IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

IN THE MATTER	of the Resource Management Act 1991
AND	of appeals pursuant to clause 14 of the First Schedule of the Act
BETWEEN	TIMBERLINK NEW ZEALAND LTD
	(ENV-2020-CHC-30)
	and all other appellants concerning the proposed Marlborough Environment Plan
	(as set out in the Schedule attached)
	Appellants
AND	Marlborough District Council
	Respondent

MINUTE OF THE ENVIRONMENT COURT
(13 April 2021)

Introduction

[1] This Minute makes further case management directions in relation to mediation for the proposed Marlborough Environment Plan ('pMEP') proceedings and responds to the following memoranda:

- Memorandum of counsel on behalf of Waka Kotahi dated 30 March 2021;
- Memorandum of counsel on behalf of the Marlborough District Council dated 6 April 2021; and

- Memorandum of counsel on behalf of Aquaculture Interests dated 8 April 2021.

[2] Counsel for Waka Kotahi expressed concerns following the Sub-Topic 3.3 mediation regarding scheduling, alternative drafting and scope of mediations and sought the below directions:

> (a) The detailed mediation schedule for specific topics drafted by the Marlborough District Council ('MDC') be circulated prior to parties filing mediation attendance forms;
> (b) Changes to the detailed mediation schedule be made no less than 24 hours in advance of the mediation day which the change relates to;
> (c) Discussions at mediations are to (where possible) focus on resolving appeals relevant to the allocated Sub-Topic (rather than focussing on matters allocated to a different Sub-Topic);
> (d) Parties seeking new or alternative drafting are required to include proposed drafting in their pre-mediation position paper; and
> (e) Where any party questions whether there is scope for the relief sought by another party, the question of scope should be discussed and agreed (at the mediation) prior to mediation of that appeal point.

[3] On 1 April 2021, I advised parties of my indicative response and requested parties respond by 8 April 2021 with any concerns, only the Council and counsel for Aquaculture Interests responded.

[4] The Council advised that for the most part it agrees with my indicative response. The Council's position is that it is impossible to accurately schedule subtopics and mediation requires a degree of flexibility. Counsel submit that the court should be able to update the parties at the end of each day on progress.

[5] Counsel for the Aquaculture Interests advise that they agree with the Council's position and my initial comments and suggest that the agenda act as a prompt for scheduling matters that are easily siloed to particular days.

[6] Having considered the initial directions sought by Waka Kotahi and the above responses received, I have amended my proposed directions as below.

Directions

[7] Accordingly, I direct:

(i) Mediation attendance forms shall be provided within one (1) working day after the detailed mediation schedule for specific topics is provided;

(ii) The court is concerned that having a rigid 24 hour notice period for scheduling changes within a Topic could impact on the efficiency and flexibility of the mediation. Notwithstanding the Courts Practice Note it is acknowledged that it may be difficult for parties with minor interests to be available at all times during the allocated time for each topic. The Council will provide a support person at all mediations to assist with communicating with parties during the mediation about progress and timing. However, the responsibility of attending mediation rests with the party not the Council officer assisting;

(iii) The court is not minded to limit discussions at mediations in order to keep discussions of appeal points definitively within their designated Sub-Topics. Considering the impact of particular solutions in provisions on a specific sub-topic may require the flexibility to consider its impact on other provisions;

(iv) Parties seeking new or alternative drafting shall provide that drafting in their party's position paper;

(v) While issues of scope are not issues that can be resolved at mediation, that does not preclude some of these discussions taking place. Important issues of scope on any proposed plan amendment are expected to be raised in a reporting memorandum to the court for a decision to be made accordingly.

[8] Leave is reserved for any party to apply for further (or other) directions.

K Wilkinson
Environment Commissioner

Issued: 13 April 2021

Schedule – List of Appellants

ENV-2020-CHC-30	Timberlink
ENV-2020-CHC-32	Talley's Group Limited
ENV-2020-CHC-33	Friends of Nelson
ENV-2020-CHC-34	Omaka Valley
ENV-2020-CHC-35	Fish & Game
ENV-2020-CHC-36	Heritage
ENV-2020-CHC-38	Okiwi Bay Ratepayers
ENV-2020-CHC-39	Te Rūnanga a Rangitāne o Wairau
ENV-2020-CHC-40	Haro Partnership
ENV-2020-CHC-41	KPF Investments Limited & United Fisheries Limited
ENV-2020-CHC-42	Minister of Conservation
ENV-2020-CHC-43	Te Ātiawa o Te Waka-a-Māui Trust
ENV-2020-CHC-44	Beleve Ltd, RJ Davidson Family Trust & Treble Tree Holdings Ltd
ENV-2020-CHC-45	Aroma (N.Z.) Limited and Aroma Aquaculture Limited
ENV-2020-CHC-46	Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-47	Goulding Trustees Limited and Shellfish Marine Farms Limited
ENV-2020-CHC-48	McGuinness Institute
ENV-2020-CHC-49	Port Marlborough NZ
ENV-2020-CHC-50	Trustpower Limited
ENV-2020-CHC-51	The New Zealand King Salmon Co. Limited
ENV-2020-CHC-52	Matthew Burroughs Broughan
ENV-2020-CHC-53	Cochran
ENV-2020-CHC-54	OneFortyOne
ENV-2020-CHC-55	Clearwater Mussels Limited and Talley's Group Limited
ENV-2020-CHC-56	New Zealand Transport Agency
ENV-2020-CHC-57	KiwiRail Holdings Limited
ENV-2020-CHC-58	Federated Farmers of New Zealand
ENV-2020-CHC-59	Colonial Vineyard Limited

ENV-2020-CHC-60	Sanford Ltd
ENV-2020-CHC-61	Villa Maria Estate Limited
ENV-2020-CHC-62	Oldham & Others
ENV-2020-CHC-63	Apex Marine Farm Limited
ENV-2020-CHC-64	Forest & Bird
ENV-2020-CHC-65	Levide Capital Ltd
ENV-2020-CHC-66	Brentwood Vineyards Ltd
ENV-2020-CHC-67	Environmental Defence Society
ENV-2020-CHC-68	Transpower New Zealand Limited
ENV-2020-CHC-69	Jeffrey Val Meachen
ENV-2020-CHC-70	Te Rūnanga o Ngāti Kuia Trust
ENV-2020-CHC-71	Horticulture New Zealand
ENV-2020-CHC-73	AJ King Family Trust and SA King Family Trust
ENV-2020-CHC-74	Marine Farming Association Inc and Aquaculture New Zealand
ENV-2020-CHC-75	Delegat Limited
ENV-2020-CHC-76	Minister of Defence
ENV-2020-CHC-77	Just Mussels Ltd, Tawhitinui Greenshell Ltd & Waimana Marine Ltd
ENV-2020-CHC-78	East Bay Conservation
ENV-2020-CHC-79	Rebecca Light