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Media Release

EDS concerned about high uncertainty in Trans-Tasman Resources case

EDS has presented its closing legal submissions to the Decision-Making Committee (DMC) considering an application from Trans-Tasman Resources (TTR) to mine iron sands in the Exclusive Economic Zone off the west coast of the North Island. The hearing was adjourned yesterday following the presentation of Trans-Tasman Resources closing submissions.

“EDS’s closing submissions focused on the requirement for the DMC to favour caution and environmental protection when reaching a decision. We also commented on the consent conditions proposed by Trans-Tasman Resources,” said EDS Policy Director Raewyn Peart.

“The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act (EEZ Act) requires ‘caution and environmental protection’ to be ‘favoured’ where there is uncertainty or inadequacy in the information available to the decision-maker. In our view, such uncertainty clearly exists in the TTR case. As a consequence the decision must ensure that environmental protection is achieved. However, EDS submitted that the proposed consent conditions would not achieve this.

“TTR’s proposed conditions require various adverse effects to be no more than minor (or similar). EDS, along with other submitters and the EPA staff report, concluded that such conditions were too vague and subjective and would be unenforceable if the need arose in the future.

“Although the consent conditions would require more precise standards to be developed following two years of baseline monitoring, the DMC has to decide now, whether the environmental effects of the project are acceptable or not. In EDS’s view, it cannot delegate this decision to a future process that will occur behind closed doors.

“Our submissions also addressed environmental compensation which becomes relevant if the DMC grants consent. Environmental compensation is now commonly expected for large projects consented under the Resource Management Act. EDS submitted that a similar approach should be applied under the EEZ Act to address significant residual environmental effects.

“EDS also questioned whether the DMC has the jurisdiction to impose conditions addressing discharges (a key effect of the project). The EEZ Act does not currently manage discharges, although an amendment to the Act will soon come into force to fill this gap. We have a real concern that any conditions addressing discharges could be challenged in the future.

“EDS has invested a considerable amount of time and effort into this hearing and no funding for cases under the EEZ Act is available from the Environmental Legal Assistance Fund. We appreciate the support we have received to date from the public to enable us to participate in these demanding processes,” Ms Peart concluded.

To support EDS’s case, visit our website www.eds.org.nz and make a donation.