

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

Decision No. [2022] NZEnvC 108

IN THE MATTER of the Resource Management Act 1991
AND an application under s311 of the Act
BETWEEN NELSON CITY COUNCIL
(ENV-2022-CHC-027)
Applicant

Court: Environment Judge J J M Hassan
Hearing: On the papers under s279 of the Act
Submissions: K Anderson and K Rogers for the Applicant
Last case event: 15 June 2022
Date of Decision: 22 June 2022
Date of Issue: 22 June 2022

**DECISION OF THE ENVIRONMENT COURT ON APPLICATION
FOR DIRECTIONS**

A: The Nelson City Council is directed to serve notice of its application for declaration in accordance with the directions set out in this decision.

REASONS

Introduction

[1] The Nelson City Council intends to apply for a declaration in relation to the

NELSON CITY COUNCIL – APPLICATION FOR DIRECTIONS



use of the beach area below mean high water springs at Delaware Bay in Nelson for driving vehicles across to launch and retrieve recreational boats/fishing vessels at the water's edge.

[2] The application will be seeking a declaration that the activity above is not a permitted activity under Rule CMr.33 of the Nelson Resource Management Plan, and therefore, requires resource consent.

Service of the application

[3] Section 312(1), RMA¹ requires an application for declaration to be served on every person directly affected by the application. In its memorandum, the Council identified a range of parties that will be affected by the application, but its concern is that it cannot easily identify all the boat users of Delaware Bay. As a result, the Council seeks a direction that public notice will satisfy the RMA notice requirements in addition to notifying the identified list of parties.

[4] The Council suggests that service on the unidentified affected users of the beach be achieved via public notice as defined in s2AB, RMA. This would involve publishing notice of the application for declaration on its website and circulating a summary of the notice of application in one or more newspapers in the locality.

Directions

[5] Having considered the Council's application for directions, I find the Council's suggestions concerning service appropriate.

[6] Accordingly, I direct the Council to notify the following parties directly of the application (at the email and physical addresses identified in their application):

- (a) members of the boating community who have previously identified

¹ Resource Management Act 1991.

to Council that they have an interest in this issue – listed in Appendix 1.

- (b) iwi groups who have previously been involved in discussions with the Council on this issue, listed at Appendix 2:
 - (i) Ngāti Tama, through two trusts based in the area: Huria Matenga Wakapuaka Trust and Wakapuaka 1B Trust;
 - (ii) Ngāti Apa;
 - (iii) Ngāti Koata;
 - (iv) Ngāti Kuia;
 - (v) Ngāti Rārua;
 - (vi) Ngāti Toa Rangatira;
 - (vii) Rangitāne; and
 - (viii) Te Ātiawa.
- (c) MACA claimants, listed at Appendix 3:
 - (i) Te Ātiawa o Te Waka a Maui Trust (Whakatu/Te Hoiere) (MAC 01-12-018);
 - (ii) Te Huria Matenga Trust (MAC 01-12-019);
 - (iii) Te Runganga O Ngāti Rārua (MAC 01-12-008);
 - (iv) Ngāti Apa (MAC 01-12-006);
 - (v) Ngāti Koata Trust (MAC 01-12-007);
 - (vi) Ngāti Tama ki Te Tau Ihu (MAC 01-12-009); and
 - (vii) Ngāti Toa Rangatira (MAC 01-12-021).
- (d) adjacent property owners listed in Appendix 4;
- (e) community boat clubs:
 - (i) Tasman Bay Cruising Club: Commodore; and
 - (ii) Nelson Yacht Club: Commodore.
- (f) Department of Conservation;
- (g) Royal Forest and Bird Protection Society;
- (h) The Nelson Port;
- (i) Nelson Harbourmaster;
- (j) MPI;
- (k) the committee that manages the Taiāpure Management Area from

Delaware Bay to Glenduan (established under the Fisheries Act 1993);

- (l) Delaware Bay Access Group members as confirmed with the group:
 - (i) Daryl Crimp;
 - (ii) Peter Ruffell;
 - (iii) Stuart Edens;
 - (iv) Simon Mardon; and
 - (v) Zane Mirfin.

[7] In addition, I direct that notice of application for declaration is to be published on the Council's website, and a summary of the notice of application, along with the details of the internet site where the notice can be accessed, is to be included in one or more newspapers circulating in the area likely to be affected by the application.



J J M Hassan
Environment Judge



APPENDIX 1 – Members of the public who have contacted Council in relation to using the boat ramp at Delaware Bay
Nigel McFadden
Glenn Harvey
Bruce Wilson
Simon Small
Stuart Edens
Markham Phillips
Robyn Venning
Michelle du Plessis
Peterson, Reuben
Glen Aspin
Sara – Nelson Weekly
Rachel Boyack
Taku Parai
Julia Eason
Andrew Stephens
Kura Stafford
Ratapu Hippolite
Hayley Roberts
Fred Te Miha
Tim O'Connell

APPENDIX 1 – Members of the public who have contacted Council in relation to using the boat ramp at Delaware Bay
Austen Dean
Sarah Rees
Simon Small
Gerard Praat
Stephen Mariu
Fred TeMiha
Moetu
Kura Strafford
Marlin Elkington
Sarah Wild
Julia Eason
Jim Dahm
Ngati Tama
Marlin
Dai Mitchell
Robin McMillan
Mathew Shearer
Daniel Jackson
Penny Wardle
Robyn Venning

APPENDIX 1 – Members of the public who have contacted Council in relation to using the boat ramp at Delaware Bay
Dave Hart
Bruce McLean
John Heslop
Dean Atkinson
Richard Kennedy
Tim Pannell
Steve and Cherie
Jarrood du Plessis
Philip Strang
Buzz Falconer
Daniel Fisher
Barbara & Ian Stuart
Peter Lawless

APPENDIX 2 – Iwi groups who have previously been involved in discussions with the Council on this issue
Ngāti Apa
Ngāti Koata
Ngāti Kuia
Ngāti Rārua
Ngāti Tama
Ngāti Toa Rangatira
Rangitāne
Te Ātiawa

APPENDIX 3 – Marine and Coastal Area
Te Ātiawa o Te Waka a Maui Trust (Whakatu/Te Hoiere)
Te Huria Matenga Trust
Te Runganga O Ngāti Rārua
Ngāti Apa
Ngāti Koata Trust
Ngāti Tama ki Te Tau Ihu
Ngāti Toa Rangatira

APPENDIX 4 – Adjacent property owners
Bruce Reginald Harvey & Gordon James Harvey
Gina Lynn Edens
Sondrio Management Limited
Eric Gordon Ingham
Heritage Trustee Company Limited
Corey John Herbert & Tessa Bianca Smith
Gary John Cleary & Christine Cleary
Hamish McPherson Black & Bronwen Ruth Rounce
David Peter Gordon Phillips & Kelli Kindred Phillips
Rachel Mary Ryan
Graham Eric Fern & Marjory Frances
Peter Ross Grundy
Carolyn Anne Phillips
Simon Paul Hunt
Philip Hansen & Gaylene Margaret Hansen
Eric Gordon Ingham
Timothy John Monro Edwards & Lianne Edwards
Peter Geoffrey Ruffell
Bruce Wilson & Hillary Margaret Johnstone
Denis John Richardson & Rebecca Jane Richardson
Leslie James Hollyman

APPENDIX 4 – Adjacent property owners
Bruce Douglas Hollyman & Carol Joy Hollyman
Louise Te Amohau Evelyn & Katene Te Oti
The Proprietors of Wakapuaka 1B Block
The Proprietors of Wakapuaka 1B Block

