

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

Decision No. [2024] NZEnvC41

IN THE MATTER

of the Resource Management Act 1991

AND

appeals under clause 14 of the First
Schedule of the Act

BETWEEN

MARINE FARMING
ASSOCIATION INCORPORATED
AND AQUACULTURE NEW
ZEALAND

(ENV-2020-CHC-74)

CLEARWATER MUSSELS
LIMITED AND TALLEY'S GROUP
LIMITED

(ENV-2020-CHC-55)

Appellants

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



MFA INC & AQNZ AND CLEARWATER MUSSELS LIMITED & TALLEY'S GROUP
LIMITED v MDC – TOPIC 5 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 attached to and forming part of this order;
 - (2) the relevant appeal points are dismissed, and the appeals otherwise remain extant.
- B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns two appeals by Marine Farming Association Incorporated & Aquaculture New Zealand² and Clearwater Mussels Limited & Talley's Group Limited³ 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. The appeals both seek clarification that the prohibition on anchoring in Category A Ecologically Significant Marine Sites is confined to the anchoring of boats (excluding the mooring of Marine Farms from the prohibition).

[2] The court has now read and considered the consent memorandum of the parties dated 18 December 2023. It sets out the agreement reached between the parties to resolve the relevant appeal points by amending rule 16.7.6 and method 8.M.1 to refer to the anchoring of ships.⁴

¹ Resource Management Act 1991.

² ENV-2020-CHC-74.

³ ENV-2020-CHC-55.

⁴ "Ships" is preferred to the originally sought "boats" given "ships" is defined in s2 RMA.

Other relevant matters

[3] Several parties have given notice of an intention to become a party to these appeals 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' 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

Volume 1: Chapter 8 – Indigenous Biodiversity

Amend Method 8.M.1, as follows:

...

Dredging, bottom trawling, deposition of dredged material, reclamation and anchoring [of ships](#) within the areas identified as Category A or B ecologically significant marine sites in Appendix 27 will be prohibited. Resource consent is required for most uses or activities within the coastal marine area and an assessment of the effects of the activity on indigenous biodiversity will be undertaken, including whether there are any significant biodiversity values.

...

Volume 2: Chapter 16 – Coastal Marine Zone

Amend Rule 16.7.6, as follows:

[C]

- 16.7.6. Dredging, bottom trawling, anchoring [of ships](#), deposition of dredged material and reclamation within any Category A Ecologically Significant Marine Site listed within Appendix 27.**

