

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

Decision No. [2023] NZEnvC 26

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN KIWIRAIL HOLDINGS LIMITED

(ENV-2020-CHC-57)

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: 15 February 2023

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the Marlborough District Council are 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 balance of the appeal remains extant.



B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by KiwiRail Holdings Limited regarding the Transport topic on the proposed Marlborough Environment Plan.

[2] The court has now read and considered the consent memorandum of the parties dated 16 December 2022.

Other relevant matters

[3] Kainga Ora – Homes and Communities gave notice of intention to become a party under s274 of the Resource Management Act 1991 ('RMA') and have signed the consent memorandum setting out the relief sought.

[4] No other person has given notice of intention to become a party under s 274 of the RMA.

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

[6] The consent memorandum records that the appeal points resolved by this order are 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

[7] 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. Amend Standards 4.2.1.15, 5.2.1.20, 7.2.1.10, 9.2.1.15, 10.2.1.11, 12.2.1.9, 17.2.1.7 and 19.2.1.10 as set out below:

A building or structure must not be located within ~~4.5m~~ 3m of the legal boundary with the rail corridor of the Main North Line except for a fence up to 2m in height.

