



Proposed Marlborough Environment Plan

Decision and Report Variation 3: Meretoto/Ship Cove and Motuara Island Heritage Resource

Hearing dates: 28-29 February 2024

Commissioners: Barbara Faulls

Raylene Innes

Reginald Proffit

Sharon McGarry

Date of decision: 29 May 2024

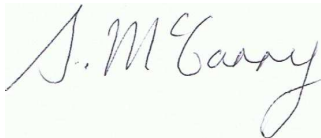
Decision was made under delegation (Minute E&P-0823-71 dated 24 August 2023) from the
Marlborough District Council:



Barbara Faulis (Chairperson)



Raylene Innes



Sharon McGarry



Reginald Proffit

Dated this 29th day of May 2024

List of Abbreviations

CMA	Coastal Marine Area
HNZPT	Heritage New Zealand Pouhere Taonga
MDC/Council	Marlborough District Council
NZCPS	New Zealand Coastal Policy Statement 2010
PMEP	Proposed Marlborough Environment Plan
RMA	Resource Management Act 1991
RPS	Marlborough Regional Policy Statement

Introduction to Decision

Delegation

1. Pursuant to the Resource Management Act 1991 (**RMA**), the Marlborough District Council's (**MDC** or 'the Council') Environment and Planning Committee delegated¹ the necessary powers and functions to the Hearing Panel to hear submissions and make decisions on Proposed Marlborough Environment Plan (**PMEP**) Variation 3. The Committee resolved to appoint a hearings panel comprising two councillors, Councillor Barbara Faulls and Councillor Raylene Innes, and two independent commissioners, Mr Reginald Proffit and Ms Sharon McGarry. The Committee appointed Commissioner Faulls as Chair of the Hearing Panel. This is the written decision and report of the appointed Hearing Panel ('the Panel').

Background

2. The background to and development of Variation 3 is set out in the section 42A Report prepared by Ms Debbie Donaldson, Principal Resource Management Planner with Kahu Environmental Limited; and the Council's section 32 Report². These reports are not repeated and should be read in conjunction with this decision report.

Purpose of Variation 3

3. Variation 3 was publicly notified on 9 March 2023. The purpose of Variation 3 is to include Meretoto/Ship Cove and Motuara Island as a Heritage Resource in Appendix 13 of the PMEP as a site listed on:
 - Schedule 1: Category A Heritage Resources; and
 - Schedule 3: Sites and Places of Significance to Marlborough's Tangata Whenua Iwi.
4. The site is already identified as having regional and national significance through non-regulatory methods. Including the site in the PMEP will result in the planning provisions applying to the area, restricting the types of activities that can be undertaken in order to protect its significant cultural and heritage values. The area covered by Variation 3 only includes the land, excluding the coastal marine area and seabed. The land is zoned 'Open Space 3' in the PMEP.
5. Heritage New Zealand Pouhere Taonga (**HNZPT**) have already added the site to the New Zealand Heritage List/Rārangi Kōrero as a 'Historic Place Category 1' (List number 9900). The Category 1

¹ At a meeting held on 24 August 2023, under section 34A of the RMA.

² Section 32 Report Variation 3: Meretoto/Ship Cove (including Motuara Island) Heritage Resource Proposed Marlborough Environment Plan prepared by Louise Walker, Marlborough District Council.

type listing identifies sites as being of 'special or outstanding historical or cultural significance or value'.

6. Variation 3 does not propose any changes to the objectives, policies, rules and methods of the PMEP.

Submissions

7. The Council received six submissions and no further submissions to Variation 3. The section 42A Report summarised the submissions and the relief sought by each submitter. The Panel has read each submission received and considered the relief sought in relation to Variation 3.
8. The submissions were accurately summarised in the section 42A Report. The Panel notes that all submissions were in support of Variation 3.
9. The Panel agrees with Ms Donaldson that matters raised relating to the requirements for developers to consult with tangata whenua and consideration of cultural, social and environmental impacts of their proposals are outside the scope of the Variation. The Panel accepts the scope of Variation 3 is very narrow and does not relate to the PMEP provisions relevant to the use, development and protection of the land.

Hearing

10. A combined hearing of submissions to Variation 2 and 3 to the PMEP was held in the Council Chambers at the offices of the Marlborough District Council on 28-29 February 2024.
11. Ms Donaldson attended the hearing on behalf of the Council to present her section 42A Report to the Panel and was available to answer questions and provide clarifications during the hearing.
12. One submitter, Mr Alan Riwaka, briefly spoke to his submission at the hearing. Mr Riwaka highlighted the significance and importance of the area to Te Ātiawa and considered the area should be managed accordingly.
13. There were no matters raised in the hearing for the Council's Reporting Officer to reply to.

Site Visit

14. Prior to the hearing, the Panel undertook a combined site visit for Variation 2 and 3 to Tōtaranui/Queen Charlotte Sound, including Meretoto/Ship Cove, East Bay and Kura Te Au/Tory Channel.

Statutory Framework

Resource Management Act

15. The section 32 Report set out the statutory framework of the RMA, including its purpose and principles.
16. Section 6 of the RMA sets out matters of national importance which must be recognised and provided for in managing the use, development and protection of natural and physical resources.
17. Variation 3 is part of the Council's strategic planning required under NZCPS Policy 7 to achieve the protection of historic heritage in the coastal environment from inappropriate subdivision, use and development (NZCPS Policy 17).

Resource Management Act First Schedule Clauses 10, 16, 16A and 16B

18. Clause 10(1) of the First Schedule of the Resource Management Act 1991 (**RMA**) sets out that a local authority (and therefore the Panel acting under delegation as the Council) shall give a decision on the PMEP Variation 3 and matters raised in submissions. Clause 10(2) states that the decision must include the reasons for accepting or rejecting submissions, and may include consequential alterations and other relevant matters arising from decisions. Clause 10(3) confirms that a local authority (the Panel) is not required to give a decision that addresses each submission individually.
19. Clause 16A(1) states that a local authority may initiate variations to a proposed plan, or to a change, at any time before the approval of a plan. Clause 16A(2) confirms that the provisions of the First Schedule, with all necessary modifications, apply to a variation as if it were a change.
20. Clause 16B states that a variation initiated under Clause 16A shall be merged in and become a part of the proposed plan as soon as Variation 3, and the proposed plan are at the same procedural stage.

RMA Section 32

21. Section 32 of the RMA directs a local authority making a variation to a proposed plan to carry out an evaluation, both before it is publicly notified, and before making a decision on submission. The evaluation is to examine the extent to which each objective is the most appropriate way to achieve the purpose of the Act, and whether, having regard to their efficacy and effectiveness, the policies, rules and other methods are the best option available; and also to assess the risk of acting or not acting if there is uncertainty or insufficient information about

the subject matter of the policies, rules or other methods. The local authority is required to publish a report summarising the evaluation and giving reasons.

22. The Panel is satisfied the Council carried out a separate evaluation of Variation 3 in compliance with section 32, before it was publicly notified.
23. The Panel's evaluation with respect to the section 32 evaluation is inherent within its consideration of Variation 3 and its decision-making process. The Panel acknowledges there are no changes proposed to the objectives, policies and rules of the PMEP. The Panel finds that Variation 3 is appropriate to achieve Objective 10.1 of the PMEP and efficiently and effectively implements Policy 10.1.3 and 10.1.4 of the PMEP.

RMA Section 42A Reports

24. The section 42A Report evaluated the matters raised and accepted all of the submissions received, which were within the scope of Variation 3.
25. The Panel acknowledges the submissions received and the support of the Director General of Conservation.
26. The Panel adopts the section 42A Report's analysis of submissions and recommendations.
27. The Panel is satisfied that the area Variation 3 pertains to excludes the seabed and there is no adverse effect on the ability of tangata whenua to undertake customary practices in the coastal marine area.
28. The Panel considers Variation 3 is consistent with HNZPT's recognition of the site under the New Zealand Heritage List/Rārangī Kōrero as a 'Historic Place Category 1' as a site of 'special or outstanding historical or cultural significance or value'.
29. The Panel finds Variation 3 will assist in achieving the outcomes sought by the PMEP policy framework and give effect to the statutory requirements of the RMA, national policy and the NZCPS.

Decision

30. The Panel determines Variation 3 to the PMEP is confirmed, as notified, and Meretoto/Ship Cove and Motuara Island Heritage Resource is added to Appendix 13 of the PMEP.