

**BEFORE THE ENVIRONMENT COURT  
AT WELLINGTON**

**I MUA I TE KOOTI TAIAO**

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

**AND** of appeals under Clause 14 of the First Schedule  
of the Act

**BETWEEN** **WELLINGTON FISH AND GAME COUNCIL**

Appellant

**AND** **WELLINGTON REGIONAL COUNCIL**

Respondent

---

**MEMORANDUM SEEKING LEAVE TO AMEND NOTICE OF APPEAL**

Dated: 19 September 2019

---

---

**PRESENTED FOR FILING BY:**

SARAH ONGLEY  
Barrister  
PO Box 8213  
New Plymouth Central  
Phone: (06) 769 9400  
sarah@ongley.co.nz  
www.bankchambers.co.nz

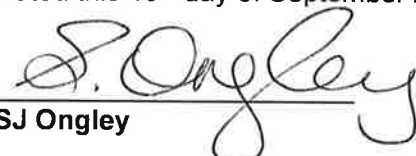
**May it please the Court**

1. Page 23 of the Notice of Appeal of the Wellington Fish and Game Council contains a minor error, in that it incorrectly refers to Rule 102/Policy 101, as well as Policy 102, under the same item (row of the Table in Appendix A to the Notice). The sole reference should be to Policy 102.
2. Counsel seeks leave for the Notice of Appeal to be amended to correct this error, in the manner now shown as 'track-changes':

Plan Provision	Reasons for Appeal	Relief sought (Fish and Game)
<del>Rule</del> Policy 102	<p>Reclamations and drainage of these areas, increasing loss of streams and loss of wetlands, is inconsistent with the purpose of the Act and the NPSFM.</p> <p>To focus the policy on Schedule A and C sites, raises doubt around the strength of the 'avoid' policy for all other beds of lakes and rivers and natural wetlands – including those identified in Schedule I.</p> <p>If scheduled sites <i>are</i> to be included in Policy P <del>401</del>102, they should be included in a way that excludes the exceptions from applying to them.</p> <p>Urban development should not be included as an exception to Policy P102's direction to avoid reclamation and drainage of beds of lakes and rivers.</p>	<p>Remove the reference to Schedule A and C sites.</p> <p>Delete item (b) (previously (c)).</p>

3. It is not considered that the amendment would expand the relief sought because the context makes it clear Policy 102 is the provision at issue.<sup>1</sup> Not correcting the error could generate confusion for those reviewing the Notice, for example for the purpose of section 274 of the Act.
4. As the date for filing appeals closed yesterday it is not considered other parties will be prejudiced, or any delay would be caused.
5. Fish and Game made an original submission on Policy 102 and the relief sought is clearly within the scope of the original submission.
6. In the event the Court is minded to grant leave, Fish and Game files an amended Notice of Appeal with this Memorandum.

Dated this 19<sup>th</sup> day of September 2019

  
 SJ Ongley

**Counsel for Wellington Fish and Game Council**

<sup>1</sup> In addition, paragraph 6 of the Notice states broadly: "The parts of the decision that Fish and Game are appealing are those parts that relate to the provisions in Appendix A to this Notice of Appeal" and Policy 102 is mentioned in this part of Appendix A.