

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

**Decision No. [2023] NZEnvC 231**

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: 31 October 2023

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**CONSENT ORDER**

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

- (1) the appeal is allowed 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

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<sup>1</sup> Resource Management Act 1991.



- attached to and forming part of this order;
- (2) the relevant appeal point is dismissed, and 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 the decision of the Marlborough District Council ('MDC') on the proposed Marlborough Environment Plan ('pMEP'). The relevant appeal point was allocated to Topic 5: Indigenous Biodiversity and is the final appeal point in subtopic 5.9. It concerns the extent that indigenous vegetation clearance is permitted in order to construct a dwelling in the Coastal Living Zone.

[2] The court has now read and considered the consent memorandum of the parties dated 25 September 2023. It sets out the agreement reached between the parties to resolve this appeal point by adding a new standard to the indigenous vegetation clearance permitted activity for the Coastal Living Zone only. The new standard permits clearance for constructing a dwelling within the Coastal Living Zone but limits the extent of the clearance permitted to the curtilage.

### **Other relevant matters**

[3] Several parties have given notice of an intention to become a party to this appeal under s274 RMA. All those whose interest extends to the matters covered by this order have signed the memorandum setting out the relief sought.

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

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

### **Orders**

[6] 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 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.



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**J J M Hassan**  
**Environment Judge**



**APPENDIX 1**

# Volume 2: Chapter 7 – Coastal Living Zone

Add an additional standard to Standard 7.3.7.2

- (o) *Where clearance is undertaken to construct a dwelling, but the clearance must be limited to the curtilage of the dwelling and must not involve indigenous vegetation on the properties identified in Appendix 30.*

## Volume 3:

Add a new Appendix 30, as follows:

### Appendix 30

#### Properties on which indigenous vegetation clearance is restricted in the Coastal Living Zone

Property Details
<b>Edgewater Estate, Rarangi</b>
Lot 10 DP 11430
<b>Opihi Bay, Port Underwood</b>
Lot 1 DP 467695
<b>Parea Point, Arapaoa Island</b>
Lot 12 DP 5972
Lot 13 DP 5972
Lot 14 DP 5972
<b>Patten Passage, Tōtaranui / Queen Charlotte Sound</b>
Lot 6 DP 305467
Lot 7 DP 305467
Lot 8 DP 305467
Lot 9 DP 305467
<b>Endeavour Inlet, Tōtaranui / Queen Charlotte Sound</b>
Lot 1 DP 3933
Lot 2 DP 3933
Lot 3 DP 3933
Lot 4 DP 3933

<b>St Omer Bay, Kenepuru Sound</b>
Part Section 3 of Sec 8 Block III Linkwater SD
Section 21 Block III Linkwater SD
<b>Kenepuru Head</b>
Lot 1 DP 12191
Lot 1 DP 8235
<b>Sandy Bay, Kenepuru Sound</b>
Lot 8 DP 3077
<b>Black Rock Bay, Kenepuru Sound</b>
Lot 3 DP 12147
<b>Ohingaroa Bay, Mahau Sound</b>
Part Section 7 Block VI Linkwater SD
<b>Moetapu, Te Hoiere / Pelorus Sound</b>
Lot 1 DP 3555
<b>Kaiuma Bay, Te Hoiere / Pelorus Sound</b>
Lot 286 DP 388753
<b>Nydia Bay, Te Hoiere / Pelorus Sound</b>
Lot 4 DP 3616
Lot 1 DP 6864
Lot 2 DP 6864
Lot 1 DP 407283
Lot 2 DP 407283
<b>Northwest Bay, Te Hoiere / Pelorus Sound</b>
Part Lot 4 DP 3704
Lot 5 DP 3704
<b>Grant Bay, Te Hoiere / Pelorus Sound</b>
Lot 2 DP 4862

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