

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2020-CHC-000067

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 Environmental Defence Society
Incorporated

Appellant

AND Marlborough District Council

Respondent

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-000067, *Environmental Defence Society Incorporated*, 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 1;
 - (b) Volume 1, Chapter 2;
 - (c) Volume 1, Chapter 4: Issue 4C, new Objective 4.3.1, and Method 4.M.9;
 - (d) Volume 1, Chapter 5: Introduction, Methods 5.M.1 and 5.M.2, and Policies 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.7, 5.2.16, 5.3.5, 5.4.5, 5.5.5 and 5.8.1.
 - (e) Volume 1, Chapter 6: Policies 6.1.1, 6.2.1, 6.2.2 and 6.2.3 and new Policy 6.2.X;
 - (f) Volume 1, Chapter 7: Policies 7.1.1, 7.1.3, 7.2.1, 7.2.5 and 7.2.12;

- (g) Volume 1, Chapter 8: Issue 8A, Objective 8.1, Policies 8.1.3, 8.2.2, 8.2.9, 8.3.6 and 8.3.7, Method 8.M.3, and AER 2.
 - (h) Volume 1, Chapter 15: Issue 15C, Objective 15.1.a, new Objectives 15.1, and Policies 15.1.1, 15.1.2, 15.1.9, 15.1.10, 15.1.11 and 15.1.12;
 - (i) Rules for construction and siting of buildings and structures, vegetation clearance, cultivation, excavation or subdivision;
 - (j) Rules, standards and definitions relating to indigenous vegetation clearance;
 - (k) Appendix 4 – Determining Significant Adverse Effects on Natural Character; and
 - (l) Any further or other relief to meet the appeal points including consequential rule changes to implement changes to objectives and policies.
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 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 Issue 4C, Method 4.M.9, new Objective 4.3.1, Volume 1, Chapter 5 – Introduction, Policies 5.2.1, 5.2.4 and 5.2.7, Method 5.M.2, Policies 6.2.1 and 6.2.2, Policies 7.1.3, 7.2.1, 7.2.12 and 7.2.5, Policy 8.3.6, Policies 15.1.1, 15.1.9, 15.1.10, and 15.1.12, rules for construction and siting of

buildings and structures, vegetation clearance, cultivation, excavation or subdivision, rules and standards relating to indigenous vegetation clearance, and Appendix 4 – Determining Significant Adverse Effects on Natural Character, 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 the sustainable management of natural and physical resources, and water allocation and water quality.
- (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, especially with respect to water allocation and water quality matters.
- (c) Some of the relief sought on these matters is vague and unclear, or inappropriate and unworkable for hydro-electricity generation. For example, the appellant seeks amendments to Policies 6.2.1 and 6.2.2 to require adverse effects of subdivision, use and development on areas of high and very high natural character in lakes, rivers and their margins to be avoided. This applies the strict requirements of the New Zealand Coastal Policy Statement beyond the coastal environment, which is not required under the Act and would be unworkable for hydro-electricity generation.
- (d) 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 7.2.5 to require the avoidance of adverse effects on outstanding natural features and landscapes whether or not they are in the coastal environment. This is contrary to Trustpower's appeal, which seeks amendments to Policy 7.2.5 to provide for mitigation measures.

8. Trustpower supports the relief sought with respect to Policy 5.4.5, Policy 15.1.2, and the definition of vegetation clearance, including for the following reasons:
- (a) The appellant seeks amendments to Policy 5.4.5 to require a water permit transferee's intended use to be separately assessed and subject to resource consent, to appropriately assess and control environmental effects. Trustpower has also appealed this policy, as it is concerned about allowing water allocations to be transferred from downstream to upstream of its hydro-electric power stations. The appellant's relief would add an additional layer of protection for the generation of electricity from its schemes.
 - (b) The appellant seeks amendments to Policy 15.1.2 to clarify the relationship between Freshwater Management Units and Water Resource Units. Trustpower agrees that the relationship between these units is unclear, and has lodged a similar appeal on Appendix 5.
 - (c) The appellant also seeks amendments to the definition of vegetation clearance, to include damage to adjacent vegetation by plantation forestry. Trustpower experiences significant environmental effects on its schemes from forestry harvesting activities in its catchments, such as forestry debris in the Branch River blocking the intake to the Branch hydro-electric power scheme. Trustpower therefore supports this additional control on plantation forestry.
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 the sustainable management of natural and physical resources, and water allocation and water quality.

- (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, especially with respect to water allocation and water quality matters.
- (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:



Vanessa Hamm
Counsel for Trustpower Limited

Date: 8 June 2020

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Advice

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