

To The Registrar
Environment Court
Christchurch

1. **THE MINISTER OF DEFENCE** (the **Minister**) gives notice under section 274 of the RMA that he wishes to be a party to these proceedings, being *Trustpower Limited v Marlborough District Council* (**the appeal**).
2. The appeal is in respect of decisions of Marlborough District Council on its proposed Marlborough Environment Plan (**MEP**).
3. The Minister made a submission on the proposed MEP about the subject matter of the proceedings.
4. The Minister has an interest in the proceedings that is greater than the interest of the general public as the Minister has the power of control of the New Zealand Defence Force (**NZDF**), under the Defence Act 1990.¹ NZDF is tasked with the defence of New Zealand² and used to provide public service or assist civil power in time of emergency.³ That is, NZDF has both a security and civil defence role. Accordingly, NZDF must be able to operate in the Marlborough Region, including at RNZAF Base Woodbourne, without breaching the MEP.
5. The Minister is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
6. The Minister has an interest in part of the proceedings.
7. The part of interest is Trustpower Limited's (**Trustpower**) appeal on the provisions relating to:
 - 7.1 Volume 1, Chapter 5, Allocation of Freshwater Resources, Policy 5.2.22;

¹ Section 7.

² Section 5.

³ Section 9.

- 7.2 Volume 1, Chapter 5, Allocation of Freshwater Resources, Policy 5.3.14; and
- 7.3 Volume 2, Chapter 2, General Rules, permitted activity standard 2.8.1.7.
8. The Minister **supports** the relief sought, for the following reasons:
- 8.1 The Minister supports the change sought to Policy 5.2.22 that seeks to ensure it only applies to proposals to dam water permanently. NZDF is often required to construct temporary dams across a watercourse in order to allow the pooling of sufficient water to enable the use of its potable water treatment units. Policy 5.2.22, which recognises that a dam structure can act as a barrier to fish passage, modify the flow pattern downstream of the dam structure and alter the natural character and mauri of the river, is not applicable to temporary dam structures that are only in place for a limited time. The Minister has sought a new rule to provide for temporary dams in his notice of appeal.
- 8.2 The Minister supports the change sought to Policy 5.3.14 that seeks to increase the 20 year consent term in clause (a) to 30 years for Regionally Significant Infrastructure, in accordance with the notified version of the Proposed MEP. Where there is additional certainty surrounding a particular water resource, longer consent durations are appropriate for Regionally Significant Infrastructure, in order to provide surety of supply.
- 8.3 The Minister supports the change sought to permitted activity standard 2.8.1.7 that seeks to ensure that activities in the bed of a lake or river are permitted where they do not permanently prevent any existing fish passage. As set out above, NZDF is often required to construct temporary dams across a watercourse in order to allow the pooling of sufficient water to enable the use of its potable water treatment units. In some cases, fish passage may be temporarily affected, however this would only occur for a short duration (i.e up to a day). This standard should therefore be amended so that works or

structures are not restricted where existing fish passage would be temporarily affected and restricted where such fish passage will be permanently affected.

9. The amendments sought by the Appellant will assist NZDF to meet its obligations under the Defence Act 1990.
10. The Minister agrees to participate in mediation or other alternative dispute resolution of the proceedings.

08 June 2020



Rosemary Dixon
Counsel for the Minister of Defence

The address for service of the Minister is Crown Law, Level 3, Justice Centre, 19 Aitken Street, Wellington 6011. Documents for service on the Minister may be left at this address for service or may be:

- (a) posted to the solicitor at PO Box 2858, Wellington 6140; or
- (b) left for the solicitor at a document exchange for direction to DX SP20208, Wellington Central; or
- (d) emailed to the solicitor at rosemary.dixon@crownlaw.govt.nz or natalie.julian@crownlaw.govt.nz.