

BEFORE THE ENVIRONMENT COURT

ENV-2020-CHC-000050

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

Trustpower Limited

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. Trustpower 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 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 5.1;
 - 5.2. Policy 5.2.2;
 - 5.3. Policy 5.2.3;
 - 5.4. Policy 5.2.17
 - 5.5. Policy 5.2.22;
 - 5.6. Policy 5.3.1;
 - 5.7. Policy 8.3.6; and
 - 5.8. Standard 2.8.1.7.

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

Relief opposed

7. The Minister opposes the relief sought in relation to the following as:

7.1. Objective 5.1: the inclusion of physical resources within the Objective is not supported given that the type of existing flow alteration alluded to in seeking this relief is a factor of hydrological resources and is already inherent within the Objective as currently worded.

7.2. Policy 5.2.2: the proposed amendment to this policy is not supported as the policy as decided is an accurate reflection of the direction that the NPSFM provides on recognising Te Mana o Te Wai in planning for freshwater management, and the amendment sought detracts from the intent of the Policy.

7.3. Policy 5.2.3: the additional wording of this policy sought is already reflected in the explanation to this policy, therefore the relief is not considered necessary.

7.4. Policy 5.2.22: the relief sought is not supported as temporary damming of a river associated with works to maintain an existing structure in the bed of a river is a permitted activity subject to standards under Rule 2.9.1 and is not significantly impacted by this policy.

7.5. Policy 5.3.1: deletion of this policy is not supported as it is clear from the policy explanation that this policy is related to the equitable application of flow and level restrictions and priorities for taking water at times of reduced water availability.

7.6. Policy 8.3.6: amendments sought to the biodiversity offsetting policy are not supported and the policy as sought to be amended through the Minister's appeal is preferred. With regard to the addition of compensation to this policy it should be made clear that compensation should come after consideration of biodiversity offsetting in a mitigation

hierarchy, and then only if offsetting is not demonstrably achievable then compensation is considered.

7.7. Rule 2.8.1.7: the amendment to the standard so that it will only apply to 'permanent' effects on fish passage is ambiguous and it is considered the best approach would be to have the effects considered through a resource consent application.

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
Planning Shared Services
Department of Conservation
Private Bag 4715, Christchurch Mail Centre, Christchurch 8140

Contact persons
Geoff Deavoll, Team Lead RMA – Operations
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And

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Advice

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