

**IN THE ENVIRONMENT COURT
CHRISTCHURCH**

ENV-2020-CHC-045, 051, 063, 074

**I MUA I TE KOOTI TAIAO
I ŌTAUTAHI ROHE**

IN THE MATTER

of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER

of section 274 of the RMA

BETWEEN

**AROMA (N.Z.) LIMITED AND AROMA
AQUACULTURE LIMITED**

THE NEW ZEALAND KING SALMON CO LIMITED

APEX MARINE FARM LIMITED

**MARINE FARMING ASSOCIATION
INCORPORATED AND AQUACULTURE NEW
ZEALAND**

Appellants

AND

MARLBOROUGH DISTRICT COUNCIL

Respondent

**NOTICE OF KIWIRAIL HOLDINGS LIMITED'S
INTENTION TO BE A PARTY TO PROCEEDINGS**

8 JUNE 2020

**Russell
McAugh**

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TO: The Registrar
Environment Court
Christchurch

KIWIRAIL HOLDINGS LIMITED ("KiwiRail") wishes to be a party to the appeals by Aroma (N.Z.) Limited and Aroma Aquaculture Limited, The New Zealand King Salmon Co Limited, Apex Marine Farm Limited, and Marine Farming Association Incorporated and Aquaculture New Zealand (together, the "**Appellants**") against the decision of the Marlborough District Council ("**Council**") on the Proposed Marlborough Environment Plan ("**MEP**").

Nature of interest

1. KiwiRail made a submission about the subject matter of these proceedings.
2. KiwiRail is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

Extent of interest

3. KiwiRail is interested in part of the proceedings. The parts of the appeal KiwiRail is interested in are those parts relating to:
 - (a) Volume 4 – Mapping of the National Transportation Route ("**NTR**");¹ and
 - (b) Policy 13.15.1 – Avoiding adverse effects on ships transiting the NTR.

Mapping of the NTR

4. The MEP recognises the importance of Queen Charlotte Sound as a nationally significant transport route, and the MEP's rules largely enable ongoing ferry activities within the Sound where such activities fall within the NTR. These enabling provisions are critical to the ongoing safe, efficient and effective operation of KiwiRail's Interislander ferry services through the Tory Channel and Queen Charlotte Sound.
5. The Appellants seek that the mapping of the NTR in the MEP be amended to remove side bays of the Tory Channel. While KiwiRail is not opposed to the removal of the side bays from the NTR in principle, the way in which the NTR is mapped in the MEP is of critical importance to KiwiRail's Interislander ferry service. KiwiRail wishes to ensure that any changes to the NTR mapping do not inadvertently result in constraints on the operation of the Interislander ferries through Queen Charlotte Sound.

Avoiding adverse effects on ships transiting the NTR

6. The Appellants also seek that Policy 13.5.1 be amended to replace the requirement for adverse effects on the safety and efficiency of ships transiting

¹ We note that Aroma (N.Z.) Limited and Aroma Aquaculture Limited did not appeal this aspect of the MEP.

the NTR to be "avoided" with a requirement to "appropriately manage" such effects.

7. KiwiRail is concerned that any weakening of the protections for ships transiting through the NTR may result in adverse impacts on the safety and efficiency of shipping activities through the NTR. KiwiRail submitted in support of Policy 13.15.1 and the related NTR provisions, and seeks to ensure these protections continue to be provided under the MEP.

Relief sought

Volume 4 – Mapping of the NTR

8. KiwiRail is neutral in relation to the proposed removal of the side bays of the Tory Channel from the NTR. However, KiwiRail seeks to ensure any consequential amendments to the mapping of the NTR as a result of the Appellants' relief do not negatively impact KiwiRail's ability to operate its ferry services through the NTR.

Policy 13.15.1

9. KiwiRail opposes the relief sought by the Appellants to amend Policy 13.15.1, because it:
- (a) will not promote the sustainable management of the natural and physical resources within Marlborough, and is therefore inconsistent with Part 2 and other provisions of the RMA;
 - (b) will not meet the reasonably foreseeable needs of future generations;
 - (c) will not enable the social, economic and cultural wellbeing of the people of Marlborough;
 - (d) does not avoid, remedy or mitigate actual or potential adverse effects on the environment; and
 - (e) is not the most appropriate way to achieve the objectives of the MEP in terms of section 32 of the RMA.

Alternative dispute resolution

10. KiwiRail agrees to participate in mediation or other alternative dispute resolution of the proceedings.

KIWIRAIL by its solicitors and authorised agents
Russell McVeagh:



Signature:

Allison Arthur-Young / Tom Atkins

Date:

8 June 2020

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To: the Registrar of the Environment Court at Christchurch

And to: the Appellants

And to: the Respondent

Advice

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