

In the Environment Court of New Zealand
at Christchurch

ENV-2020-CHC-33 and others

under: the Resource Management Act 1991

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

between: **Friends of Nelson Haven and Tasman Bay
Incorporated**
Appellant

And all other appellants concerning the Marlborough
Environment Plan

and: **Marlborough District Council**
Respondent

Fishing Industry Parties first case management memorandum

Dated: 14 August 2020

Next event date: 28 August 2020

REFERENCE: J M Appleyard (jo.appleyard@chapmantripp.com)

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May it please the Court:

- 1 Fisheries Inshore New Zealand, the Paua Industry Council and the NZ Rock Lobster Industry Council (*the Fishing Industry Parties*) have joined the following appeals:
 - 1.1 Friends of Nelson Haven and Tasman Bay Incorporated (ENV-2020-CHC-33);
 - 1.2 Royal Forest and Bird Protection Society Incorporated (ENV-2020-CHC-64);
and
 - 1.3 Environmental Defence Society (ENV-2020-CHC-67).
- 2 This memorandum is prepared in advance of the pre-hearing conference on 28 August 2020. The Fishing Industry Parties generally support the suggested approach and comments made in the Council's memorandum of 31 July. Some additional comments and response to the matters raised in the Council's memorandum and the Court's minute of 21 July are below.

Communication

- 3 The Fishing Industry Parties support the Council's suggestion to upload all documents to a webpage. The Council's offer to facilitate placement of documents on the webpage on behalf of other parties and provide a link to circulate would be beneficial. This would avoid all parties being part of long chains of email correspondence and would enable a more efficient process.

Jurisdiction

- 4 The Fishing Industry Parties have concerns regarding jurisdiction over the substance of sub-topic 5.4 and the extent to which the inclusion of king shag feeding areas and important bird areas as ecologically significant marine sites (with corresponding controls on certain fishing activities) is within the scope of any submission on the proposed Plan.

Grouping of topics

- 5 The Fishing Industry Parties have reviewed the proposed list of topics and sub-topics prepared by the Council. The sub-topics against which the Council has recorded the Fishing Industry Parties are correct, but the Fishing Industry Parties seek to be added to three additional sub-topics. Specifically:
 - 5.1 Sub-topic 5.1, relating to the criteria for ecological significance, is also a topic which the Fishing Industry Parties have an interest in. There are controls related to fishing activities which flow from the identification of ecologically significant sites. In their s274 notices the Fishing Industry Parties noted their interest in any part of the relevant appeals which seeks to impose additional controls on fishing activity – pending further clarification, that would appear to include this sub-topic;
 - 5.2 With regard to sub-topic 5.2, relating to specific ecologically significant marine sites, the Fishing Industry Parties seek reassurance that the scope of that sub-topic will be narrowly focused around the values of particular identified areas and will not end up involving a discussion of broader matters related to

ecologically significant marine sites in general or the applicable rule regime. If this sub-topic is likely to involve broader discussions then the Fishing Industry Parties seek that they are added to the list of s274 parties with an interest in this sub-topic;

- 5.3 Sub-topic 5.8, relating to significant natural areas, is also of interest to the Fishing Industry Parties. In their s274 notices the Fishing Industry Parties noted their interest in any part of the relevant appeals which seeks to impose additional controls on fishing activity. To the extent that it is not yet clear whether the intention of the appellants is that their relief would include provisions that may apply to fishing activities, the Fishing Industry Parties are interested in this sub-topic.

Priority and sequencing

- 6 The matters identified by the Council for priority hearing are not matters to which the Fishing Industry Parties have an interest. The Fishing Industry Parties are not opposed to any of those matters being dealt with as a priority.



Amy Hill / Jo Appleyard
Counsel for Fishing Industry Parties

14 August 2020