

BEFORE THE ENVIRONMENT COURT

ENV-2020-CHC-000064

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

**Royal Forest and Bird
Protection Society of New
Zealand Incorporated**

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. Royal Forest and Bird Protection Society of New Zealand Incorporated 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. Policies 7.1.1 and 7.1.3;
 - 5.2. Policy 7.2.6;
 - 5.3. Objective 8.1;
 - 5.4. Policy 8.1.1 and Appendix 3;
 - 5.5. Policy 8.1.2;
 - 5.6. Chapter 8 Introduction;
 - 5.7. Policy 8.2.2;

- 5.8. Policy 8.2.5;
- 5.9. Policy 8.2.9;
- 5.10. Policy 8.2.10;
- 5.11. Policy 8.3.5;
- 5.12. Policy 8.3.6;
- 5.13. Policy 13.1.1;
- 5.14. Policy 13.AER.1;
- 5.15. Standard 2.8.1.5; and
- 5.16. Standards or Rules 3.3.12, 4.3.10, 7.3.7, 17.3.2, 18.3.3, 19.3.3, 20.3.5.

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

Relief supported

- 7. The Minister supports the relief sought in relation to the following:
- 8. Policies 7.1.1 and 7.1.3: some clarification of the interaction between these policies and the reference to criteria used for the assessment of landscape values would strengthen these policies and ensure consistency with NZCPS is achieved.
- 9. Policy 7.2.6: Some clarification of this Policy as sought, regarding greater definition of regionally significant infrastructure, and the application of NZCPS Policy 15 to National Grid infrastructure, is required to ensure implementation is consistent.
- 10. Objective 8.1: The Minister supports improved clarity on the purpose and implementation of the Threatened Land Environments overlay in the Chapter 8 policies as sought in this appeal.
- 11. Policy 8.1.1 and Appendix 3: The Minister shares the concerns raised about the criteria for the identification of significant indigenous biodiversity in Policy 8.1.1 and as detailed in Appendix 3. The combining of criteria for use in both marine and terrestrial contexts is the catalyst for the concerns, inconsistencies and confusion created. Separating or rewording of the criteria is supported as outlined in the Minister's appeal.

12. Policy 8.1.2: There is some merit in providing a new appendix that details the wetlands mapped in Volume 4 that will improve clarity on the values extent and location of these features.
13. Chapter 8 Introduction, Policies 8.2.2, 8.2.5, and 8.2.9: Some additional policy direction for a move toward identification through survey and mapping of significant natural areas is supported as a more effective approach to providing for the protection of areas of significant indigenous vegetation and significant habitat of indigenous fauna required by section 6(c) of the RMA.
14. Policy 8.2.10: the notified wording of this policy in the Plan is preferred as sought by this appeal, as it provides clear direction on the intention to maintain indigenous biodiversity in accordance with the Councils functions under section 30 and 31 of the RMA.
15. Policy 8.3.5: The Minister supports mapping of known sites for king shag and updated planning maps to improve protection through the Plan in a way that is consistent with Policy 11 of the NZCPS. The actual amendments may require some further consideration and refinement however.
16. Policy 8.3.6: Amended wording for the biodiversity offsetting policy is supported and similar to the Minister's own appeal on the matter. Clarification between offsetting and compensation is also supported.
17. Policy 13.1.1, 13.AER.1: this policy in conjunction with Policy 13.1.2 exposes a gap in the identification and protection of significant biodiversity values on the landward part of the coastal environment. The approach in the relief sought would be consistent with the NZCPS.
18. Standard 2.8.1.5: the amendment to this permitted activity standard is supported to better capture the breeding season for riverbed nesting birds.
19. Rules 3.3.12, 4.3.10, 7.3.7, 17.3.2, 18.3.3, 19.3.3, 20.3.5: The Minister supports the proposed requirement for the determination of significance of indigenous

vegetation intended for clearance, and for appropriate controls to be applied to areas determined to be significant. This would be consistent with section 6(c) of the RMA. Mapping of significant natural areas in the plan as sought would also require new or amended policies and rules to provide for that, as sought by the appellant.

20. 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:

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Advice

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