

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2024] NZEnvC69

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN APEX MARINE FARM LIMITED

(ENV-2023-CHC-049)

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: 9 April 2024

CONSENT ORDER

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

- (1) the appeal is allowed. The Marlborough District Council is directed
to amend the proposed Marlborough Environment Plan by making

Resource Management Act 1991.

APEX MARINE FARM LTD V MDC – CONSENT ORDER (AMA 8382)



the changes set out in Appendix 1 attached to and forming part of this order; and

(2) the appeal otherwise remains extant.

B: Under s285 of the 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 (‘pMEP’).

[2] The appeal relates to Aquaculture Management Area (‘AMA’) 8382. The Panel approved AMA 8382 to be seaward of the existing consent farm.

[3] Apex Marine Farm Limited (‘Apex’) has obtained new benthic information since the Variation 1 hearing. This information shows that there is a colony of tubeworms and red algae in the seaward part of the AMA approved by the Panel.

[4] On ecological advice, Apex sought that the AMA reflects the current consented position of the marine farm as this location avoids any overlap with the benthic habitat.

[5] The parties have agreed that the farm remain in its consented location.

[6] The court has now read and considered the consent memorandum of the parties dated 21 December 2023.

Other relevant matters

[7] The Minister of Conservation and Sanford Limited have given notices of an intention to become parties to the relevant part of the appeal under s274 of the RMA and have signed the memorandum setting out the relief sought.

[8] There are no issues of scope or jurisdiction.

[9] The parties agree that costs should lie where they fall and accordingly no order for costs is sought.

Orders

[10] 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; and
- (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

Amend map for AMA 8382 as follows:

