

BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH

I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ

IN THE MATTER	of the Resource Management Act 1991
AND	of an appeal under clause 14 of the First Schedule of the Act concerning the proposed Marlborough Environment Plan
BETWEEN	BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED AND Z ENERGY LIMITED
	(ENV-2020-CHC-72)
	Appellant
AND	MARLBOROUGH DISTRICT COUNCIL
	Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 4 December 2020

CONSENT ORDER

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

- (1) the appeal is allowed, and the Marlborough District Council are directed to:
 - (a) insert a new permitted activity rule and associated standards into Chapter 2, Volume 2 of the proposed Marlborough Environment Plan as set out in Appendix 1 attached to and forming part of this order;
 - (b) amend rule 2.6.1 of Chapter 2, Volume 2 of the proposed Marlborough Environment Plan as set out in Appendix 1 attached to and forming part of this order;



- (c) make any necessary consequential amendments to the numbering of subsequent provisions as a result of the above amendments.
- (2) the appeal is otherwise dismissed.

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 BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited against part of a decision of the Marlborough District Council regarding Volume 2, Chapter 2 (General Rules) of the proposed Marlborough Environment Plan.

[2] The court has now read and considered the consent memorandum of the parties filed 14 October 2020 which proposes to resolve the appeal.

Other relevant matters

[3] Waka Kotahi New Zealand Transport Agency and Trustpower Limited have given notice of an intention to become parties to the appeal under s274 of the Resource Management Act 1991 ('the RMA') and have signed the memorandum setting out the relief sought.

Orders

[4] 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**Insert new permitted activity**

2.2.12A Take of water for dewatering of a tank pit associated with underground fuel infrastructure .

Insert new standards

2.3.11A. Take of water for dewatering of a tank pit associated with underground fuel infrastructure.

2.3.11A.1. The take must not be within a Groundwater Protection Area.

2.3.11A.2. The take must relate to a temporary excavation for the purposes of the installation, replacement or maintenance of an underground fuel infrastructure.

Amend Prohibited activity

2.6.1. Take of water that would cause the water quantity allocation limit for the relevant Freshwater Management Unit to be exceeded, unless the take is:

(a) provided for as a Permitted Activity;

(b) provided for as a Permitted Activity but does not meet the applicable standards, and therefore an application must be made under Rule 2.5.1;

(c) the subject of a resource consent application affected by section 124 of the RMA.

