

**BEFORE THE ENVIRONMENT COURT**

**ENV-2020-CHC-000049**

**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**

**Port Marlborough New  
Zealand Limited**

*Appellant*

**AND**

**Marlborough District  
Council**

*Respondent*

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

**Dated: 8 June 2020**

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Department of Conservation

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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. Port Marlborough New Zealand Limited 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 also 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. Objective 4.3
  - 5.2. Policy 4.3.2
  - 5.3. Policy 4.3.4
  - 5.4. Policy 6.2.2;
  - 5.5. Objective 8.1;
  - 5.6. Policy 8.3.1;
  - 5.7. Policy 8.3.4;

- 5.8. Policy 13.1.1;
- 5.9. Rule Standard 19.3.3.3 and Threatened Land Environments Overlay; and
- 5.10. Mapping of ESMS site 4.10.

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

***Relief opposed***

7. The Minister opposes the following:

- 7.1. Objective 4.3 and Policies 4.3.2 and 4.3.4: these Objective and Policies provide guidance on the maintenance and enhancement of the qualities and values of the Marlborough Sounds specifically. This is not in conflict with other policies in the Plan that provide for identification and protection of values generally. The provisions should be read together and not considered as being in conflict or taking priority over other objectives and policies.
- 7.2. Policy 6.2.2: the amendment sought to this policy is unnecessary and it is already clear from the policy wording that clause a) refers to the natural character of all areas outside of those areas defined as outstanding. The planning maps and the associated descriptions of the values in Appendix 2 provide clarity on the degree of natural character for these areas. This is consistent with Policy 13 of the NZCPS.
- 7.3. Objective 8.1: the amendments sought change the intent of the Objective and the Policies that come under it, being the protection of Marlborough's remaining indigenous biodiversity. Policies that follow give effect to section 6(c) of the RMA in providing for protection of significant indigenous biodiversity specifically.
- 7.4. Policy 8.3.1: the amendments sought to this policy significantly weaken the intent of avoiding adverse effect on mapped significant wetlands and ecologically significant marine sites and is inconsistent with Policy 11 of the NZCPS.

- 7.5. Policy 8.3.4: This policy provides important guidance on the potential effects of development activities on indigenous biodiversity. Deletion of this policy will create ambiguity and reduce clarity in how adverse effects are to be determined.
- 7.6. Policy 13.1.1: Deletion of this policy is not supported as it is not in conflict with other policies in other chapters and gives effect to Objective 3.1 which makes clear the areas of the coastal environment where adverse effects are to be avoided in accordance with the directive policies of the NZCPS.
- 7.7. Rule Standard 19.3.3.3 and the Threatened Land Environments overlay: deletion of reference to the threatened land environments overlay and or the deletion of the overlay itself is not supported given that the overlay details areas of the district where indigenous vegetation and habitats for indigenous fauna are greatly reduced, and what indigenous biodiversity remains in these areas is of a significance that requires protection under section 6(c) of the RMA. While the appellant may have specific concerns where this may impact on their operations or development, it is appropriate that indigenous vegetation clearance within these areas is subject to assessment through a resource consent process.
- 7.8. Mapping of ESMS site 4.10: without further assessment of the site against the criteria in Policy 8.1.1 and Appendix 3 deletion of part of the ESMS is not supported.
8. The Minister agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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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**

Planning Shared Services

Department 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.