

BEFORE THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

I MUA I TE KOOTI TAIAO O AOTEAROA
OTAUTAHI ROHE

ENV-CHC-2020-000045
ENV- CHC-2020-000074
ENV- CHC-2020-000055
ENV- CHC-2020-000051
ENV- CHC-2020-000046
ENV- CHC-2020-000070

In the Matter of the Resource Management Act 1991 (**Act**)
And
In the Matter of appeals under clause 14 of the First Schedule of the
Act

Between Aroma (NZ) Ltd and Aroma Aquaculture Ltd
Appellant

And Marine Farming Association Inc and Aquaculture
New Zealand
Appellant

And Clearwater Mussels Ltd and Talley's Group Ltd
Appellant

And The New Zealand King Salmon Co Ltd
Appellant

And Te Runanga o Kaikorua and Te Runanga o Ngai Tahu
Appellant

And Te Runanga o Ngati Kuia Trust
Appellant

And Marlborough District Council
Respondent

**Memorandum of Counsel on behalf of Yachting New Zealand Incorporated in
Relation to Case Management Memorandum No. 1**

Dated 14 August 2020

Jeremy Brabant
Barrister
Level 4, Vulcan Building Chambers
PO Box 1502, Shortland St
021 494 506
Email: jeremy@brabant.co.nz

MAY IT PLEASE THE COURT:

1. This memorandum is filed in accordance with the Court's Minute issued 16 June 2020 in response to matters raised by the case management documentation filed by Marlborough District Council (**Council**) on 31 July 2020.
2. Yachting New Zealand Incorporated (**YNZ**) is a s 274 party to the following appeals on the Proposed Marlborough Environment Plan (**Proposed Plan**):
 - a. Aroma (NZ) Ltd and Aroma Aquaculture Ltd v Marlborough District Council [ENV-CHC-2020-000045];
 - b. Marine Farming Association Inc and Aquaculture New Zealand v Marlborough District Council [ENV-CHC-2020-000074];
 - c. Clearwater Mussels Ltd and Talley's Group Ltd v Marlborough District Council [ENV-CHC-2020-000055];
 - d. The New Zealand King Salmon Co Ltd v Marlborough District Council [ENV-CHC-2020-000051];
 - e. Te Runanga o Kaikorua and Te Runanga o Ngai Tahu v Marlborough District Council [ENV-CHC-2020-000046]; and
 - f. Te Runanga o Ngati Kuia Trust v Marlborough District Council [ENV-CHC-2020-000070].
3. YNZ has reviewed Council's Case Management Memorandum and the Topics and Sub-Topics list dated 31 July 2020.
4. YNZ has also received and reviewed memoranda in response from The New Zealand King Salmon Company Limited YNZ generally agrees with issues raised by the King Salmon Memorandum so far as they relate to the appeal points YNZ has an interest in.

Response to Case Management Memorandum No. 1

5. YNZ is generally supportive of the proposed hearing process and Council's proposed topics and subtopics.
6. YNZ considers that the scope of its s 274 interests have been clearly communicated and recorded in its various s 274 Notices.

Response to Proposed Topics and Sub-Topics List

7. Although generally supportive of the proposed topics, YNZ considers that several corrections, amendments and additions are required to the Proposed Topics and Sub-Topics List to properly identify the extent of appeal matters YNZ has an interest in.
8. Specifically, the proposed Topic and Sub-Topics List does not accurately:
 - a. Capture and record the appeal against the definition of "Recognised Navigational Route" and appeal points with respect to other navigation related considerations such as the Plan's treatment of headlands by reference to establishment of structures in the CMA;
 - b. Provide a topic or sub-topic for matters relating to the discharge of waste from ships in the Coastal Marine Zone, including matters relating to the new overlay for Restricted Areas for Discharges from Ships.

Corrections

9. YNZ appears to have been incorrectly listed as an interested party to the Marine Farming Association's interest in Topic 17 Energy and Climate Change, sub-topic 17.5. YNZ does not have an interest in this topic and should be removed as a recorded s 274 party.
10. YNZ does not have an interest in Volume 2, Rule 16.7.9 Use of Surface Water and should not be recorded as a s 274 party on that matter.

Additions/Amendments to Topics and Sub-Topics

11. As noted above, with respect to the appeal against the definition of “Recognised Navigational Route” and appeal points with respect to other navigation related considerations, either existing Topics/sub-topics need to be amended or a new Topic or sub-topic created.
12. Topic 16 Transportation, sub-topic 16.4 Shipping Activity and the National Transportation Route, could be amended as follows:
 - a. Inserting reference to Volume 2, Chapter 25 Definitions where the definition under appeal is located; and
 - b. Reference made to Volume 2, Chapter 25 Definitions in the context of Policy 13.15.2 and the proposed mapping and/or definition of “Headlands” sought by the Aquaculture Parties.
13. Alternatively, YNZ would support the addition of a new topic or sub-topic on this matter. NZ King Salmon’s have suggested a new topic be added for the definition of “Recognised Navigational Route”.¹ This course of action may be preferable.

Discharges of Waste from Ships (Coastal Marine Zone)

14. The proposed Topics and Sub-Topics List does not have a category (either topic or sub-topic) specifically related to the discharge of waste from ships.
15. YNZ has an interest in Te Runanga o Kaikorua and Te Runanga o Ngai Tahu’s appeal to Volume 2, Chapter 16 of the Coastal Marine Zone Rule 16.7.5 which seeks to prohibit the discharge of human sewage from ships in this zone. The Council’s proposed table does not include reference to rule 16.7.5.
16. YNZ would support the inclusion of a specific sub-topic that accurately relates to Te Runanga o Kaikorua and Te Runanga o Ngai Tahu’s relief sought and YNZ’s s 274 interest. It is suggested that a new sub-topic titled “10.X Coastal Marine

¹ Memorandum dated 14 August 2020, Schedule 1 at paragraph 1(b).

Zone – discharge of sewage into coastal marine area” could be added to Topic 10 Coastal Environments.

Restricted Areas for Discharges from Ships

17. Te Runanga o Ngati Kuia Trust agree that the mapping of areas excluded from the discharge of sewage to the coastal marine area is appropriate. However, they have appealed the Decisions Version’s inclusion of the Restricted Area for Discharges from Ships Overlay as currently mapped.

18. The Proposed Topic and Sub-Topic List does not appear to include the Restricted Area for Discharges from Ships Overlay (Volume 4 Maps) in any of the proposed topics. It is suggested that the overlay appeal could be listed as a sub-topic in Topic 10 Coastal Environments with the title 10.X Restricted Areas for Discharges from Ships”. Alternatively, a Mapping or Overlay Topic might be preferred.



Jeremy Brabant

Counsel for Yachting New Zealand Incorporated