

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2020-CHCH-50

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

A N D

IN THE MATTER of an appeal pursuant to sch 1, cl 14
of the Act

BETWEEN Trustpower Limited
Appellant

A N D Marlborough District Council
Respondent

**MEMORANDUM OF COUNSEL FOR TRUSTPOWER LIMITED
DATED 14 August 2020**



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MAY IT PLEASE THE COURT:

1. This Memorandum is filed on behalf of Trustpower Limited (**Trustpower**) in response to the Marlborough District Council's (**the Council**) case management memorandum dated 31 July 2020 and in advance of the pre-hearing conference (**PHC**) scheduled for 28 August 2020.

New national direction

2. The Council refers to the gazetted National Policy Statement for Freshwater Management (**NPSFM**) and the proposed National Policy Statement for Indigenous Biodiversity (**NPSIB**), and considers there may be merit in placing some topics on a "temporary hiatus" until parties have had the opportunity to assess the content and implications of the two documents.
3. Trustpower does not consider that a temporary hiatus is required. With respect to the NPSFM, it considers that the extent to which the appeals process can address a newly gazetted national policy statement is limited. It is likely to be more appropriate for new national directions to be dealt with by way of a variation, which would allow for the necessary consultation and notification to take place.¹
4. Trustpower also considers that, given the uncertain timeframe surrounding the proposed NPSIB, the appeal process should not be delayed pending its finalisation and gazettal.

¹ *Horiculture NZ v Manawatu-Whanganui Regional Council* [2013] NZHC 2492.

Topic structure

5. Trustpower has identified a number of its appeal points which have not been allocated to any topic, and topics in relation to which it has an interest as a s 274 party where it has not been identified. Trustpower has raised this with the Council, which is considering the matter.

Mediation

6. The Council has noted its preference for meetings with parties to resolve or narrow the matters in dispute. Trustpower is open to informal mediations for less complex topics, however, acknowledges the scale and contentious nature of some topics will require formal mediation. Trustpower agrees to all mediation.

Attendance at PHC

7. Counsel respectively advises that Laura Neale of Holland Beckett Law will attend the PHC on behalf of Trustpower.

DATED at TAURANGA this 14th day of August 2020



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Vanessa Hamm

Counsel for Trustpower Limited