and wide-ranging Stakeholder</p>	No	No	No	No	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement</p> <p>Unclear – while it does not appear that the project is inconsistent with Treaty settlements, there has been strong iwi opposition to the project for some time (see full Treaty analysis).</p> <p>It is more appropriate to deal with the application under another Act</p> <p>No – the applicant considers the merits of any remaining contest about that outcome are more appropriately tested and determined under the Fast-Track process</p> <p>The project may have significant adverse effects on the environment</p> <p>Yes –the applicant sought approval under the EEZ Act and was ultimately declined because the decision-making body could not be confident the project would not result in significant adverse effects.</p>	<p>Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes</p> <p>Yes – the information already exists to address the scope and requirements of the project.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process</p> <p>No – the consent requirements are limited.</p> <p>Whether the application contains sufficient information to inform the referral decision</p> <p>Yes – the proposal has</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list</p> <p>No</p> <p>The project will deliver regionally or nationally significant infrastructure</p> <p>No</p> <p>The project will deliver significant economic benefits</p> <p>Yes - raise export receipts of § 9(2)(b)(ii) per annum ( § 9(2)(b)(ii) foreign exchange earnings);</p> <ul style="list-style-type: none"> <li>raise Taranaki's GDP by § 9(2)(b)(ii);</li> <li>create approximately 300 Taranaki-based direct jobs within the project and an additional estimated 170 jobs in the wider Taranaki region in logistics, services and supplies;</li> <li>generate over 1,660 jobs in total locally, in the region and nation-wide;</li> <li>directly spend § 9(2)(b)(ii) per annum on operating, marine research and monitoring: § 9(2)(b)(ii) in the district, § 9(2)(b)(ii) regionally, § 9(2)(b)(ii) nationally, and § 9(2)(b)(ii) offshore.</li> <li>generate § 9(2)(b)(ii) per year in Crown Minerals royalties;</li> <li>generate § 9(2)(b)(ii) per year in New Zealand government Corporate Tax revenues</li> </ul> <p>The project will support primary industries, including aquaculture</p> <p>No</p> <p>The project will support development of natural resources, including minerals and petroleum</p> <p>Yes</p>

<sup>1</sup> **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

<p><b>Land Status</b></p> <p>TTR currently holds MMP 55581 issued under sections 25 and 29A of the Crown Minerals Act 1991 which confers upon TTR the exclusive right to mine for ironsand in the Project Location. The permit was granted for a 20-year term commencing on 2 May 2014. No further legal interest is required for TTR to be able to undertake the project once the requisite marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 are granted</p>	<p>controlled manner, back into the water column approximately 4m above the seabed.</p>		<p>Engagement process including but not limited to all South Taranaki iwi groups, commercial fishing, recreational fishing, diving and boating clubs, charter operators, local authorities and government agencies.</p> <p>TTR made further attempts to consult with iwi groups during the EPA process in 2016-2017. The subsequent multiple rounds of court appeals to March 2024, were not conducive to further consultation between TTR and those opposing its Project, as the positions of the latter parties had become entrenched</p>					<p><b>The applicant has a poor compliance history under the relevant legislation</b></p> <p>No</p> <p><b>The project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</b></p> <p>No</p> <p><b>The project includes an activity that is a prohibited activity under the RMA</b></p> <p>No</p>	<p>been the subject of significant litigation and therefore there is considerable information available on all aspects of the project.</p>	<p><b>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions</b></p> <p>No</p> <p><b>The project will support adaptation, resilience, and recovery from natural hazards</b></p> <p>No – indirectly through steel production</p> <p><b>The project will address significant environmental issues</b></p> <p>Yes – applicant proposes to address all identified effects as per consent condition requirements</p> <p><b>The project is consistent with local or regional planning documents, including spatial strategies</b></p> <p>Yes – to the extent that they apply. The Project has been assessed for consistency with the Regional Policy Statement for Taranaki 2010 ("RPS"), the Regional Coastal Plan for Taranaki 2022 ("RCP"), and the Horizons Regional Council One Plan ("One Plan"). In many respects, these regional instruments guide the management of natural resources in a balanced way, both enabling use and development and managing environmental effects. The Project is consistent with this</p>
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**PSGE Settlement Priorities and Māori Development assessment –**

*This table provides an overview. In the time available, it has not been possible to undertake a detailed review of all Treaty settlement and related matters, or to engage with the relevant PSGE, iwi or Māori groups in relation to the potential impacts of the project. If the project does progress through the fast-track process, it will be important this more detailed and comprehensive analysis and engagement is undertaken (there are some mechanisms in the proposed legislation, such as the clause 13 report (which will apply to Schedule 2 Part B (but not Part A) applications) and the requirements to invite comment from these groups, which are intended to address these matters).*

Advice on Māori development and PSGE settlement priorities includes information relating to:

- where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.
- where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business;
- to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

**Ineligible projects - based on the considerations at cl18(a–e) of the Fast Track Approvals Bill (version as at introduction)**

This project does not appear to be ineligible according to the information provided in the application.

**Affected Māori group/s**

The project area is in New Zealand's exclusive economic zone (EEZ), located between 22 and 36 kilometres off the coastline of South Taranaki. The applicant has identified the following groups with interests in the project area:

- Te Rūnanga o Ngāti Ruanui Trust
- Te Kāhui o Rauru Trust
- Te Korowai o Ngāruahine Trust

Te Rūnanga o Ngāti Ruanui Trust

Ngāti Ruanui is an iwi whose area of interest is adjacent to the coastal marine area and the EEZ/proposed project site, based on the area of interest agreed between Ngāti Ruanui and the Crown in the Deed of Settlement signed 12 May 2001.<sup>2</sup>

Te Kāhui o Rauru Trust

<sup>2</sup> AOI-NgatiRuanui.pdf (tkm.govt.nz)

	<p>Ngaa Rauru Kiihahi is an iwi whose area of interest is adjacent to the coastal marine area and the EEZ/proposed project site, based on the area of interest agreed between Ngaa Rauru Kiihahi and the Crown in the Deed of Settlement signed 27 November 2003.<sup>3</sup></p> <p><u>Te Korowai o Ngāruahine Trust</u></p> <p>Ngāruahine is an iwi whose area of interest is adjacent to the coastal marine area and the EEZ/proposed project site, based on the area of interest agreed between Ngāruahine and the Crown in the Deed of Settlement signed 1 August 2014.<sup>4</sup></p> <p>In addition to the groups identified by the applicant, we have also identified the following groups as potentially having interests in the area adjacent to the project site location:</p> <p><u>Whanganui Land Settlement</u></p> <p>Whanganui Land Settlement are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Whanganui Land Settlement is not confirmed. There is a proposed area of interest included in the Agreement in Principle signed on 30 August 2019.<sup>5</sup> Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngā Iwi o Taranaki</u></p> <p>Ngā Iwi o Taranaki is the collective group of the following iwi: Ngaa Rauru Kiihahi, Ngāruahine, Ngāti Maru, Ngāti Mutunga, Ngāti Ruanui, Ngāti Tama, Taranaki Iwi, and Te Āti Awa.</p> <p><u>Marine and Coastal Area (Takutai Moana) Act 2011 applicants</u></p> <p>The proposed project site is not in the coastal marine area, but it is worth noting that there are a number of groups with applications under the Marine and Coastal Area (Takutai Moana) Act 2011 in the coastal marine area (territorial sea) between the project area and the land.</p> <p>Note also the existence of and potential impact on the 1992 Māori fisheries settlement.</p>
<p><b>Has the applicant consulted with those Māori groups?</b></p>	<p>The applicant states that it consulted with iwi groups during 2016-2017 when the applicant made a prior application made to the Environmental Protection Authority (EPA). It states that Ngati Ruanui were unwilling to consult, and the decision of the EPA and subsequent Court appeals, and reconsideration process between 2022 to March 2024 were not conducive to further consultation. The applicant identifies the following Māori groups as opposing grant of consents: Te Rūnanga o Ngāti Ruanui Trust, Te Kaahui o Rauru and Te Ohu Kaimoana.</p>
<p><b>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</b></p>	<p>It is important to note the significant and controversial litigation history to this proposed activity, including a Supreme Court decision and prior and subsequent litigation processes. Iwi have expressed very strong opposition to this application through the previous processes. On 5 April 2024, Te Runanga o Ngāti Ruanui Trust wrote to the Minister Responsible for RM Reform outlining the Trust's involvement in opposing previous applications for consents for seabed mining in South Taranaki Bight and setting out its further concerns with the project being listed in the Fast Track Approvals Bill. This correspondence is attached for your information.</p> <p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>There is no information in the application to suggest that this application is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development.</p> <p>In the time available, we have identified the following relevant plans and documents that may be relevant:</p> <ul style="list-style-type: none"> <li>• Ngaa Rauru Kiihahi Puutaiao Management Plan</li> </ul> <p>It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups (noting these plans are generally relevant to matters under the Resource Management Act 1991).</p> <p>A full analysis of the plan would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track process.</p> <p><u>Impact on Treaty settlements and other relevant arrangements</u></p> <p><b>Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012</b></p> <p>There are requirements under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) in respect to iwi authorities (which are defined as meaning "the authority which represents an iwi and which is recognised by that iwi as having authority to do so"). Specifically, the Environmental Protection Authority must notify iwi authorities of consent applications (non-notified or notified activity) that may affect them and the Act then provides a process for making and hearing of submissions in relation to an application. There are a range of other relevant requirements and considerations under that Act in relation to Māori, Treaty and customary interests.</p> <p><b>Ngati Ruanui Claims Settlement Act 2003</b></p> <p>There is no specific redress in the Settlement Act that would directly impact decision-making under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). However, the project area is in the coastal area extending out from the area of interest of this iwi. For completeness we note that there is a fisheries protocol (the coastal area of which is not clearly defined), however this is relevant to decision-making under another legislative regime.</p> <p><b>Ngaa Rauru Kiihahi Claims Settlement Act 2005</b></p> <p>There is no specific redress in the Settlement Act that would directly impact decision-making under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). However, the project area is in the coastal area extending out from the area of interest of this iwi.</p> <p><b>Ngāruahine Claims Settlement Act 2006</b></p>

<sup>3</sup> AOI-NgaRauruKitahi.jpg (649x933) (tkm.govt.nz)

<sup>4</sup> AOI-Ngaruahine.jpg (685x968) (tkm.govt.nz)

<sup>5</sup> TKM | Iwi | Whanganui Land Settlement (Lower Whanganui) | Te Kahui Mangai

	<p>There is no specific redress in the Settlement Act that would directly impact decision-making under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). However, the project area is in the coastal area extending out from the area of interest of this iwi.</p> <p><b>Iwi Environment Management plans</b></p> <p>Note the comments above in relation to iwi management plans.</p> <p><b><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></b></p> <p>There are groups still working through their Treaty settlement processes. For example, Whanganui Lands and Taranaki Maunga. It will be important that these interests are considered in more detail if the project progresses through the fast-track process, but in the time available there are no further impacts noted.</p> <p><b>Taranaki Maunga settlement</b></p> <p>The Taranaki Maunga collective redress deed (Te Ruruku Pūtakerongo) has been signed and the settlement Bill (Te Pire Whakatupua mō Te Kāhui Tupua/Taranaki Maunga Collective Redress Bill) has been introduced into Parliament. While the collective arrangements are not yet complete, this is a significant outcome for the Taranaki region and may be relevant in any expert consenting panel process.</p> <p><b><u>Other matters</u></b></p> <p>There have been no joint management agreements or mana whakahono ā rohe considerations identified. In the time available, officials have not identified any other relevant matters.</p>
<p><b>Is the project considered low, medium or high impact (based on assessment criteria above)</b></p>	<p>From the information available we consider this project is likely to be of high impact. This is due to the high level of interest expressed/opposition to the project and the high-profile litigation history. The concerns expressed by iwi and Te Ohu Kaimoana have been well-documented throughout that litigation.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.</p>
<p><b>Has the Ministry for the Environment undertaken engagement?</b></p>	<p>Officials consider engagement would be beneficial given the nature and range of interests present in the project area and the history of opposition and litigation but were unable to undertake this in the time available.</p>
<p><b>Additional comments/context</b></p>	<p>N/A</p>

## Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
  - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
  - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
  - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views, and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
  - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
  - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
  - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
  - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
  - e. The project is clearly in conflict with or undermines PSGE priorities.
  - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.