

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND an application for declaration under section 311 and an appeal under section 120 of the Act

BETWEEN THE NEW ZEALAND KING SALMON CO. LIMITED

(ENV-2021-CHC-74 & 105)

Applicant/Appellant

AND MARLBOROUGH DISTRICT COUNCIL

Respondent

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**MINUTE OF THE ENVIRONMENT COURT  
(29 November 2021)**

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**Introduction**

[1] These proceedings relate to an application for declaration<sup>1</sup> and a s120 appeal<sup>2</sup> by the New Zealand King Salmon Company Ltd (NZKS).

[2] This Minute responds to the memorandum of counsel for Friends of Nelson Haven and Tasman Bay (Friends) and Guardians of the Sounds (Guardians) dated 25 November 2021, and the memorandum of counsel for

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<sup>1</sup> ENV-2021-CHC-74.

<sup>2</sup> ENV-2021-CHC-105.



NZKS dated 24 November 2021.

[3] Counsel for Friends and Guardians have confirmed they no longer seek an extended timetable (in which a judicial telephone conference (JTC) was set down to consider) and that they will address the court on the basis of the evidence filed, or to be filed, by other parties. Counsel also raises no objection to McGuinness Institute's application to join the proceeding late, although this relates to the s120 appeal in which the court is yet to receive a waiver application, so McGuinness Institute is not currently a valid party to the s120 appeal.

[4] In respect of the s120 appeal, NZKS has filed a memorandum dated 24 November 2021 seeking that any facilitated mediation is not set down until the declaration proceeding has been determined, as aspects of the s120 proceeding are subject to the outcome of the declaration proceeding. This request appears reasonable.

[5] I consider the JTC currently scheduled can be vacated and a timetable put in place for legal submissions to be filed. After a brief look at the file, it appears this proceeding could be considered on the papers without the need for a hearing. However, if any party wishes to question any of the witnesses who provided affidavits or be heard, they should advise the Registrar by Friday 3 December 2021 and a hearing will be set down in due course. I will also reserve leave for the parties to confer if they consider this course unsuitable and propose an alternative timetable.

### **Directions**

[6] I direct that:

- (a) the judicial teleconference scheduled for 3pm Friday 3 December is vacated;
- (b) parties should advise the court by **Friday 3 December 2021** whether they consent to the court considering the declaration matter on the

- papers or whether they require hearing time;
- (c) any legal submissions for the applicant must be lodged and served by **Wednesday 8 December 2021;**
  - (d) any legal submissions for the respondents and s274 parties must be lodged and served by **Wednesday 15 December 2021;**
  - (e) any submissions in reply for the applicant must be lodged and served by **Wednesday 22 December 2021;** and
  - (f) the s120 appeal will be referred to mediation on a date to be scheduled following the determination of the declaration proceeding.

[7] Leave is reserved for the parties to seek further (or other) directions.



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**J J M Hassan**  
**Environment Judge**

Issued: 29 November 2021

