



**To** The Registrar  
 Environment Court  
 Christchurch

1. **THE MINISTER OF FISHERIES** (the **Minister**) gives notice under section 274 of the RMA that he wishes to be a party to these proceedings, being *Environmental Defence Society Inc v Marlborough District Council* (the **appeal**).
2. The appeal is in respect of decisions of Marlborough District Council (the **Council**) on its proposed Marlborough Environment Plan (**MEP**).
3. The Minister, through the Ministry for Primary Industries, 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. The Minister is responsible for administering the Fisheries Act 1996 whose purpose includes the utilisation of fisheries resources while also “avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment”.<sup>1</sup> Fishers, fishing and fisheries resources are affected by the relief sought in this appeal.
5. The Minister is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
6. The Minister has an in interest in parts of the proceedings relating to indigenous biodiversity:
  - 6.1 Volume 1, Chapter 8, Indigenous Biodiversity, Policy 8.3.5;
  - 6.2 Volume 1, Chapter 8, Indigenous Biodiversity, Policy 8.3.8 (formerly Policy 8.3.7);
  - 6.3 Volume 1, Chapter 8, Indigenous Biodiversity, new policy for biophysical bottom lines and accompanying rule amendments;
  - 6.4 Volume 2, Rule 16.6.6, king shag feeding habitat.

---

<sup>1</sup> Section 8(2)(b)

7. The Minister **supports** the appellant's general intent to protect indigenous biodiversity and the habitat of king shags.
8. The Minister **opposes** the specific proposed changes to **Policies 8.3.5 and 8.3.8 (formerly 8.3.7)**, the proposed biophysical bottom lines policy and rule changes, and amendment to rule 16.6.6.
9. The Minister considers that the Council's decisions on this policy framework achieve the purpose of the Act and the framework is appropriate on the evidence but accepts in principle that some further consideration and refinement is possible. For example, the Minister would **support** the addition of the reference to seabed depth of  $\leq 50\text{m}$  proposed in Policy 8.3.5 if the policy is otherwise unchanged in substance. Including a depth range provides clarification to the foraging behaviour of king shags and assists the accuracy of the assessment of adverse effects.
10. The proposed biophysical bottom lines relief is vague and its effect cannot be assessed.
11. 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 Fisheries

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](mailto:rosemary.dixon@crownlaw.govt.nz) or [natalie.julian@crownlaw.govt.nz](mailto:natalie.julian@crownlaw.govt.nz).