

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2023] NZEnvC 107

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under clause 14 of the First
Schedule of the Act

BETWEEN

ENVIRONMENTAL DEFENCE
SOCIETY INCORPORATED

(ENV-2020-CHC-67)

Appellant

AND

MARLBOROUGH DISTRICT
COUNCIL

Respondent

Environment Judge J J M Hassan – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 24 May 2023

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to the extent that the Marlborough District Council is directed to amend the proposed Marlborough Environment Plan by making the changes set out in Appendix 1

¹ Resource Management Act 1991.



- attached to and forming part of this order;
- (2) the appeal otherwise remains extant.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Environmental Defence Society Incorporated ('EDS') against part of a decision of the Marlborough District Council on various provisions of the proposed Marlborough Environment Plan. The appeal was allocated to Topic 3 – Natural Character.

[2] The court has now read and considered the consent memorandum of the parties dated 13 March 2023 which sets out the agreement reached between the parties to resolve three of EDS's appeal points by including new rules and standards in the plan.

Other relevant matters

[3] A number of parties gave notice of an intention to become a party to this appeal under s274 RMA. I am satisfied that all relevant s274 parties whose interest extends to this topic have signed the consent memorandum setting out the relief sought, or have been afforded adequate opportunity to participate in this process.

[4] No party seeks costs, all parties agreeing that costs should lie where they fall.

[5] The consent memorandum records that the appeal points resolved by this order are sufficiently discrete and will not affect the resolution of any other appeals. Further, it records the parties' assurance that there are no issues of scope or jurisdiction.

[6] For completeness I record the parties' assurance that the additional standard to be added to standards 3.3.12, 4.3.10 and 19.3.3 as endorsed by this order is complimentary to the standard agreed by the consent order for Indigenous Vegetation Clearance, the documentation which was filed concurrently with the documentation for this order. That order was issued contemporaneously.

Orders

[7] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (a) all relevant parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.

J J M Hassan
Environment Judge



Appendix 1 – Provisions

Volume 2

1. Add an additional standard to 3.3.12, 4.3.10 and 19.3.3 (see Topic 5 consent memorandum for Indigenous Vegetation Clearance Rules):

X.3.X. Indigenous vegetation clearance

...

X.3.X.X Clearance of indigenous vegetation must not be within 20m of a Riparian Natural Character Management Area.

2. Amend 3.3.15.3, 4.3.13.3 and 19.3.5.3 to include a new (b) as set out below:

X.3.X. Excavation

X.3.X.3 Excavation must not be in, or within:

(a)...

(b) 20m of a Riparian Natural Character Management Area;

...

And make consequential changes to the numbering of remaining standards in 3.3.15.3, 4.3.13.3 and

19.3.5.3.

3. Amend 3.3.17.7, 4.3.15.8 and 19.3.6.3 to include a new (b) as set out below:

X.3.X. Filling of land with clean fill

X.3.X.3 Filling must not be in, or within:

(a)...

(b) 20m of a Riparian Natural Character Management Area;

...

And make consequential changes to the numbering of remaining standards in 3.3.17.7, 4.3.15.8 and 19.3.6.3

4. Add a new standard to 24.3.1, as follows:

24.3.1. Subdivision of land in the following zones:

...

Standards and terms:

...

24.3.1.7B Subdivision of any land shall not result in the creation of any additional allotment(s) where any part of a new boundary is within or adjoining a lake or the bank of a river, identified as a Riparian Natural Character Management Area.

5. Add a new standard to 24.4.4, as follows:

24.4.4. Except as provided by Rule 24.2.1, subdivision of land within the National Grid Corridor

Standards and terms:

...

24.4.4.2A Subdivision of any land shall not result in the creation of any additional allotment(s) where any part of a new boundary is within or adjoining a lake or the bank of a river, identified as a Riparian Natural Character Management Area.

