

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991

AND waivers and directions under section 281 of
 the Act

 MARLBOROUGH DISTRICT COUNCIL

 Consent Authority

**MINUTE
(15 April 2020)**

Introduction

[1] By Minute dated 26 February 2020, the court issued directions under s281 as to the filing and service of any appeals on the Proposed Marlborough Environment Plan ('PMEP', '26 February directions').

[2] By Minute dated 26 March 2020 ('26 March Minute'), the court extended the appeal period by a further 15 working days with the effect that any appeals are due to be lodged by **Friday 8 May 2020**. As that extension was granted during the exigencies associated with New Zealand entering Alert Level 1 of the COVID-19 pandemic response, it was granted without extensive reasoning. I now confirm it as being pursuant to s281(4) of the RMA, in anticipation of requests for waiver being made due to lockdown. Appeals lodged by 8 May 2020 will be received and treated accordingly.

[3] Some intending appellants have sought clarification of the initial directions regarding service of any appeals on submitters (and further submitters). To make the process as straight-forward as possible, I amend those directions to more clearly align with those in *Auckland Council* [2016] NZEnvC 153.

[4] In essence, the amendment waives completely the requirements for an appellant to serve a copy of an appeal notice on submitters and provide associated information to the Registrar. That is on the basis that Marlborough District Council ('MDC') is required to upload all notices of appeal to its website.



[5] I am satisfied that requirement will ensure all intended parties will have proper access to the notice of appeals. Related to that, having all potential parties refer to the MDC website provides a better safeguard against the risk of misdirected service when submitters have changed their address for service from that stated in their submissions (or further submissions).

[6] A further issue arises in regard to how MDC has presented decisions of the MEP Hearing Panel on its website. MDC raised this issue in an email to the Registrar on 14 April 2020, as follows:

There are two ways in which people are able to view the decisions of the MEP Hearing Panel, these being either as a complete decision or decision by topic. When the decision by topic documents were being finalised, introductory paragraphs were added to the beginning of each to help people navigate the documents. As a result, the para numbers will be slightly different (out by 7 paragraphs) between the two forms of the decision. Therefore there may be a discrepancy between what paragraph numbers appellants quote and what you find in the decision, depending on which you are reading.

[7] I make no directions on this matter at this time. In due course, if warranted, directions can issue.

[8] Finally, I record that various directions for electronic filing and service also account for COVID-19 risks associated with handling paper.

Directions

[9] Accordingly, under s281 of the RMA, the 26 February directions are updated and amended as follows:

- (1) notices of appeal:
 - (a) notices of appeal (in relation to the MDC decisions on the PMP) must be:
 - (i) lodged with the Environment Court electronically by email to: Christine.McKee@justice.govt.nz and by posting one hard copy to: Environment Court, PO Box 2069, 20 Lichfield Street, Christchurch;
 - (ii) served on the Council electronically by email to: Kaye.McIlveney@marlborough.govt.nz;
 - (b) notices of appeal must specify an email address for service;



- (c) MDC must upload copies of all notices of appeal onto its website by 15 May 2020 (or for any appeal filed later than 8 May 2020 and granted waiver, within five working days after that waiver is granted).
 - (d) the following usual requirements are waived:
 - (i) the requirements as to service of a copy of a notice of appeal on every person who made a submission or further submission on the provision or matter;
 - (ii) the requirements as to giving notice to the Registrar of the name, address for service, and date of service of each such person served.
- (2) section 274 notices:
- (a) within 20 working days after the period for lodging a notice of appeal ends, s274 notices must be:
 - (i) lodged with the court electronically by email to Christine.McKee@justice.govt.nz;
 - (ii) served on the Council electronically by email to: Kaye.McIlveney@marlborough.govt.nz; and
 - (iii) served on the appellant electronically at the email address specified in the notice of appeal.
 - (b) s274 notices must specify an email address for service;
 - (c) MDC must upload copies of all s274 notices onto its website within ten working days after the s274 period closes.
 - (d) the following usual requirements are waived:
 - (i) the requirements as to service of a notice/form 33 on any other parties (except as specified in (2)(a)) or the Council (except as specified in (2)(b));
 - (ii) the requirement to lodge a signed original and one hard copy of any s274 notice with the court.

[10] Parties are reminded that the filing fee for lodging an appeal is \$511.11 and there is no filing fee for joining an appeal under s274. (The new filing fees on the website relate to proceedings that commenced with the Council post-September 2017).



[11] Leave is reserved for any party to apply for further (or other) directions.



J J M Hassan
Environment Judge

Issued: 15 April 2020