

**IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

**ENV-2020-CHC-000064**

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

**AND** Marlborough District Council  
**Respondent**

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

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**TO:** The Registrar  
Environment Court  
**CHRISTCHURCH**

1. **Trustpower Limited (Trustpower)** wishes to be a party to the following proceedings:
  - (a) ENV-2020-CHC-000064, *The Royal Forest and Bird Protection Society of New Zealand Incorporated 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 in 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) Volume 1, Chapter 5 – Introduction;
  - (b) Policy 5.2.14;
  - (c) Policy 6.2.2;
  - (d) Policies 7.1.1, 7.1.3, 7.2.5 and 7.2.6;
  - (e) Volume 1, Chapter 8: General, Introduction, Objective 8.1, and Policies 8.1.1, 8.1.2, 8.2.2, 8.2.5, 8.2.8, 8.2.10 and 8.3.6;
  - (f) Standard 2.8.1.5;

- (g) Standards 3.3.7 and 3.3.8;
- (h) Rules and standards for indigenous vegetation clearance;
- (i) Rules and standards for Significant Natural Areas;
- (j) Appendix 3 – Biodiversity Criteria for Significance; and
- (k) Any alternative wording to address the relief sought and reasons for appeal in relation to 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 water, natural character, landscapes, and biodiversity matters which may impact 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 any changes to the Plan to meet the appeal points which go beyond the specific relief sought, and 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, Chapter 5 Introduction, Volume 1, Chapter 8 General and Introduction, Policies 8.2.10 and 8.3.6, rules and standards for indigenous vegetation clearance, and rules and standards for Significant Natural Areas, including for the following reasons:

- (a) The appellant seeks a series of amendments to the Plan, including extensive amendments relating to indigenous biodiversity which is a matter of national

importance. Trustpower owns and operates the Branch and Waihopai hydro-electric power schemes in the Marlborough Region. As an owner and operator of hydro-electricity generation infrastructure, Trustpower has a particular interest in ensuring the planning framework for these matters is appropriate and workable.

- (b) Some of the relief sought could be unworkable for hydro-electricity generation. For example, the appellant seeks amendments to Policy 8.2.10 to require the maintenance, enhancement or restoration of indigenous biodiversity. Trustpower opposes requiring all indigenous biodiversity to be enhanced, as this goes further than required by the Act and could be unworkable for operators of existing regionally significant infrastructure. It is also contrary to Trustpower's own appeal, which seeks amendments so that the enhancement and restoration of non-significant indigenous biodiversity is a voluntary action.
- (c) Other parts of the relief sought are inconsistent with Trustpower's submission and own appeal on the Plan. For example, the appellant seeks amendments to Policy 8.3.6 to generally make the limits to offsetting more stringent. Some of these amendments are inconsistent with Trustpower's own appeal. For example, Trustpower's appeal supports biodiversity compensation as an appropriate effects management tool, which is not provided for by the appellant's relief.

8. Trustpower supports in part the relief sought with respect to Policy 7.2.5, including for the following reasons:

- (a) The appellant seeks amendments to Policy 7.2.5 to ensure adverse effects (if they cannot be avoided) are mitigated and then remedied, in that order. Trustpower has sought the inclusion of mitigation in its own appeal, and supports mitigation being provided for as an effects management tool. However, requiring adverse effects to be mitigated and then remedied is not

required by the Act, and (though not in force) seems inconsistent with the effects management hierarchies being developed in national reforms.

9. 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 relating to natural character, landscape, and indigenous biodiversity which are all matters of national importance. The appellant also seeks amendments to provisions relating to and water allocation.
  - (b) Trustpower owns and operates the Branch and Waihopai hydro-electric power schemes in the Marlborough Region. As an owner and operator of hydro-electricity generation infrastructure, Trustpower has a particular interest in ensuring the planning framework for these matters is appropriate and workable, especially with respect to water allocation.
  - (c) Trustpower therefore wishes to be a party to this appeal so that it may be involved in the development of any specific amendments that may affect Trustpower's interests, in particular to ensure that any amendments are appropriate and workable for the continued operation of its hydro-electric power schemes.
10. Trustpower agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**Signature:**



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Vanessa Hamm  
Counsel for Trustpower Limited

**Date:** 8 June 2020

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**Contact person:**

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*Advice*

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