

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2023] NZEnvC 233

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: 1 November 2023

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ 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

¹ Resource Management Act 1991.



- attached to and forming part of this order; and
- (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 appeal concerns pol 15.1.27 and was allocated to Topic 13 Water Quality. EDS sought to amend the policy to require planting of riparian margins as a condition of resource consent where necessary as an effective tool to address water quality pressures.

[2] The court has now read and considered the consent memorandum of the parties dated 8 September 2023. It sets out the agreement reached between the parties to resolve this appeal point by inserting a new pol 15.1.27A that requires measures (including riparian planting) to be taken in relation to contaminant runoff, rather than amending policy 15.1.27.

Other relevant matters

[3] Several parties have given notice of an intention to become a party to this appeal under s274 RMA and 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 this appeal point is 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.



J J M Hassan
Environment Judge



APPENDIX 1

Volume 3:

Insert a new policy into Chapter 15, as follows:

[R.C]

15.1.27A – Where a resource consent is required for an activity that may generate contaminant run-off, include resource consent conditions specifying measures to avoid or minimise run-off and the performance requirements of those measures.

A range of measures can be taken to avoid or minimise contaminated run-off, including minimising contaminants at-source, riparian planting, vegetation retention and regeneration, riparian retirement, critical source area management, and detention and treatment. Where a resource consent is required, this gives the opportunity to secure the implementation and performance of contaminant reduction measures through details included in the application and secured through resource consent conditions. Conditions on resource consents can also be imposed where mitigation measures are not included in the application or are considered to be insufficient.

