

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

Decision No. [2024] NZEnvC 36

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN TORY CHANNEL
AQUACULTURE LIMITED

(ENV-2023-CHC-72)

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: 14 March 2024

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 Marlborough District Council is directed to amend the proposed Marlborough Environment Plan by making the changes set out in Appendix 1 attached to and forming

¹ Resource Management Act 1991.



- part of this order; and
- (2) the appeal is otherwise dismissed.

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

REASONS

Introduction

[1] This proceeding concerns an appeal on Variation 1: Marine Farming of the proposed Marlborough Environment Plan. The appeal relates to Marine Farm 8405 at Hitaua Bay. As notified, the Aquaculture Management Area ('AMA') shifted the Farm 100 metres seaward, bringing the Farm into an Ecologically Significant Marine Site ('ESMS') and into its buffer. The Hearing Panel did not create an AMA for the Farm. Tory Channel Aquaculture Limited appealed seeking that the Farm remains in its consented position rather than moving seaward noting that the Farm would still intrude into the ESMS buffer, but that part of the Farm is subject to a 'structures exclusion area'.

[2] The court has now read and considered the consent memorandum of the parties dated 20 December 2023 that confirms the parties have agreed to resolve the appeal in its entirety by creating an AMA for Marine Farm 8405 which is to remain in its consented location.

Other relevant matters

[3] No other person has given notice of an intention to become a party under s274 RMA

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

[5] The consent memorandum records that the appeal is sufficiently discrete

and will not affect the resolution of any other appeal. Further, it records the parties' assurances 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

