

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14(1) of the First Schedule of
the Resource Management Act 1991

between: **The Royal Forest and Bird Protection Society of
New Zealand Incorporated**
Appellant

and: **Marlborough District Council**
Respondent

Notice of Fisheries Inshore New Zealand, Paua Industry Council
and NZ Rock Lobster Industry Council's wish to be party to
proceedings

Dated:

29 May 2020

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NOTICE OF FISHERIES INSHORE NEW ZEALAND'S, THE PAUA INDUSTRY COUNCIL'S AND NZ ROCK LOBSTER INDUSTRY COUNCIL'S WISH TO BE PARTY TO PROCEEDINGS

Section 274, Resource Management Act 1991

To The Registrar
Environment Court
Christchurch

1 Fisheries Inshore New Zealand, the Paua Industry Council and NZ Rock Lobster Industry Council (*Fishing Industry Parties*) wish to be a party to the appeal by the Royal Forest and Bird Protection Society of New Zealand Incorporated (*Forest and Bird*) against a decision of the Marlborough District Council on the Proposed Marlborough District Plan (*Proposed Plan*) (ENV-2020-CHC-64).

2 The Fishing Industry Parties seek that they be added jointly as a single party.

Fishing Industry Parties' interest in these proceedings

3 The Fishing Industry Parties made a submission on the subject matter of the proceedings.

4 The Fishing Industry Parties also have an interest greater than the public generally because they are the industry bodies which represent persons who hold fishing rights under the quota management system and fishers who will be directly affected by the relief that is sought in this appeal.

5 The Fishing Industry Parties are not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (RMA).

6 The Fishing Industry Parties are interested in all of the proceedings.

7 The Fishing Industry Parties are interested in the following particular issues:

7.1 any part of the appeal which seeks to include the Ecologically Significant Marine Sites (*ESMS*) listed in Policy 8.3.5 in Appendix 27;

7.2 any part which seeks to include Important Bird Areas (*IBAs*) as additional *ESMSs* listed in Appendix 27; and

7.3 any part which seeks a change in the provisions in the Proposed Plan to add controls on bottom trawling and dredging in areas identified as king shag habitat or otherwise seeks to impose additional controls on fishing activity.

Relief opposed by the Fishing Industry Parties

8 The Fishing Industry Parties oppose the relief sought because it-


8.1 does not promote the sustainable management of natural and physical resources;

- 8.2 does not promote the efficient use and development of natural and physical resources;
- 8.3 does not result in the most appropriate plan provisions in terms of section 32 of the RMA; and
- 8.4 is contrary to good resource management practice.
- 9 Without limiting the generality of the above, the reasons for the Fishing Industry Parties' position include:
- 9.1 The Council (and therefore the Court, exercising its appellate function) only has jurisdiction under section 30(2) RMA to exercise its functions in a way that does not amount to management of fishing or fisheries resources for a Fisheries Act purpose;
- 9.2 Even if jurisdiction is found to exist, the relief sought by the Appellant, to the extent that it may seek to control fishing activities, is not justified by evidence, nor is it appropriate; and
- 9.3 The Hearing Panel correctly found in its decision on Topic 6: Indigenous Biodiversity that there is no scope to include the IBA maps identified by the appellant into the overlays in the Proposed Plan and that the IBA maps are imprecise and non-specific to king shag. King shag habitat is appropriately provided for in the Proposed Plan.
- 10 The Fishing Industry Parties advise that that are also seeking to join the appeals bought by Environmental Defence Society Incorporated and Friends of Nelson Haven and Tasman Bay Incorporated on a similar issue.

Mediation

- 11 Fishing Industry Parties agree to participate in mediation or other alternative dispute resolution of the proceedings.

Signed for and on behalf of Fisheries Inshore New Zealand, the Paua Industry Council and NZ Rock Lobster Industry Council by its solicitors and authorised agents Chapman Tripp



Jo Appleyard
Partner
29 May 2020

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Advice

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