

BEFORE THE ENVIRONMENT COURT

ENV-2020-CHC-000035

AT CHRISTCHURCH

I MUA I TE KOOTI TAIAO

IN THE MATTER

of an appeal under clause 14
of Schedule 1 of the Resource
Management Act 1991

BETWEEN

**Nelson Marlborough Fish
and Game Council**

Appellant

AND

**Marlborough District
Council**

Respondent

**NOTICE OF WISH TO BE A PARTY TO PROCEEDINGS BY THE
MINISTER OF CONSERVATION**

Dated: 8 June 2020

Department of Conservation

Solicitor/Counsel acting: M Pemberton/D van Mierlo

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Notice of person's wish to be a party to proceedings

Section 274 Resource Management Act 1991

To: The Registrar
Environment Court
CHRISTCHURCH

1. The **Minister of Conservation** (the **Minister**) wishes to be a party to the following proceedings:
 - 1.1. Nelson Marlborough Fish and Game Council v Marlborough District Council
2. The Minister made submissions and appeared at the Council hearing on the proposed Marlborough Environment Plan (the Plan)
3. The Minister is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (RMA).
4. The Minister has an interest greater than the interest the general public has, specifically regarding conservation values and the implementation of the New Zealand Coastal Policy Statement.
5. The Minister is interested in all of the proceedings, but has a particular interest in parts of the appeal relating to:
 - 5.1. Policy 5.2.3;
 - 5.2. Policy 5.2.4;
 - 5.3. Policy 5.2.7;
 - 5.4. Policy 5.2.13;
 - 5.5. Policy 5.2.14;
 - 5.6. Policy 5.2.15;
 - 5.7. Policy 5.2.17;
 - 5.8. Policy 5.2.22;
 - 5.9. Policy 5.2.25;

- 5.10. Policy 5.2.26;
- 5.11. all Issues Objectives and Policies related to freshwater allocation;
- 5.12. Policy 15.1.2;
- 5.13. Appendix 5; and
- 5.14. Appendix 6, Schedule 1 and 3.

6. The Minister **supports** the relief sought.

Relief supported

7. The Minister supports the relief sought in relation to the items listed in paras 5.1 to 5.14 on the basis that:

- 7.1. Policy 5.2.3 is not consistent with the NPSFM where the specifically identified water bodies constitute “outstanding water bodies” as are required to be identified under the NPSFM.
- 7.2. Policy 5.2.4 is not consistent with the NPSFM and does not reference the specific freshwater objectives and values within those FMUs as a criterion.
- 7.3. Policy 5.2.7 is not consistent with Part 2 of the Act and does not implement the NPSFM. Minimum flows should be determined for catchments through a plan process and not case by case to ensure equitable application of restrictions and to ensure flows provide for aquatic habitats.
- 7.4. Policy 5.2.13 is uncertain in how it applies to existing takes and whether a review of consent conditions will be required. Unless clarified through amendment, Policy 5.2.13 is not consistent with Part 2 of the Act, and does not implement the NPSFM.
- 7.5. Policies 5.2.14, 5.2.15 and 5.2.17: The Minister supports this appeal based on the concern that the Council has not undertaken limit setting for water quantity as anticipated by the NPSFM and therefore is inconsistent with the national direction.
- 7.6. Policy 5.2.22: The Minister has an interest in the appeal on this policy given responsibilities under the Freshwater Fisheries Regulations 1983. Some amendment to the policy is supported.
- 7.7. Policy 5.2.25: clarification of the implementation of this policy regarding existing takes is supported.

- 7.8. Policy 5.2.26: This policy is uncertain and ambiguous when read considering a number of other policies, as it is unclear whether existing consent conditions will be reviewed to give effect to relevant policies, or ensure relevant environmental flows or levels are met.
- 7.9. all Issues Objectives and Policies related to freshwater allocation: the NPSFM has not been fully implemented in Marlborough, and in particular, the process for identifying freshwater objectives and values prescribed in NPSFM Policy CA2 has not been undertaken, these can only be interim limits until freshwater objectives, environmental levels/limits and the status of allocation (over or under) is determined.
- 7.10. Policy 15.1.2: The Minister supports the rewording of this policy to be consistent with the requirements of the NPSFM.
- 7.11. Appendix 5: The Minister supports the changes proposed to the schedules within Appendix 5 to be consistent with the requirements of the NPSFM.
- 7.12. Appendix 6, Schedule 1 and 3: the Minister supports the proposed amendments to the flows and allocations for specific catchments to better provide for the protection of aquatic ecosystems and to ensure overallocation is not exacerbated by the limits set by the Plan.
8. The Minister agrees to participate in mediation or other alternative dispute resolution of the proceedings.



Matt Pemberton/Dean van Mierlo
Solicitor/Counsel for the Minister of Conservation

8 June 2020

Address for service of person wishing to be a party:

Minister of Conservation

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Contact persons

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Advice

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