

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

Decision No. [2023] NZEnvC 229

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN HORTICULTURE NEW
ZEALAND

(ENV-2020-CHC-71)

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

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 points are 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 Horticulture New Zealand against part of the decision of the Marlborough District Council ('MDC') on the proposed Marlborough Environment Plan ('pMEP'). The appeal concerns rules and standards on the discharge of agrichemicals to water and to land and were allocated to Topic 13: Water Quality and Topic 15: Waste & Discharges to Land.

[2] The court has now read and considered the consent memorandum of the parties dated 28 August 2023 which sets out the agreement reached between the parties. The parties agree to resolve these appeal points by:

- (a) adding a new advice note to the Permitted Activity rules in the relevant zones relating to qualifications and competency requirements under the Health & Safety at Work and the Hazardous Substances legislation; and
- (b) deleting a duplicate rule 2.12.11.

Other relevant matters

[3] Several parties have given notice of an intention to become a party to this appeal under s274 RMA. Only Nelson-Marlborough Fish and Game Council's interest extends to the matters resolved by this order. It has 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 appeals or topics. 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 2:

1. Add an advice note after the standards for application of agrichemicals to land set out in 2.14.10, 2.22.1, 3.3.23, 4.3.21, 5.3.13, 6.3.8, 7.3.11, 8.3.12, 9.3.6, 10.3.6, 11.3.5, 12.3.22, 17.3.7, 18.3.9, 19.3.15, 21.3.15, 23.3.4 as follows:

Note:

The Hazardous Substances (Hazardous Property Controls) Notice 2017 (EPA Consolidation 30 April 2021) sets out the qualifications required for use of certain substances in any place that is not a workplace, unless otherwise specified. The Health and Safety at Work (Hazardous Substances) Regulations 2017 sets out the competency requirements for the use of substances in a workplace and the duty of a PCBU to provide information, training, supervision, and instruction. Together these Regulations stipulate training and competency requirements based on the substance used and risk to the environment. A summary of these requirements is also set out in NZS 8409:2021 Management of Agrichemicals, Appendix D.

2. Delete Rule 2.12.11, as follows:

~~**2.12.11. Discharge of an agrichemical to water for the control of aquatic vegetation.**~~

