

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2020-CHC-000051

IN THE MATTER of the Resource Management Act
1991 (the **Act**)

AND

IN THE MATTER of an appeal under Clause 14(1) of
Schedule 1 of the Act

BETWEEN The New Zealand King Salmon Co.
Limited

Appellant

AND Marlborough District Council

Respondent

NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS
Section 274 of the Act


HOLLAND BECKETT
L A W

525 Cameron Road
DX HP40014
Private Bag 12011
Tauranga 3143
Telephone: (07) 578 2199
Facsimile: (07) 578 8055

Solicitor: Vanessa Hamm

Email: vanessa.hamm@hobec.co.nz

TO: The Registrar
Environment Court
CHRISTCHURCH

1. **Trustpower Limited (Trustpower)** wishes to be a party to the following proceedings:

(a) ENV-2020-CHC-000051, *The New Zealand King Salmon Co. Limited v Marlborough District Council*, an appeal under Clause 14(1) of Schedule 1 of the Act on the Proposed Marlborough Environment Plan (the **Plan**).

2. Trustpower made a submission about the subject matter of the proceedings.

3. Trustpower is not a trade competitor for the purposes of section 308C or 308CA of the Act.

4. Trustpower is interested part of the proceedings.

5. The parts of the proceedings Trustpower is interested in are the appellant's reasons for appeal and relief sought with respect to:

(a) New provisions: Issue 4D, Objective 4.4, and Policies 4.4.1, 4.1.1A, 4.1.2A, and 4.1.2B;

(b) Volume 1, Chapter 6;

(c) Volume 1, Chapter 7;

(d) Policy 7.2.12;

(e) Policy 8.1.1 and new Policy 8.3.XX;

(f) Appendix 3 – Biodiversity Criteria for Significance; and

- (g) Any consequential amendments or equivalent relief relating to the reasons for appeal or relief sought on these matters.
6. Trustpower is interested in the following particular issues:
- (a) The parts of the decisions appealed and the appellant's reasons for appeal and relief sought insofar as it relates to matters which may impact the operation of Trustpower's hydro-electric power schemes, and changing the Plan in a manner which is inconsistent with Trustpower's submission and own appeal.
 - (b) This includes changes to Volume 1, Chapter 6 (Natural Character), Volume 1, Chapter 7 (Landscape), Natural Character Maps and Landscape Maps which could impact the operation of Trustpower's schemes. This does not include changes to those provisions or maps which are specific to areas of or activities in the coastal environment.
7. Trustpower opposes the relief sought with respect to Volume 1, Chapters 6 and 7, New Policy 4.1.2B, and new Policy 8.3.XX, including for the following reasons:
- (a) The Notice of Appeal includes two appendices which set out extensive changes to Chapters 6 (Natural Character) and 7 (Landscape) in Volume 1 of the Plan. In some cases it is unclear what relief is being sought and the changes appear unworkable. For example, the first comment box in Appendix 1 is to combine the natural character chapter into a natural heritage chapter, or delete the natural character chapter and refer to natural character content in the indigenous biodiversity chapter.
 - (b) If the proposed changes are accepted then it would result in a re-write of much of the natural character and landscape policy direction. This would be inconsistent with Trustpower's submission and the relief sought in its own appeal on Chapters 6 and 7.

- (c) The appellant seeks a new Policy 4.1.2B to allow for appropriate development where it will achieve a net improvement in sustainability or efficiency, and which refers to offset and compensation measures. Trustpower seeks its own new policy in Chapter 4 to provide for offset and compensation measures, which would apply to significant adverse effects that cannot be avoided, remedied or mitigated. The appellant's proposed policy is inconsistent with the drafting proposed by Trustpower.
 - (d) The appellant also seeks a new Policy 8.3.XX which directs that the risk of an effect occurring will be considered in light of (amongst other things) whether the adverse effects are reversible. Trustpower considers this is an inappropriate test for renewable electricity generation activities.
8. Trustpower otherwise neither supports or opposes the relief sought but wishes to monitor the relief sought including for the following reasons:
- (a) The appellant seeks a series of amendments to the Plan, including amendments which relate to landscape and biodiversity matters which are both matters of national importance. The appellant also seeks extensive amendments to the provisions relating to the sustainable management of natural and physical resources.
 - (b) Trustpower owns and operates the Branch and Waihopai hydro-electric power schemes in the Marlborough Region. As an owner and operator of regionally significant infrastructure, Trustpower has a particular interest in ensuring the planning framework for these matters is appropriate and workable.
 - (c) Some of the provisions appealed are also subject to Trustpower's own appeal. For example, the appellant seeks amendments to Policy 8.1.1 and Appendix 3 – Biodiversity Criteria for Significance, so that Appendix 3 reflects a specific report and must be applied by a suitably qualified and experienced ecologist. Trustpower has its own appeal on Policy 8.1.1 and Appendix 3 to remove the

requirement to identify significant biodiversity in freshwater environments, given the mobility of freshwater species and their distinct ecological environment.

- (d) Trustpower therefore wishes to be a party to the appeal so that it may be involved in the development of any amendments that may affect Trustpower's interests and to ensure that any relief granted is appropriate and consistent with its submission and own appeal.

9. Trustpower agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Signature:



Vanessa Hamm
Counsel for Trustpower Limited

Date: 8 June 2020

**Address for service of
Trustpower Limited:**

Vanessa Jane Hamm
c/- Holland Beckett
525 Cameron Road
Private Bag 12011
Tauranga 3143

Telephone:

(07) 578 2199

Fax:

(07) 578 8055

Email:

Vanessa.Hamm@hobec.co.nz
Meila.Wilkins@hobec.co.nz

Contact person:

Vanessa Hamm

Advice

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