

**In the Environment Court
I Mua I Te Kōti Taiao O Aotearoa
Christchurch Registry
Ōtautahi Rohe**

ENV-2020-CHC-000049

Under the Resource Management Act 1991
And in the matter of an appeal pursuant to Schedule 1, clause 14(1) of the Act

Between

Port Marlborough New Zealand Limited

Appellant

and

Marlborough District Council

Respondent

**Memorandum of Counsel on behalf of Port Marlborough
New Zealand Limited**

14 August 2020

BELL GULLY

BARRISTERS AND SOLICITORS

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May it please the Court:

1. Port Marlborough New Zealand Limited (**PMNZ**) has reviewed the Case Management Memorandum on behalf of Marlborough District Council (**MDC**) dated 31 July 2020 and the accompanying Table of Topics and Subtopics (**Topic Table**).
2. PMNZ has no concerns with the approach to topic allocation set out in the Topic Table, however it has identified a number of its appeal points which have not been allocated to any topic. It has also identified a number of topics in relation to which it has an interest as a s 274 party where it has not been identified as an interested party. These points are identified in Appendix 1.
3. PMNZ has been in contact with MDC directly regarding these points and MDC has agreed to add those appeal points and s 274 interests which are missing from the Topic Table. The appropriate topics identified by MDC to which those points will be added are also set out in Appendix 1.
4. Assuming MDC provides an amended table incorporating the agreed changes, PMNZ does not have any other concerns regarding the proposed approach.
5. PMNZ therefore respectfully requests leave not to attend the Pre-Hearing Conference on Friday 28 August.



A J L Beatson / S E Anderton
Counsel for Port Marlborough New Zealand Limited

Dated 14 August 2020

Appendix 1

PMNZ Appeal Points not identified in the Topic Table:

Plan Provision	Appropriate Topic
<i>Volume 2 (Rules)</i>	
Rule 2.34.1	Topic 16
Standard 2.36.1.6; Standard 2.36.1.12	Topic 16
Standard 2.37.7.1; New Standard under 2.37.7	Topic 16
Definition of Port Engineering Activity	Sub-topic 10.10
<i>Volume 4 (Maps)</i>	
Threatened Environments Overlay – Chapter 8 Indigenous Biodiversity	Sub-topic 5.9

PMNZ also requested changes to Table 2.1 under Standard 2.33.1.1. MDC has advised that this has not been allocated a topic on the basis that the National Policy Statement for Urban Development now prevents councils from setting minimum car parking requirements. MDC has advised that Table 2.1 will therefore be removed (without using the Schedule 1 RMA process). On this basis, this appeal point has not been included in the above table.

PMNZ Section 274 interests not identified in the Topic Table:

Appellant	Plan Provision	Appropriate Topic
Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu	Rule 16.7.5 does not appear to be referenced in the Topic Table	Sub-topic 13.6
The Royal Forest and Bird Protection Society of New Zealand Incorporated	Policy 7.2.6 is listed within sub-topic 19.1 however Forest & Bird is not listed as an appellant and PMNZ is not identified as a s 274 party	Sub-topic 4.4
	Chapter 8 Introduction, to be covered within the catch all sub-topic 5.11 does not identify PMNZ as a s 274 party	Sub-topic 5.11
Trustpower Limited	Policy 6.2.3 is referred to in sub-topic 19.1 however Trustpower Ltd is not listed as an appellant and PMNZ is not identified as a s 274 party	Sub-topic 3.3
KiwiRail Holdings Limited	Policy 13.14.2 is listed within sub-topic 16.4, however PMNZ is not listed as a s 274 party	Sub-topic 16.4

Environmental Defence Society Incorporated	New Policy 13.12.X does not appear to be referenced in the Topic Table	Sub-topic 10.18
	Objective 4.3 is listed within sub-topic 10.19, however PMNZ is not identified as a s 274 party	Sub-topic 22.4
	Policies 6.2.1, 6.2.2 and 6.2.4 (now 6.2.3) are listed within sub-topic 19.1, however PMNZ is not identified as a s 274 party	Sub-topic 3.3