

**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA  
ŌTAUTAHI ROHE**

**ENV-2020-CHC-33**

**IN THE MATTER** of an appeal pursuant to Clause 14 of Schedule 1 of the  
Resource Management Act 1991

**BETWEEN** **FRIENDS OF NELSON HAVEN AND TASMAN BAY  
INCORPORATED**

**Appellant**

**AND** **MARLBOROUGH DISTRICT COUNCIL**

**Respondent**

---

**NOTICE OF APEX MARINE FARM LIMITED TO BECOME A PARTY TO THE APPEAL  
Dated this 8th day of June 2020**

---

---

**GASCOIGNE WICKS  
LAWYERS  
BLENHEIM**

Solicitors: Quentin A M Davies and Amanda L  
Hills  
([qdavies@gwlaw.co.nz](mailto:qdavies@gwlaw.co.nz) | [ahills@gwlaw.co.nz](mailto:ahills@gwlaw.co.nz))

Apex Marine Farm Limited's Solicitors  
79 High Street  
PO Box 2  
BLENHEIM 7240  
Tel: 03 578 4229  
Fax: 03 578 4080

**To** The Registrar  
Environment Court  
Christchurch

**Name of Person who wishes to be Party**

- 1 Apex Marine Farm Limited (“Apex”) wishes to be a party to the following proceedings: ENV-2020-CHC-33, an appeal by Friends of Nelson Haven and Tasman Bay Incorporated (“Friends”) against parts of the Marlborough District Council's decision on the proposed Marlborough Environment Plan (“proposed plan”).
- 2 Apex has an interest in the proceedings that is greater than the interest that the general public has (as a marine farmer in the region). Apex made a submission about the subject matter of the proceedings.

**Trade competition**

- 3 Apex is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (“the Act”).

**The Proceedings**

- 4 Apex is interested in the parts of the proceedings.
- 5 The parts of the proceedings that Apex is interested in are:<sup>1</sup>
  - (a) Coastal Natural Character maps, Volume 4;
  - (b) Outstanding Natural Landscape maps, Volume 4;
  - (c) Appendix 2;
  - (d) Policy 6.2.3;
  - (e) Policy 6.2.4;
  - (f) Policy 6.2.6;
  - (g) Policy 6.2.9;
  - (h) Anticipated Environmental Result 6AER.2;
  - (i) Appendix 1;

---

<sup>1</sup> Provision numbers correspond to those in the Decisions Version of the proposed Plan.

- (j) Introduction of Chapter 8, Volume 1;
- (k) Policy 8.3.5;
- (l) Policy 8.3.8;
- (m) Addition of a new map showing the Marlborough Sounds Important Bird Area;
- (n) Ecologically Significant Marine Sites maps in Volume 4;
- (o) Appendix 3;
- (p) Appendix 27;
- (q) Rule 16.6.6;
- (r) Rule 16.7.6;
- (s) Consequential changes to the natural character policies in Chapter 6 of Volume 1, the landscape policies in Chapter 7 of Volume 1, and the indigenous biodiversity policies in Chapter 8 of Volume 1 arising from the criticism of the methodology in the proposed Plan;
- (t) Other appeal points relevant to landscape, natural character, indigenous biodiversity (where relevant to the coastal marine area), Ecologically Significant Marine Sites and king shag;
- (u) The procedural approach taken to amending the Notified Version of the proposed Plan as it relates to landscape and natural character, and in relation to deferring notification of the aquaculture provisions of the proposed Plan;
- (v) The interrelationship between natural features, natural landscapes, natural character and aquaculture; and
- (w) The relief sought at paragraphs [31] to [35] of Appendix 1 of the Notice of Appeal.

### **Relief sought**

- 6 Apex opposes the relief sought in respect of indigenous biodiversity because it is inconsistent with:
  - (a) The Friends' submission on the Notified Version of the proposed Plan;
  - (b) The Act;

- (c) The New Zealand Coastal Policy Statement 2010 (“NZCPS”);
- (d) The requirement to plan strategically in NZCPS policy 7, and with the requirement to provide for aquaculture in appropriate places in terms of NZCPS policy 8; and
- (e) The best available scientific information.

7 In relation to natural character and landscape, Apex:

- (a) Opposes the wide-ranging scope of the review sought;
- (b) Opposes the relief sought in respect of and the disproportionate focus on aquaculture; and
- (c) Conditionally supports the relief sought so far as it says that the schedule of values in Appendices 1 and 2 of the proposed Plan must provide guidance to Plan users

because it is inconsistent with the Act, the NZCPS, the approach taken in coastal plans in other regions, the requirement to plan strategically in NZCPS policy 7, the requirement to provide for aquaculture in terms of NZCPS policy 8, and recent case law.

8 Where relevant, the relief sought by the MFA and AQNZ in appeal ENV-2020-CHC-74 and/or by Apex in appeal ENV-2020-CHC-63 should be preferred.

**Dispute resolution**

9 Apex agrees to participate in mediation or other alternative dispute resolution of the proceedings.



.....

Quentin A M Davies and Amanda L Hills

Solicitors for Apex

Date: 8<sup>th</sup> June 2020

**Address for service Apex**

Gascoigne Wicks, 79 High Street, Blenheim 7201.

Telephone: 021 045 8608 or 03 578 4229

E-mail: ahills@gwlaw.co.nz | edeason@gwlaw.co.nz | shammerson@gwlaw.co.nz

Contact persons: A L Hills, Solicitor; E Deason, Solicitor; Sharyn Hammerson, Secretary

### **Note to person wishing to be a party**

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days after–

- the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- the decision to hold an inquiry, if the proceedings are an inquiry; or
- the proceedings are commenced, in any other case.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991. The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38).

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.